

**2016 No. 46**

**CLIMATE CHANGE**

**The Carbon Accounting Scheme (Scotland) Amendment  
Regulations 2016**

<i>Made</i>	- - - -	<i>26th January 2016</i>
<i>Laid before the Scottish Parliament</i>		<i>28th January 2016</i>
<i>Coming into force</i>	- -	<i>1st April 2016</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 13(5), 20(1) and 96(2)(a) of the Climate Change (Scotland) Act 2009(a) and paragraph 1A of Schedule 2 to the European Communities Act 1972(b) and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(c) and it appears to the Scottish Ministers that it is expedient for the references to EU instruments in these Regulations to be construed as references to those instruments as amended from time to time.

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Carbon Accounting Scheme (Scotland) Amendment Regulations 2016 and come into force on 1st April 2016.

(2) In these Regulations, a reference to an EU instrument is a reference to that instrument as amended from time to time.

**Amendment of the Carbon Accounting Scheme (Scotland) Regulations 2010**

**2.**—(1) The Carbon Accounting Scheme (Scotland) Regulations 2010(d) are amended in accordance with paragraphs (2) to (5).

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(a) 2009 asp 12.

(b) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and relevantly amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”).

(c) Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (“the 2006 Act”). Section 2(2) was also amended by section 27(1) of the 2006 Act and Part 1 of the Schedule to the 2008 Act.

(d) S.S.I. 2010/216, amended by S.I. 2011/1043 and S.S.I. 2015/189.

- (2) In regulation 2 (interpretation), after the definition of “2009 Regulations” insert—
- ““Annex I” means Annex I of Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC(a);”.
- (3) In regulation 8A(6) (credits and debits in respect of 2013), omit the definition of “Annex I”.
- (4) After regulation 8A (credits and debits in respect of 2013) insert—
- “**8B.**—(1) The Scottish Ministers shall in respect of 2014 calculate whether any carbon unit is to be credited to or debited from the net Scottish emissions account as a result of the operation of the EU ETS.
- (2) The calculation under this regulation must be performed by 30th June 2016.
- (3) The Scottish Ministers, when carrying out the calculation mentioned in paragraph (1), must determine—
- (a) for aviation activities, whether the amount of emissions in respect of Scotland from aviation activities in the relevant period for 2014 is more or less than the aviation cap; and
- (b) for other activities, whether the amount of carbon units surrendered in respect of Scotland as a result of the operation of the EU ETS in the relevant period for 2014 is more or less than the fixed installation cap.
- (4) Where the amount of emissions in respect of Scotland from aviation activities in the relevant period for 2014 is—
- (a) more than the aviation cap, an amount of carbon units equal to the excess is to be credited to the net Scottish emissions account for 2014; or
- (b) less than the aviation cap, an amount of carbon units equal to the shortfall is to be debited from the net Scottish emissions account for 2014.
- (5) Where the amount of carbon units surrendered in 2014 in respect of other activities is—
- (a) more than the fixed installation cap for 2014, an amount of carbon units equal to the excess is to be credited to the net Scottish emissions account for 2014; or
- (b) less than the fixed installation cap for 2014, an amount of carbon units equal to the shortfall is to be debited from the net Scottish emissions account for 2014.
- (6) In this regulation—
- “aviation activities” means aviation activities listed in Annex I;
- “aviation cap” means the sum of the domestic aviation cap plus the international aviation cap;
- “domestic aviation cap” means 443,255;
- “fixed installation cap” means 12,356,118;
- “international aviation cap” means 921,758;
- “other activities” means activities listed in Annex I other than aviation activities; and
- “relevant period” means for 2014, the 16 months preceding 1st May 2015.”.

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(a) OJ L 275, 25.10.2003, p.32, as amended by Directive 2004/101/EC (OJ L 338, 13.11.2004, p.18), Directive 2008/101/EC (OJ L 8, 13.1.2009, p.3), Regulation (EC) No 219/2009 (OJ L 87, 31.3.2009, p.109), Directive 2009/29/EC (OJ L 140, 5.6.2009, p.63), Decision No 1359/2013/EU (OJ L 343, 19.12.2013, p.1), Regulation (EU) No 421/2014 (OJ L 129, 30.4.2014, p.1), Corrigendum (OJ L 140, 14.5.2014, p.177) and Decision (EU) 2015/1814 (OJ L 264, 9.10.2015, p.1).

(5) In regulation 9 (register of transactions), after paragraph (4) insert—

“(5) In relation to carbon units to be credited or debited under regulation 8B, the register must contain details of the—

- (a) date on which the calculation under regulation 8B(1) was performed;
- (b) date of surrender;
- (c) figures used in that calculation; and
- (d) amount of units credited to or debited from the net Scottish emissions account.”.

St Andrew’s House,  
Edinburgh  
26th January 2016

*AILEEN McLEOD*  
Authorised to sign by the Scottish Ministers

## EXPLANATORY NOTE

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

These Regulations amend the Carbon Accounting Scheme (Scotland) Regulations 2010 (“the 2010 Regulations”), which make provision about carbon units and carbon accounting in the years 2010 to 2013 for the purposes of Part 1 of the Climate Change (Scotland) Act 2009 (“the 2009 Act”).

Regulation 2(4) inserts a new regulation 8B into the 2010 Regulations so as to provide, for 2014, a method for determining whether a carbon unit is to be credited to or debited from the net Scottish emissions account (see section 13 of the 2009 Act) in respect of the relevant period for that year. The relevant period for 2014 is the 16 months preceding 1st May 2015.

Regulation 2(5) inserts a new paragraph (5) into regulation 9 (register of transactions) of the 2010 Regulations so as to set out the information to be included in the register for 2014.

Regulation 2(2) and (3) makes minor revisions in consequence of the insertion of regulation 8B.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

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