
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transpose Directive [2004/101/EC](#) of the European Parliament and of the Council amending Directive [2003/87/EC](#) establishing a Scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms. They also provide the Secretary of State with powers to assist her in carrying out her obligations under Decision [280/2004/EC](#) of the Council and of the Parliament to prepare a national emissions inventory and makes a small number of other provisions relating to the collection of data.

Part 2 of the Regulations amends the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (S.I.2005/925) ("the ETS Regulations") to permit holders of accounts in the UK emissions trading registry to hold certain types of Certified Emissions Reductions (CERs) and Emissions Reduction Units (ERUs) in their registry accounts (regulation 26(17) of the ETS Regulations). It also allows people with obligations to surrender allowances under the EU Emissions Trading Scheme, subject to specified limitations, to use certain types of CERs and ERUs as well as allowances towards complying with those obligations (regulation 27A of the ETS Regulations). It also extends the power that the Secretary of State and other bodies have under the ETS Regulations to require people to supply information (regulation 35(4)-(5) of the ETS Regulations).

Part 3 of the Regulations establishes an application procedure by which a person may apply to the Secretary of State for approval of one of the project activities established under the Kyoto Protocol or for authorisation to participate in the project activity (regulation 5). It sets out certain conditions that the Secretary of State must ensure when considering whether or not to approve such a project or authorise participation (regulation 7). It also provides a procedure for the applicant to appeal against the determination of his application (regulation 9).

Part 4 of the Regulations provide a power for the Secretary of State and devolved administrations to require a person to supply information for the purposes of compiling a national emissions inventory (regulation 10). Regulation 11 sets out powers of entry and inspection which may be exercised by an authorised person for the purpose of preparing such an inventory.

Part 5 makes it an offence to comply with a number of obligations imposed under the Regulations (regulation 13(1)) and specifies the maximum penalties which may be imposed for such an offence (regulation 13(2)). It also provides that where an offence is committed by a body corporate or by a Scottish partnership, specified individuals may also be guilty of that offence if it were committed with that person's consent or connivance, or as a result of their neglect (regulation 13(3)-(5)).

A regulatory impact assessment and a transposition note has been prepared and placed in the library of each House of Parliament. Copies can be obtained from National Climate Change Policy Division, Department for Environment, Food and Rural Affairs, Ashdown House, 123 Victoria Street, London SW1E 6DE.