
STATUTORY INSTRUMENTS

2012 No. 3038

The Greenhouse Gas Emissions
Trading Scheme Regulations 2012

PART 2

Stationary installations

CHAPTER 1

Permits

Requirement for permit to carry out regulated activities

9. No person may carry out a regulated activity at an installation except to the extent authorised by a permit held by the operator of the installation.

Applications for and grant of permits

10.—(1) The operator of an installation (other than an excluded installation) may apply to the regulator for a greenhouse gas emissions permit to carry out a regulated activity at the installation.

(2) The operator of an excluded installation may apply to the regulator for an excluded installation emissions permit to carry out a regulated activity at the installation.

(3) However, an application may not be made—

- (a) under paragraph (1) or (2) where a permit has already been granted in respect of the installation and continues to have effect; or
- (b) under paragraph (2) where an excluded installation emissions permit has been granted in respect of the installation and has been surrendered or revoked.

(4) Following an application under paragraph (1) or (2), the permit must be granted if the regulator is satisfied that—

- (a) the application is duly made, and
- (b) at the time that the permit is granted (or, if later, has effect) the applicant will be capable of monitoring and reporting emissions from the installation in accordance with—
 - (i) the monitoring and reporting requirements of the greenhouse gas emissions permit,
or
 - (ii) the monitoring and reporting conditions of the excluded installations permit,

but must otherwise be refused.

(5) A permit may be granted under this regulation in respect of more than one installation on the same site, provided that they are operated by the same operator.

(6) Paragraph 1 of Schedule 4 makes further provision about applications for permits.

(7) Paragraph 2 of Schedule 4 makes provision about the contents of greenhouse gas emissions permits, and paragraph 3 of Schedule 5 makes provision about the contents of excluded installation emissions permits.

Review, variation and consolidation of permits

11.—(1) The regulator must review a permit before the end of the period of five years beginning with the date on which the permit was granted, and afterwards at intervals not exceeding five years.

(2) The regulator may, by giving notice to the operator, vary a permit at any time and may in particular make any variation of the permit that the regulator considers necessary in consequence of—

- (a) a review under paragraph (1);
- (b) any report made by the operator under Article 69 of the Monitoring and Reporting Regulation; or
- (c) any notification as mentioned in paragraph 2(7)(b) of Schedule 4 (notification of planned changes in operation etc).

(3) The regulator may by giving notice to the operator vary a permit where the operator—

- (a) applies to the regulator for such a variation pursuant to a provision of the permit; or
- (b) has failed to comply with a requirement of the permit to apply for such a variation.

(4) The regulator may by giving notice to the operator vary a permit in order to comply with regulator’s duty under—

- (a) regulation 88(6); or
- (b) any of the following provisions of Schedule 5—
 - (i) paragraph 2(1);
 - (ii) paragraph 3(3);
 - (iii) paragraph 6(5) or (6);
 - (iv) paragraph 7(4)(b), (6)(b) or (7)(b);
 - (v) paragraph 8(6).

(5) A notice given under paragraph (2), (3)(b) or (4) may specify a period within which a fee for the variation of the permit must be paid.

(6) The regulator may by giving notice to the operator replace a permit with a consolidated permit applying to the same regulated activities, and containing the same or equivalent provisions, in the following circumstances—

- (a) where the permit has been varied;
- (b) where there is more than one permit applying to installations on the same site operated by the same operator.

Transfer of permits

12.—(1) Subject to paragraph (6), the holder of a permit (“the current operator”) and another person may jointly apply to the regulator for the permit to be transferred to that other person (“the new operator”).

(2) An application may also be made under paragraph (1) for the partial transfer of a permit; and for that purpose a “partial transfer” is a transfer in respect of—

- (a) some only of the installations to which the permit relates; or
- (b) some only of the parts of an installation to which the permit relates.

(3) Paragraph 3 of Schedule 4 makes further provision about the transfer, or partial transfer, of a permit.

(4) Subject to paragraph 3(2)(b) of Schedule 4, an application under paragraph (1) must be granted if the regulator is satisfied that—

- (a) the application is duly made, and
- (b) the new operator will (from the relevant date) be the operator of the installation and will be capable of monitoring and reporting emissions from the installation in accordance with—
 - (i) the monitoring and reporting requirements of the greenhouse gas emissions permit, or
 - (ii) the monitoring and reporting conditions of the excluded installations emissions permit,

but must otherwise be refused.

(5) For the purposes of paragraph (4), the relevant date is the date mentioned in paragraph 3(6), (8) or (10) of Schedule 4 as the case may be.

(6) An application for the transfer (or partial transfer) of a permit may not be made in respect of any installation (or part of an installation) that has ceased operation.

Surrender of permits

13.—(1) Subject to paragraph (4), if an installation has ceased operation the operator must apply to the regulator to surrender the permit authorising regulated activities at the installation.

(2) Such an application must be made within the period specified by paragraph (3), or such longer period as may be agreed with the regulator.

(3) The period specified is, in the case of an installation that has ceased operation by virtue of meeting the condition in—

- (a) paragraph 7(1)(b) or (c) of Schedule 6, one month beginning with the date on which the installation ceased operation;
- (b) paragraph 7(1)(d) of Schedule 6, one month following the end of the relevant period (as defined by paragraph 7(5) of that Schedule).

(4) The application need not be made where—

- (a) the permit authorises regulated activities at more than one installation, some of which have not ceased operation; and
- (b) by the end of the period mentioned in paragraph (2), the operator has applied to vary that permit so that it no longer applies to any of those installations that have ceased operation.

(5) Where the carrying out of regulated activities at an installation mentioned in paragraph (6) has been suspended, but the installation has not ceased operation, the operator may at any time make an application under paragraph (1) but is not obliged to do so.

(6) Those installations are—

- (a) an excluded installation; or
- (b) an installation that, by virtue of Article 10a(3) of the Directive, is not eligible for an allocation.

(7) If the application under paragraph (1) is granted, the notice of determination given to the operator (“notice of surrender”) takes effect on the date specified in the notice.

(8) Paragraph 4 of Schedule 4 makes further provision about the surrender of permits.

Revocation of permits

14.—(1) The regulator—

- (a) may at any time revoke a permit by serving on the operator a notice to that effect (a “revocation notice”), and in particular may do so if the operator has failed to pay a fee for the subsistence of the permit; and
 - (b) must do so where the regulator becomes aware that the operator has failed to comply with regulation 13(1) to (3).
- (2) A revocation notice takes effect—
- (a) 28 days after the date on which it is served; or
 - (b) if a later date is specified in the notice, on that date.
- (3) Paragraph 5 of Schedule 4 makes further provision about the revocation of permits.