

**2010 No. 92**

**ENVIRONMENTAL PROTECTION**

**The Environment (Northern Ireland) Order 2002 (Amendment)  
Regulations (Northern Ireland) 2010**

*Made* - - - - *10th March 2010*

*Coming into operation* - *12th April 2010*

The Department of the Environment is a department designated(a) for the purpose of making Regulations under section 2(2) of the European Communities Act 1972(b) in relation to the environment.

The Department, in exercise of the powers conferred on it by that section, makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010 and shall come into operation on 1<sup>st</sup> April 2010.

(2) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

**Amendment to the Environment (Northern Ireland) Order 2002**

2.—(1) The Environment (Northern Ireland) Order 2002(d) shall be amended in accordance with paragraph (2).

(2) In Schedule 1—

(a) After paragraph 9 insert—

“9A. Without prejudice to paragraph 9, authorising the Department to make schemes for the charging by enforcing authorities of fees or other charges, as respects permits (“greenhouse gas emissions permits”) granted under the Greenhouse Gas Emissions Trading Scheme Regulations 2005(e) (“the 2005 regulations”) for—

- (a) an application for the allocation of allowances to an operator;
- (b) an application for the retention of allowances by an operator ceasing to carry on an activity to which they relate;

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(a) S.I. 2008/301  
(b) 1972 c.68  
(c) 1954 c.33 (N.I.)  
(d) 2002 No. 3153 (N.I. 7)  
(e) S.I. 2005/925

- (c) the revocation of a greenhouse gas emissions permit;
  - (d) the subsistence of an account required to be held in the trading scheme registry by an operator (“operator registry charges”).”
- (b) In paragraph 24, after “paragraph 9” insert “, 9A”.
- (c) After paragraph 24 insert—
- “**24A.** The regulations may require any scheme as is mentioned in paragraph 9A to include provision which gives effect to any proposal of the Environment Agency to prescribe operator registry charges and for any such charges to be paid to that Agency.”
- (d) In paragraph 26,
- (i) at the appropriate alphabetical place, insert—
    - ““allowance” and “operator” have the same meaning as in the 2005 regulations;” and
    - ““Environment Agency” means the Agency constituted under the Environment Act 1995(a);”
  - (ii) after “under that Article”, for “.” substitute “:.”; and
  - (iii) at the appropriate alphabetical place insert—
    - ““trading scheme registry” means the registry established under the 2005 regulations.”.

**Amendment to Regulation 18 of the Greenhouse Gas Emissions Trading Scheme Regulations 2005**

3.—(1) Regulation 18 (Fees and charges) of the Greenhouse Gas Emissions Trading Scheme Regulations 2005 is amended as follows.

(2) In paragraph (3) delete “or” at the end of sub-paragraph (a) and insert—

“(aa) in respect of installations (other than offshore installations) situated in Northern Ireland, under Regulations made under Article 4 of the Environment (Northern Ireland) Order 2002; or”.

(3) In paragraph (4) after “1995 Act” insert, “or under Regulations made pursuant to Article 4 of the Environment (Northern Ireland) Order 2002,”.

Sealed with the Official Seal of the Department of the Environment on 10th March 2010



*Denis McMahon*  
A senior officer of the Department of the Environment

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These regulations amend the Environment (Northern Ireland) Order 2002 to allow the Department to provide by regulations for a Northern Ireland charging scheme for the cost of regulating the EU Emissions Trading Scheme.

Regulation 2 provides new paragraphs 9A and 24A to be inserted into Schedule 1 to the Environment (Northern Ireland) Order 2002. The purpose is to provide for the inclusion of fees and charges related to greenhouse gas emissions permits and operator registry costs in the list of purposes for which the Department is authorised to make a charging scheme. It also provides that the operator charges received by the enforcing authority are to be passed to the Environment Agency.

Regulation 3 amends Regulation 18(3) of the Greenhouse Gas Emissions Trading Scheme Regulations 2005 by the insertion of a new sub-paragraph to provide that the fees and charges set out in Schedule 5 to the Greenhouse Gas Emissions Trading Scheme Regulations 2005 may be superseded by a charging scheme made in respect of installations (other than offshore installations) situated in Northern Ireland, under Article 4 of the Environment (Northern Ireland) Order 2002.

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