

**Title:** Post implementation review of Part 4 and Part 6 of the Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005 (S.I. 2005/2903)

**PIR No:** BEIS044(PIR)-18-SICE

**Original IA/RPC No:** N/A

**Lead department or agency:** BEIS

**Other departments or agencies:**

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## Post Implementation Review

**Date:** 30/01/2019

**Type of regulation:** Domestic

**Type of review:** Statutory

**Date measure came into force:** <sup>1</sup>  
31/01/2014

**Recommendation:** Keep

**RPC Opinion:**

### 1. What were the policy objectives of the measure? (Maximum 5 lines)

This Post Implementation Review covers Part 4 and Part 6 of the Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005 (S.I. 2005/2903) (the "2005 Regulations"). This review complies with the requirements of regulation 1A of the 2005 Regulations.

The objective of Part 4 is to ensure that there are suitable regulations in place for the collection of data regarding the UK's national inventory. For the purposes of preparing a national inventory, the Secretary of State may require any person to furnish information by serving a notice on that person. The national inventory is the record of the number of tonnes of each greenhouse gas which were emitted and removed each year and is required to fulfil the UK's commitments under the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol.

The UNFCCC is an international environmental treaty whose objective is to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. The Kyoto Protocol is an international agreement under the framework of the UNFCCC, which commits certain countries, including the UK, to internationally binding emission reduction targets. Under the UNFCCC and the Kyoto Protocol the UK is required to report annual inventories of all anthropogenic greenhouse gas emissions from sources and removals from sinks.

Part 6 of the 2005 Regulations relates to civil penalties. It provides for penalties where:

1. A person fails to comply with the requirements of a notice requiring information for the purposes of preparing a national inventory;
2. A person provides false or misleading information, or makes a statement which is false or misleading, in connection with an application for approval of a project activity or to participate in a project activity under one of the Kyoto Protocol's project mechanisms (the Clean Development Mechanism and Joint Implementation);
3. A person provides false or misleading information in relation to the preparation of a national inventory.

Part 5 of the 2005 Regulations previously made certain activities offences, including providing false or misleading statements. However, these criminal offences were revoked by the Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013/3135 and the Greenhouse Gas Emissions Trading Scheme (Amendment) and National Inventories (Amendment) Regulations 2014/3075, and civil penalties were inserted

<sup>1</sup> This is the date Part 6 came into force. Part 4 came into force on 13/11/2005.

under a new Part 6. The criminal offences were replaced with civil penalties because it was considered that civil penalties would achieve a similar level of deterrence to criminal offences, whilst also being less of a burden for businesses and individuals, in line with the Government's better regulation agenda.

This document does not review Part 1 of the Regulations, because this sets out general provisions, such as definitions. Part 2 of the Regulations made amendments to another set of Regulations. These amendments have since been revoked, so Part 2 has not been reviewed.

Also, this document does not review Part 3 of the 2005 Regulations, which governs the process for submitting and approving applications for participation in the Kyoto Protocol project mechanisms. A Post Implementation Review of Part 3 was undertaken and published in March 2016, as required by regulation 3 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (Fees) and National Emissions Inventory Regulations 2011 (S.I. 2011/727) ("2011 Regulations").<sup>2</sup> This review also complied with the requirements of regulation 1A of the 2005 Regulations regarding Part 3.

## **2. What evidence has informed the PIR? (Maximum 5 lines)**

As this is a low cost, low impact element of the overall policy, we carried out a light-touch PIR. Companies and trade associations that submit data to the National Atmospheric Emissions Inventory (NAEI) were asked to estimate the approximate number of man-hours and approximate seniority of staff devoted to emissions reporting. Based on the responses and ONS salary statistics the average cost to companies in the UK to report emissions to the NAEI is around £750 per year. The maximum estimated cost per year was around £5,000. Companies that collect emissions data as a matter-of-course report a lower financial burden for reporting (mean ~£82pa). Where emissions data are collected exclusively for reporting purposes, the man-hours (and costs) invested were higher (£1,400-£5,000 per year). This data is submitted voluntarily by companies so the powers to require information under Part 4 have not been needed.

No notices have been served under Part 4, nor have the civil penalty provisions under Part 6 been used. The UK's national inventory has been reviewed every year, and every year the UNFCCC's expert reviewers have confirmed that the UK's national inventory is compliant. Therefore, the policy objectives of Part 4 have been met without needing to rely on the power to require information. However, Part 4 still provides an important backstop. The civil penalty provisions under Part 6 have not been used. This suggests that they have been a sufficient deterrent, and thus the policy objectives of Part 6 have been met.

## **3. To what extent have the policy objectives been achieved? (Maximum 5 lines)**

The policy objectives have been fully achieved.

To date, no notices have been served under Part 4 of the 2005 Regulations. However, the provisions are required to ensure that the UK can meet its obligations under the UNFCCC and the Kyoto Protocol by providing powers for the UK to require information in order to compile the UK's national inventory. Whilst this power has not been needed so far, it provides an important back-stop. The UNFCCC reviews the UK's national inventory annually and has confirmed that the UK's national inventory complies with the Kyoto Protocol.

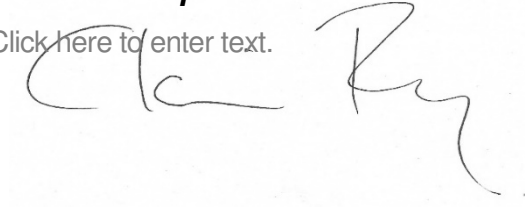
To date, the civil penalty provisions under Part 6 have not been used, with respect to either Parts 3 or 4 of the 2005 Regulations. The provisions are, though, still judged to be appropriate and necessary, to ensure compliance if needed with notices served under Part 4, and that information provided with respect to Parts 3 or 4 of the 2005 Regulations is neither false nor misleading.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: [Click here to enter text.](#)

Date: 24/01/2019

A handwritten signature in black ink, appearing to be 'C. R.', is written over the 'Signed' text.

## Further information sheet

Please provide additional evidence in subsequent sheets, as required.

### 4. What were the original assumptions?(Maximum 5 lines)

There was no impact assessment; the original assumptions were that the 2005 Regulations were technical in nature and the financial impact would be minimal.

### 5. Were there any unintended consequences? (Maximum 5 lines)

There were no unintended consequences

### 6. Has the evidence identified any opportunities for reducing the burden on business? (Maximum 5 lines)

The evidence has identified that the burden on business can continue to be minimised by seeking to use publicly available data to compile the national inventory, where possible. The main data sources for the national inventory are statistics about energy production and consumption, about transport, and about agriculture. Since no notices have been served under Part 4 and the provisions under Part 6 have not been used, the cost to business is zero.

### 7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business? (Maximum 5 lines)

[Click here to enter text.](#)We did not find information on civil penalties or similar provisions in the legislation of a number of other leading European processors of applications for participation in the Kyoto Protocol project mechanisms. In some cases, including Sweden and Switzerland, this is as no such civil penalty provisions are in place. However, Germany does provide for fines in relation to the provision of incorrect or incomplete information. Such fines may be up to €100,000 in certain circumstances, whereas the maximum civil penalty under the UK legislation is £1,500 for the provision of false or misleading information, and up to £15,000 for an ongoing failure to comply with the requirements of a notice requiring information for the purposes of preparing a national inventory. We consider that civil penalties are necessary to act as a deterrent and we consider that the current level of penalty in the UK is appropriate. There is no resulting cost to businesses provided that they comply with the legislation.

