

SCHEDULE 5

Article 5

Changes to participants

PART 1

Public bodies: government

SECTION 1

Government departments, Northern Ireland departments, the Scottish Ministers and the Welsh Assembly Government

Application of Part 1

1.—(1) Where the changes described in sections 2 to 5 of this Part occur in a year of a phase (“year 1”) in relation to a participant which is or includes—

- (a) a government department or part of it;
- (b) a relevant Northern Ireland department or part of it,

such a participant must comply with the requirements in those sections.

(2) Under sub-paragraph (1)(b), in relation to a relevant Northern Ireland department, reference in paragraphs 7 and 10 to the Secretary of State includes reference to the relevant department.

(3) Where the changes described in sections 3 to 5 occur in year 1 in relation to a participant which is or includes the Scottish Ministers or part of that body, such a participant must comply with the requirements in those sections.

(4) Under sub-paragraph (3), in relation to the Scottish Ministers, reference to—

- (a) the Secretary of State in paragraph 10 includes the Scottish Ministers;
- (b) a department in paragraph 11 includes those Ministers or part of that body.

(5) Where the changes described in section 4 or 5 occur in year 1 in relation to a participant which is or includes the Welsh Assembly Government or part of that body, such a participant must comply with the requirements in those sections.

(6) Under sub-paragraph (5), in relation to the Welsh Assembly Government, reference to a department in paragraph 11 includes the Welsh Assembly Government or part of that body.

Notifications and applications: time to comply and the administrator

2.—(1) A notification or application for registration required under this Part must be made using the Registry and within 3 months of the change occurring.

(2) Subject to receipt of such notification or application for registration, the administrator must amend the information it holds in respect of the relevant participants.

SECTION 2

Creation of new departments

Creation of a new department

3. This section applies where—

- (a) from part of a participant (“A”) and part of another participant (“B”), a department (“C”) is created in year 1; and
- (b) A and B continue as participants.

Creation of a new department: year 1

- 4. In year 1—
 - (a) C must—
 - (i) apply for registration as a participant in accordance with article 11; and
 - (ii) comply with Part 5 as if C existed for the whole of year 1;
 - (b) A and B must comply with this Order as if C had not been created.

Creation of a new department: year 2

- 5. In the year after year 1 (“year 2”)—
 - (a) C must comply with Parts 4 and 5 of this Order; and
 - (b) A and B must comply with this Order as if C had not been created.

Creation of a new department: after year 2

- 6. In the years after year 2—
 - (a) C must comply with this Order as applicable to the years after year 2; and
 - (b) A and B must comply with this Order as applicable to the years after year 2 but where A and B do not include C.

Deemed supplies of the new department

- 7.—(1) For the purposes of this section, the Secretary of State may declare in writing that a supply of electricity or gas—
- (a) to A or B is deemed to be a supply to C;
 - (b) to C is deemed to be a supply to A or B.
- (2) A declaration made under sub-paragraph (1) must be provided by the Secretary of State to the administrator as soon as possible.

SECTION 3

Transfers of parts of government departments, Northern Ireland departments, the Scottish Ministers and the Welsh Assembly Government

Transfer of part of a department to another department

- 8. This section applies where from a participant (“D”), a part (“E”) transfers to another participant (“F”) in year 1 (“the transfer”).

Transfers: year 1

- 9. In year 1, D and F must—
 - (a) notify the administrator of—
 - (i) the transfer; and

- (ii) as soon as possible, the percentage of the emissions of D which are attributable to E;
- (b) comply with this Order as if the transfer had not occurred.

Deemed supplies

10.—(1) For the purposes of this section, the Secretary of State may declare in writing that a supply of electricity or gas—

- (a) to D which is attributable to E is deemed to be a supply to F;
- (b) to F which is attributable to E is deemed to be a supply to D.

(2) A declaration made under sub-paragraph (1) must be provided by the Secretary of State to the administrator as soon as possible.

SECTION 4

Mergers in respect of government departments, Northern Ireland departments, the Scottish Ministers or the Welsh Assembly Government

Mergers of departments

11.—(1) Sub-paragraphs (2) to (4) apply where a participant (“G”) merges with another participant (“H”) in year 1 (“the merger”) to form a new department (“J”).

(2) J must notify the administrator of the merger.

(3) J must—

- (a) apply for registration as a participant in accordance with article 11; and
- (b) comply with this Order as if J existed for the whole of year 1.

(4) On the registration of J, the administrator must cancel the registration of G and H for the remainder of the phase.

SECTION 5

Government decisions and separate participation

Government decisions

12. This section applies where a government decision is made in respect of a participant (“K”) that a part of K is a separate participant (“L”).

Separate participants: year 1

13. In year 1,—

(a) L must—

- (i) apply for registration as a participant in accordance with article 11; and
- (ii) comply with Parts 4, 5 and 7 as if L existed for the whole of year 1;

(b) K must comply with this Order as if the government decision had not been made.

PART 2

Other public bodies

Application of Part 2

1. This Part applies where the change described occurs in a year of a phase (“year 1”) and to a participant which is or includes a public body other than a public body to which Part 1 applies.

Notifications and applications: time to comply and the administrator

2.—(1) The notification and application for registration required under this Part must be made using the Registry in accordance with article 11 and within 3 months of the change occurring.

(2) Subject to receipt of such notification or application for registration, the administrator must amend the information it holds in respect of the relevant participants.

Mergers of public bodies

3.—(1) Sub-paragraphs (2) to (4) apply where a participant (“A”) merges with another participant (“B”) in year 1 (“the merger”) to form a new public body (“C”).

(2) C must notify the administrator of the merger.

(3) C must—

- (a) apply for registration as a participant in accordance with article 11; and
- (b) comply with this Order as if C existed for the whole of year 1.

(4) On the registration of C, the administrator must cancel the registration of A and B for the remainder of the phase.

PART 3

Undertakings

SECTION 1

Post-qualification period

Time for applications

1. Where an application for registration is required under this section(1), that application must be made in accordance with article 12.

Participant equivalents leaving a group but not joining another group

2.—(1) Sub-paragraph (2) applies to a group (“A”) where the following change occurs in the post-qualification period—

- (a) a participant equivalent (“B”) leaves A; and
- (b) B does not become a member of another group.

(2) In respect of the change—

(1) This section applies to an undertaking or a group of undertakings further to article 27(2).

- (a) B must—
 - (i) apply to be registered as a participant in accordance with article 11; and
 - (ii) when doing so notify the administrator that it was a member of A and when it ceased to be so;
- (b) A must—
 - (i) apply to be registered as a participant in accordance with article 11; and
 - (ii) when doing so notify the administrator that B was a member of A and when it ceased to be so.

Joining of a participant or participant equivalent with a non-participant

3.—(1) Sub-paragraph (2) applies to a participant or participant equivalent (“C”) where the following change occurs in the post-qualification period—

- (a) C becomes a member of another group or undertaking (“D”); and
 - (b) D is not required to register under article 24.
- (2) In respect of the change—
- (a) C or D must—
 - (i) apply for registration as a participant in accordance with article 11; and
 - (ii) when doing so notify the administrator that C is a member of D and when that occurred;
 - (b) D is only a participant in respect of C when D registers on behalf of C.

Joining of a participant with another participant

4.—(1) Sub-paragraphs (2) applies to a participant (“E”) where the following change occurs in the post-qualification period—

- (a) E becomes a member of another group or undertaking (“F”); and
 - (b) F is required to register under article 24 but has not applied for registration.
- (2) In respect of the change, F must—
- (a) apply for registration as a participant in accordance with article 11;
 - (b) when doing so notify the administrator that E is a member of F and when that occurred;
 - (c) in that notification by F under paragraph (b) F must inform the administrator whether or not F requests that E may apply for registration as a separate participant; and
 - (d) in respect of the information required under paragraph 6 of Schedule 4, include the information which applied to E in the qualification year.
- (3) Where a request is made under sub-paragraph (2)(c), that must be treated as an application for registration under article 26(2).

Participant equivalents leaving a group and joining another group

- 5.—**(1) Sub-paragraphs (2) to (4) apply to a participant equivalent (“B”) of a group (“H”) where—
- (a) B joins another group (“J”) in the post-qualification period; and
 - (b) H and J are groups to which article 27(2) applies.
- (2) In respect of the change H and J must—
- (a) apply for registration as participants in accordance with article 11; and

- (b) when doing so notify the administrator of the change and when it occurred; and
 - (c) in the notification by J under paragraph (b), it must inform the administrator whether or not J requests that B may apply for registration as a separate participant.
- (3) Where a request is made under sub-paragraph (2)(c), that must be treated as an application for registration under article 26(2).
- (4) In respect of the information required under paragraph 6 of Schedule 4, J must include the information which applied to B in the qualification year.

SECTION 2

Annual reporting years and post-application periods

Application during annual reporting years and post-application periods

- 6.—(1) This section applies where any of the changes described in this section occur to that participant in the annual reporting year or in the post-application period.
- (2) Except as otherwise provided in this section, where a participant is a group—
- (a) the members of the group are those members from time to time during the annual reporting year or the post-application period;
 - (b) CRC supplies must be determined in relation to the supplies of electricity or gas to members of the group only for such time as they are members during the year.

Notifications and applications: time to comply and the administrator

- 7.—(1) A notification required under this section must be made using the Registry and no later than the earliest of the following dates—
- (a) the last working day of April in the year immediately following the year of the change occurring;
 - (b) within 3 months of the change occurring.
- (2) An application for registration required under this section must be made no later than the last working day of April in the year immediately following the year of the change occurring.
- (3) On the receipt of such notification or application for registration, the administrator must amend the information it holds in respect of the relevant participants.

Determinations

8. The administrator may make a determination(2)—
- (a) whether any change as described in this section has occurred;
 - (b) whether a notification or application for registration is required as provided under this section.

Participant equivalents becoming participants

- 9.—(1) Sub-paragraphs (2) and (3) apply where the following change occurs—
- (a) a participant (“A”) consists of a group;
 - (b) a participant equivalent (“B”) leaves that group; and
 - (c) B does not become a member of another group.

(2) Such a determination must be made in accordance with article 57(2).

- (2) In respect of the change—
 - (a) B must apply for registration as participants in accordance with article 11;
 - (b) A and B must notify the administrator of the change and when it occurred.
- (3) Where the change occurs in an annual reporting year, B must provide an annual report in respect of the annual reporting year as if B were a participant for the whole of that year.

Joining of a participant or participant equivalent with a non-participant

- 10.**—(1) Sub-paragraphs (2) to (8) apply where the following change occurs—
- (a) a participant or participant equivalent (“C”) becomes a member of a group (“D”); and
 - (b) D is not a participant.
- (2) In respect of the change, where C is a participant—
- (a) C must notify the administrator of the change and when it occurred; or
 - (b) D must apply for registration as a participant in accordance with article 11 and notify the administrator of the change and when it occurred.
- (3) In respect of the change, where C is a participant equivalent—
- (a) C must—
 - (i) apply for registration as a participant in accordance with article 11; and
 - (ii) notify the administrator of the change and when it occurred; or
 - (b) D must—
 - (i) apply for registration as a participant in accordance with article 11; and
 - (ii) notify the administrator of the change and when it occurred.
- (4) Where—
- (a) D applies for registration under sub-paragraph (2)(b) or (3)(b); and
 - (b) C is a participant,
- C’s registration is cancelled.
- (5) Where—
- (a) D does not apply for registration under sub-paragraph (2)(b) or (3)(b); and
 - (b) C is a participant,
- C’s registration is not cancelled.
- (6) Where—
- (a) the change occurs in an annual reporting year; and
 - (b) D has registered on behalf of C,
- D must provide an annual report in respect of those emissions that relate to C and as if C were a member of D for the whole of that year.
- (7) Where—
- (a) the change occurs in an annual reporting year; and
 - (b) D has not registered on behalf of C,
- C must provide an annual report in respect of those emissions that relate to C for the whole of that year.
- (8) Where a non participant equivalent member of C is a participant, that member—
- (a) continues as a participant; or

- (b) must—
 - (i) notify the administrator of the change and when it occurred; and
 - (ii) in the notification, inform the administrator whether or not its registration is to be cancelled.
- (9) Sub-paragraphs (10) to (12) apply where the following change occurs—
 - (a) a participant equivalent (“C”) is a member of a participant (“A”);
 - (b) C becomes a member of a group (“D”); and
 - (c) D is not a participant.
- (10) In respect of the change—
 - (a) A and D must notify the administrator of the change and when it occurred and D must apply for registration as a participant in accordance with article 11; or
 - (b) C must apply for registration as a participant in accordance with article 11 and notify the administrator of the change and when it occurred.
- (11) Where—
 - (a) the change occurs in an annual reporting year; and
 - (b) D has registered on behalf of C,

D must provide an annual report in respect of those emissions that relate to C and any of C’s subsidiary undertakings that become a member of D and as if C were a member of D, for the whole of that year.

- (12) Where—
 - (a) the change occurs in an annual reporting year; and
 - (b) D has not registered on behalf of C,

C must provide an annual report in respect of those emissions that relate to C and any of C’s subsidiaries that become a member of D, for the whole of that year.

Joining of a participant as a member of another participant

- 11.**—(1) Sub-paragraphs (2) to (4) apply where the following change occurs—
 - (a) a participant (“E”) becomes a member of a group (“F”); and
 - (b) F is a participant.
- (2) In respect of the change—
 - (a) E and F must notify the administrator of the change and when it occurred; and
 - (b) in the notification by F, F must inform the administrator whether or not F requests that E continues as a separate participant.
- (3) Where F requests that E continues as a separate participant under sub-paragraph (2)(b), E and F continue as separate participants.
- (4) Where E and F do not continue as separate participants—
 - (a) E is a member of F for the whole of the year of the phase in which the change occurs;
 - (b) subject to the administrator being satisfied that E and F are complying with this Order, the administrator must cancel the registration of E for the remainder of that phase.

Participant equivalents transferring to another participant

- 12.**—(1) Sub-paragraphs (2) and (3) apply where the following change occurs—

- (a) a participant (“G”) consists of a group; and
 - (b) a participant equivalent (“H”) which was a member of G becomes a participant equivalent as a member of another participant (“J”).
- (2) In respect of the change—
- (a) G and J must notify the administrator of the change and when it occurred;
 - (b) in the notification of J, J must inform the administrator whether or not J requests that H may apply for registration as a separate participant; and
 - (c) if such a request is made, H must apply for registration as a participant in accordance with article 11.
- (3) Where H is not registered as a separate participant, H is treated as if it were a participant equivalent as a member of J for the whole of the year in which the change occurs.

Trustees: separate participation

- 13.**—(1) Sub-paragraphs (2) and (3) apply where—
- (a) a public body or undertaking (“T”) is a trustee of a relevant trust; and
 - (b) T is required to register as a participant, whether on its own or as a member of a group.
- (2) Sub-paragraph (3) applies where—
- (a) during or after the first year of a phase, T applies for registration as a separate participant in respect of any scheme activities of any relevant trust of which T is a trustee; and
 - (b) the administrator is satisfied that the application has been duly made.
- (3) Where this sub-paragraph applies, the administrator must register T as a separate participant in respect of—
- (a) any scheme activities of any relevant trust of which T is the trustee; and
 - (b) any other scheme activities of T.
- (4) In this paragraph, “relevant trust” means a trust where—
- (a) the assets of the trust include premises to which a supply of electricity or gas is made;
 - (b) the trust is not managed by an operator;
 - (c) no beneficiary of the trust is entitled to half or more of the assets of the trust; and
 - (d) the trust carries on a scheme activity.