
DRAFT STATUTORY INSTRUMENTS

2021 No.

The Greenhouse Gas Emissions (Kyoto Protocol Registry) Regulations 2021

PART 3

Amendments to [Commission Regulation \(EU\) No 389/2013](#)

Amendments to Title 1 of the Registries Regulation 2013

4.—(1) Title 1 (common general provisions) of the Registries Regulation 2013 is amended as follows.

(2) For Articles 1 to 3 substitute—

“Article 1

Subject matter

This Regulation lays down requirements concerning the Registry.

Article 2

Scope

This Regulation applies to Kyoto units.

Article 3

Definitions

1. Unless otherwise indicated, terms used in this Regulation have the same meaning as under [Directive 2003/87/EC\(1\)](#) and relevant international climate law.

2. In addition, in this Regulation—

- (a) “account holder” means a person that holds an account in the Registry;
- (b) “allowances” means allowances created pursuant to [Directive 2003/87/EC](#);
- (c) “assigned amount units” (“AAUs”) means—
 - (i) units issued before IP completion day pursuant to Article 7(3) of Decision No [280/2004/EC\(2\)](#); or
 - (ii) units corresponding to the United Kingdom’s emission levels determined pursuant to the Kyoto Protocol and issued on or after IP completion day;

(1) OJ No. L 275, 25.10.2003, p. 32. This Directive was amended by [Directive 2004/101/EC](#), OJ No. L 338, 13.11.2004, p. 18; [Directive 2008/101/EC](#), OJ No. L 8, 13.1.2009, p. 3; and [Directive 2009/29/EC](#), OJ No. L 140, 5.6.2009, p. 63. There are other amendments that are not relevant.

(2) OJ No. L 49, 19.02.2004, p. 1. Repealed by Regulation (EU) No 525/2013, OJ No. L 165, 18.6.2013, p. 13.

- (d) “cancellation” means the definitive disposal of a Kyoto unit by its holder;
- (e) “designated national authority” means an entity that gives approval of an Article 6 project activity required by Article 6(1)(a) of the Kyoto Protocol or of voluntary participation in an Article 12 project activity required by Article 12(5)(a) of the Kyoto Protocol;
- (f) “directors” means the persons effectively directing the day-to-day operations of a legal person;
- (g) “the Kyoto Protocol” means the protocol to the UNFCCC signed at Kyoto on 11th December 1997;
- (h) “Kyoto units” means AAUs, emission reduction units (“ERUs”)(3), certified emission reductions (“CERs”)(4), RMUs, ICERs and tCERs;
- (i) “long-term certified emission reductions” (“ICERs”) means units issued for an afforestation or reforestation project activity under the clean development mechanism (“CDM”)(5) which, subject to Decision 5/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol(6), expire at the end of the emission reduction crediting period of the afforestation or reforestation project activity under the CDM for which they were issued;
- (j) “money laundering” has the meaning given by section 340(11) of the Proceeds of Crime Act 2002(7);
- (k) “the national administrator” means the Environment Agency;
- (l) “out of band confirmation” means a communication from the national administrator to an account holder or authorised representative for the purpose of ensuring compliance with UNFCCC security requirements;
- (m) “process” means an automated technical means to carry out an action relating to an account or a unit in the Registry;
- (n) “the Registry” means the registry administered on behalf of the United Kingdom for the purposes of its obligations as a party to the Kyoto Protocol;
- (o) “relevant international climate law” means—
 - (i) the UNFCCC;
 - (ii) the Kyoto Protocol; and
 - (iii) the decisions adopted pursuant to the UNFCCC or the Kyoto Protocol, as adopted and amended from time to time;
- (p) “removal units” (“RMUs”) means units issued pursuant to the relevant provisions in the annex to Decision 13/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol(8);
- (q) “second commitment period” means the period from 1st January 2013 to 31st December 2020 during which a party to the Kyoto Protocol shall limit their greenhouse gas emissions;

(3) “ERUs” is defined in Article 3(m) of [Directive 2003/87/EC](#).

(4) “CERs” is defined in Article 3(n) of [Directive 2003/87/EC](#).

(5) “CDM” is defined in Decision 3/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

(6) Decision 5/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (modalities and procedures for afforestation and reforestation project activities under the CDM in the first commitment period of the Kyoto Protocol).

(7) [2002 c. 29](#). There are no relevant amendments.

(8) Decision 13/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (modalities for the accounting of assigned amounts under Article 7, paragraph 4).

- (r) “serious crime” means an offence listed in Part 1 (England & Wales), Part 1A (Scotland) or Part 2 (Northern Ireland) of Schedule 1 to the Serious Crime Act 2007(9);
 - (s) “temporary certified emission reductions” (“tCERs”) means units issued for an afforestation or reforestation project activity under the CDM which, subject to Decision 5/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, expire at the end of the Kyoto Protocol commitment period following the one during which they were issued;
 - (t) “terrorist financing” has the meaning given by regulation 3 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(10);
 - (u) “transaction” means a process in the Registry that includes the transfer of a Kyoto unit from one account to another account;
 - (v) “the UNFCCC” means the United Nations Framework Convention on Climate Change signed at New York on 9th May 1992;
 - (w) “working day” means any day other than—
 - (i) Saturday, Sunday, Good Friday, or Christmas Day; or
 - (ii) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(11).”.
- (3) Omit Articles 4 to 7.
- (4) For Article 8 substitute—

“Article 8

National administrator

The national administrator must administer the Registry in accordance with this Regulation and relevant international climate law.”.

- (5) For Article 9 substitute—

“Article 9

Accounts

1. The Secretary of State must ensure that the Registry contains accounts as required by relevant international climate law.
2. Each account type may hold the unit types permitted by relevant international climate law.”.

- (6) In Article 10—

(9) 2007 c. 27. Schedule 1 to that Act was amended by the Marine and Coastal Access Act 2009 (c. 23), Schedule 22; the Taxation (International and Other Provisions) Act 2010 (c. 8), Schedule 7, paragraph 101; the Bribery Act 2010 (c. 23), Schedule 1, paragraph 14; the Protection of Freedoms Act 2012 (c. 9), Schedule 9, paragraph 142; the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), Schedule 4, paragraph 7 and Schedule 5; the Serious Crime Act 2015 (c. 9), section 47 and Schedule 1, paragraph 31 and Schedule 4, paragraph 81; the Modern Slavery Act 2015 (c. 30), Schedule 5, paragraph 7; the Psychoactive Substances Act 2016 (c. 2), Schedule 5, paragraph 8; the Policing and Crime Act 2017 (c. 3), section 151; the Criminal Finances Act 2017 (c. 22), section 51; the Sanctions and Anti-Money Laundering Act 2018 (c. 13), Schedule 3, paragraph 5; the Counter-Terrorism and Border Security Act 2019 (c. 3), section 14; and S.I. 2019/1354, regulation 3.

(10) S.I. 2017/692. The definition of “terrorist financing” was amended by S.I. 2020/591.

(11) 1971 c. 80; see section 1 and Schedule 1 (which was amended by section 1 of the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (2007 asp 2)).

- (a) in paragraph 1, omit “, blocked, excluded”;
- (b) omit paragraphs 2 and 4 to 6.
- (7) In Article 11—
 - (a) for paragraph 1 substitute—
 - “1. The national administrator must administer every account on behalf of the Secretary of State”;
 - (b) omit paragraph 2;
 - (c) in paragraph 3—
 - (i) for “administrator of an account shall” substitute “national administrator must”;
 - (ii) omit “, change its status”;
 - (iii) for “administrator”, in the second place in which it occurs, substitute “national administrator”;
 - (iv) omit “, and initiate transactions as requested by the account holder in accordance with Article 23(5)”;
 - (d) in paragraph 4, for “administrator” substitute “national administrator”;
 - (e) omit paragraph 5.
- (8) Omit Article 12.
- (9) For Article 13 substitute—

“Article 13

Party holding accounts

- 1. At the request of the Secretary of State, the national administrator must open a party holding account for each year of the second commitment period within the period of 28 days beginning with the day after that on which the national administrator receives the information set out in Annex 3 from the Secretary of State
- 2. The national administrator must act as the authorised representative of the account, unless the Secretary of State nominates another person.
- 3. The Secretary of State must provide the national administrator with the information set out in Table 8-1 of Annex 8 for each authorised representative of a party holding account”.
- (10) Omit Articles 14 to 17.
- (11) In Article 18—
 - (a) in the heading, omit—
 - (i) “and trading”;
 - (ii) “in the Union Registry”;
 - (b) in paragraph 1—
 - (i) omit “or trading account in the Union Registry”;
 - (ii) for “shall”, in each place in which it occurs, substitute “must”;
 - (c) in paragraph 2—
 - (i) for “Member State of the national administrator may” substitute “Secretary of State may”;
 - (ii) omit “or trading”;

- (iii) for “Member State of the national administrator administering the account” substitute “United Kingdom”;
 - (d) in paragraph 3—
 - (i) for “Member State of the national administrator may” substitute “Secretary of State may”;
 - (ii) omit “or trading”;
 - (iii) for “Member State of the national administrator of the account” substitute “United Kingdom”;
 - (e) in paragraph 4—
 - (i) for “shall” substitute “must”;
 - (ii) omit “or trading account”;
 - (iii) omit “Union”.
- (12) Omit Articles 19 to 21.
- (13) In Article 22—
- (a) in paragraph 1, for “shall” substitute “must”;
 - (b) in paragraph 2—
 - (i) in the words before point (a), for “A national” substitute “The national”;
 - (ii) in point (c), omit “allowances or”;
 - (iii) for point (d) substitute—
 - “(d) if the national administrator is not satisfied that the proposed account holder is a fit and proper person to hold such an account.”;
 - (c) for paragraph 3 substitute—
 - “**3.** If the national administrator refuses to open an account, the person requesting the account opening may appeal against the decision in accordance with Article 110c.”.
- (14) For Article 23 substitute—

“Article 23

Authorised representatives

1. Each account must have at least two authorised representatives. The authorised representatives may initiate transactions and other processes on behalf of the account holder.
 2. In addition to the authorised representatives specified in paragraph 1, accounts may also have authorised representatives with “view only” access to the account.
 3. The approval of an authorised representative is required in order to initiate a transaction.
 4. The data exchange and technical specifications may set a maximum number of authorised representatives for each account type.
 5. Authorised representatives must be natural persons over 18 years of age. All authorised representatives of a single account must be different persons but the same person can be an authorised representative on more than one account. The Secretary of State may require that at least one of the authorised representatives of an account is a permanent resident in the United Kingdom”.
- (15) In Article 24—
- (a) in the heading, omit “and additional authorised representatives”;

- (b) in paragraph 1—
 - (i) for “shall” substitute “must”;
 - (ii) omit “and additional authorised representatives”;
- (c) in paragraph 2—
 - (i) omit “or additional authorised representative”;
 - (ii) for “shall”, in both places in which it occurs, substitute “must”;
 - (iii) for “administrator” substitute “national administrator”;
- (d) in paragraph 3—
 - (i) for “shall” substitute “must”;
 - (ii) omit “or additional authorised representative.”;
 - (iii) for “administrator may” substitute “national administrator may”;
- (e) in paragraph 4—
 - (i) for “shall” substitute “must”;
 - (ii) omit “or additional authorised representative”;
- (f) in paragraph 5—
 - (i) in the words before point (a), omit “or additional authorised representative”;
 - (ii) for point (c) substitute—
 - “(c) if the national administrator is not satisfied that the proposed authorised representative is a fit and proper person to act as an authorised representative.”;
- (g) for paragraph 6 substitute—
 - “6. If the national administrator refuses to approve an authorised representative, the account holder may appeal against the decision in accordance with Article 110c.”.
- (16) In Article 25—
 - (a) in paragraph 1, for “shall”, in both places in which it occurs, substitute “must”;
 - (b) omit paragraph 2;
 - (c) in paragraph 3—
 - (i) for “shall”, in each place in which it occurs, substitute “must”;
 - (ii) for “relevant national administrator” substitute “national administrator”;
 - (iii) before “approve the update of the information” insert “determine whether to”;
 - (iv) for “The administrator” substitute “The national administrator”;
 - (v) for the final sentence substitute “If the national administrator refuses to update the information, the account holder may appeal against the decision in accordance with Article 110c.”;
 - (d) in paragraph 4, for “shall”, in both places in which it occurs, substitute “must”;
 - (e) omit paragraph 5;
 - (f) in paragraph 6, for “Subject to paragraph 5, no” substitute “No”;
 - (g) in paragraph 7, omit “or additional authorised representative”;
 - (h) in paragraph 8—
 - (i) for “shall”, in both places in which it occurs, substitute “must”;
 - (ii) omit “or additional authorised representative”;

- (iii) for “relevant administrator” substitute “national administrator”;
 - (i) in paragraph 9, omit “or additional authorised representatives”;
 - (j) omit paragraphs 10 and 11.
- (17) In Article 26—
- (a) for paragraph 1 substitute—
 - “1. Person holding accounts may have a trusted account list in the Registry”;
 - (b) omit paragraph 3.
- (18) In Article 27—
- (a) omit “of an account other than those specified in Articles 28, 29, 30 and 31,”;
 - (b) for “administrator shall” substitute “national administrator must”.
- (19) Omit Articles 28 to 31.
- (20) In Article 32—
- (a) in paragraph 1—
 - (i) omit “allowances or” in both places in which it occurs;
 - (ii) for “an administrator” substitute “the national administrator”;
 - (iii) for “Articles 27, 28 and 29” substitute “Article 27”;
 - (iv) for “the administrator”, in both places in which it occurs, substitute “the national administrator”;
 - (v) for “shall”, in each place in which it occurs, substitute “must”;
 - (vi) for “the administrator’s” substitute “the national administrator’s”;
 - (vii) omit “allowances and”;
 - (viii) for “its national holding account” substitute “a party holding account”;
 - (b) in paragraph 2—
 - (i) omit “allowances or”;
 - (ii) for “competent authority” substitute “Secretary of State”;
 - (iii) omit “allowances and”;
 - (iv) for “the relevant national account” substitute “a party holding account”.
- (21) In Article 33—
- (a) in the heading, for “administrator’s” substitute “national administrator’s”;
 - (b) in paragraph 1—
 - (i) for “competent authority”, in both places in which it occurs, substitute “Secretary of State”;
 - (ii) omit “, or in the case of operator holding accounts or aircraft operator holding accounts to set to blocked status,”;
 - (c) in paragraph 2, omit “or trading account” in both places in which it occurs;
 - (d) omit paragraph 3;
 - (e) in paragraph 4, omit “or an additional authorised representative” in both places in which it occurs;
 - (f) for paragraph 5 substitute—
 - “5. In accordance with Article 110c, the account holder may appeal against—

- (a) a decision to close an account under paragraph 1 within the period of 30 days beginning with the day on which the account is closed; or
 - (b) a decision to remove an authorised representative under paragraph 4 within the period of 30 days beginning with the day on which the authorised representative is removed.”.
- (22) In Article 34—
- (a) in paragraph 1—
 - (i) in the words before point (a)—
 - (aa) for “An administrator” substitute “The national administrator”;
 - (bb) omit “or an additional authorised representative”;
 - (cc) for “registry” substitute “Registry”;
 - (dd) for “the administrator” substitute “the national administrator”;
 - (ii) in point (c), for “the Union Registry or the EUTL” substitute “the Registry”;
 - (b) in paragraph 2—
 - (i) in the words before point (a)—
 - (aa) for “An administrator” substitute “The national administrator”;
 - (bb) omit “or additional authorised representatives”;
 - (ii) in point (d), omit “or the central administrator”;
 - (iii) in point (g)—
 - (aa) in the first place in which it occurs, omit “Member State”;
 - (bb) for “Member State of the national administrator” substitute “United Kingdom”;
 - (iv) in point (h)—
 - (aa) in the first place in which it occurs, omit “Member State”;
 - (bb) for “Member State of the administrator of the account” substitute “United Kingdom”;
 - (c) in paragraph 3—
 - (i) in the words before point (a)—
 - (aa) for “An administrator” substitute “The national administrator”;
 - (bb) omit “or additional authorised representatives”;
 - (ii) in point (a)—
 - (aa) for “administrator” substitute “national administrator”;
 - (bb) for “crimes, or” substitute “crimes.”;
 - (iii) omit point (b);
 - (d) in paragraph 5, for “administrator of the account shall” substitute “national administrator must”;
 - (e) for paragraph 6 substitute—

“6. In accordance with Article 110c, the account holder may appeal against a decision to suspend access under paragraph 1 or 3 within the period of 30 days beginning with the day on which access is suspended”;
 - (f) in paragraph 7—

- (i) for “competent authority or the Commission” substitute “Secretary of State”;
- (ii) omit “or central administrator”;
- (g) omit paragraphs 8 to 10.