
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Regulation (EU) 2017/2392 of the European Parliament and of the Council of 13 December 2017 amending [Directive 2003/87/EC](#) to continue current limitations of scope for aviation activities and to prepare to implement a global market based measure from 2021⁽¹⁾. [Directive 2003/87/EC](#) (“the Directive”) is currently implemented in the UK by the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (“the 2012 Regulations”). The 2012 Regulations require aircraft operators which fall within the scope of the EU Emissions Trading Scheme and are administered by the UK to monitor and report their aviation emissions each calendar year and then to surrender sufficient emissions trading allowances to cover those emissions. These Regulations amend the 2012 Regulations.

Regulation 2(2), (3), (4), (5), (6)(a) and (b), (7) and (8) makes amendments to extend a temporary derogation from the obligation to monitor and report emissions and to surrender allowances in respect of flights between (i) an aerodrome in the European Economic Area (“the EEA”), and (ii) an aerodrome in a country outside the EEA in the calendar years from ending in 2016 to ending in 2023. The derogation also covers flights between different outermost regions, and between an area of the EEA which is not an outermost region and an outermost region.

Regulation 35(7) of the 2012 Regulations provides that where an operator has total annual emissions of less than 25,000 tonnes of carbon dioxide and the operator has determined its emissions using the small emitters tool, then its annual report shall be considered verified. Regulation 2(6)(c) of these Regulations extends this, so that the annual report by operators with annual reportable emissions of less than 3,000 tonnes other than from an outermost region flight, or flights departing from, or arriving in, an aerodrome situated in any country other than an EEA state, will also be considered verified, if the operator has determined its emissions using the small emitters tool.

Regulation 2(9) of these Regulations amends paragraph 1A of Schedule 7 to the 2012 Regulations. The Directive is being amended so that flights of non-commercial air transport operators with total annual emissions of less than 1,000 tonnes of carbon dioxide are not deemed “aviation activities” until 2030. These flights will be excluded from the definition of “aviation activity” in paragraph 1A of Schedule 7 to the 2012 Regulations after 2020 until 2030.

A full impact assessment of the effect that this instrument will have on the costs of business and the public sector is available from the Department for Business, Energy and Industrial Strategy Heat and Business Energy Team (telephone 0300 060 4000), and is published alongside the instrument and its Explanatory Memorandum on the legislation website of The National Archives (<http://www.legislation.gov.uk>). A transposition note setting out how these Regulations implement the relevant provisions of the Directive is annexed to that Explanatory Memorandum.

(1) OJ L 350, 29.12.2017, p 7-14.