

SCHEDULE 1

Regulations 2(1) and 7

Activities

PART 1

Activities and Specified Emissions

<i>Activities</i>	<i>Specified emissions</i>
1.	Energy Activities
1.1	Carbon dioxide
	Activities of combustion installations with a rated thermal input exceeding 20 megawatts (excluding hazardous or municipal waste installations).
1.2	Carbon dioxide
	Activities of mineral oil refineries.
1.3	Carbon dioxide
	Activities of coke ovens.
2.	Production and processing of ferrous metals
2.1	Carbon dioxide
	Activities of metal ore (including sulphide ore) roasting and sintering installations.
2.2	Carbon dioxide
	Activities of installations for the production of pig iron or steel (primary or secondary fusion), including continuous casting, with a capacity of more than 2.5 tonnes per hour.
3.	Mineral Industries
3.1	Carbon dioxide
	Activities of installations for the production of cement clinker in rotary kilns with a production capacity of more than 500 tonnes per day.
3.2	Carbon dioxide
	Activities of installations for the production of lime in rotary kilns or other furnaces with a production capacity of more than 50 tonnes per day.
3.3	Carbon dioxide
	Activities of installations for the manufacture of glass including glass fibre where the

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<i>Activities</i>	<i>Specified emissions</i>
3.4	<p>melting capacity of the plant is more than 20 tonnes per day.</p> <p>Activities of installations for the manufacture of ceramic products (including roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain) by firing in kilns where—</p> <p>(i) the kiln production capacity is more than 75 tonnes per day; or</p> <p>(ii) the kiln capacity is more than 4m³ and the setting density is more than 300 kg/m³.</p>
4.	Other activities
4.1	<p>Activities of industrial plants for the production of pulp from timber or other fibrous materials.</p>
4.2	<p>Activities of industrial plants for the production of paper and board with a production capacity of more than 20 tonnes per day.</p>

PART 2

Interpretation of Schedule 1

1. The following rules apply for the interpretation of Part 1 of this Schedule.
2. An activity shall not be taken to be an activity falling within Part 1 if it is carried out for research, development or testing of new products or processes.
- 3.—(1) This paragraph applies for the purpose of determining whether an activity carried out in a stationary technical unit falls within the description of an activity in Part 1 which refers to capacity.
 - (2) Where a person carries out several activities falling within the same description in Part 1 in different parts of the same stationary technical unit or in different stationery technical units on the same site, the capacities of each part or unit, as the case may be, shall be added together and the total capacity shall be attributed to each part or unit for the purpose of determining whether the activity carried out in each part or unit falls within a description in Part 1.
 - (3) For the purposes of sub-paragraph (2), no account shall be taken of capacity when determining whether activities fall within the same description.

SCHEDULE 2

Regulation 34(1)

Appeals (other than appeals to which Schedule 4 applies)

1.—(1) A person who wishes to appeal to the appeal body under regulation 32 or 33 shall give to the appeal body written notice of the appeal together with the documents specified in sub-paragraph (2) and shall at the same time send to the regulator a copy of that notice together with copies of the documents specified in sub-paragraph (2)(a) and (f).

(2) The documents mentioned in sub-paragraph (1) are—

- (a) a statement of the grounds of appeal;
- (b) a copy of any relevant application;
- (c) a copy of any relevant greenhouse gas emissions permit;
- (d) a copy of any relevant correspondence between the appellant and—
 - (i) in the case of an appeal under regulation 32, the regulator;
 - (ii) in the case of an appeal under regulation 33(1), the appropriate authority;
 - (iii) in the case of an appeal under regulation 33(2), the responsible authority; or
 - (iv) in the case of an appeal under regulation 33(3), the Secretary of State;
- (e) a copy of any decision or notice which is the subject matter of the appeal; and
- (f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be disposed of on the basis of written representations.

(3) An appellant may withdraw an appeal by notifying the appeal body in writing and shall send a copy of that notification to the regulator.

2.—(1) Subject to sub-paragraph (2), notice of appeal in accordance with paragraph 1 is to be given—

- (a) in the case of an appeal under regulation 32(1)(a) to (d) or under regulation 32(1)(e) against the refusal of an application to surrender a greenhouse gas emissions permit, before the expiry of the period of six months beginning with the date of the decision or deemed decision which is the subject matter of the appeal;
- (b) in the case of an appeal under regulation 32(1)(e) against a notice of surrender or 32(2) against a revocation notice, before the date on which the notice of surrender or the revocation notice takes effect;
- (c) in the case of an appeal under regulation 32(2) against a variation notice or an enforcement notice, or of an appeal under regulation 32(3)(a) or 33(1), (2)(b) or (3)(b), before the expiry of the period of two months beginning with the date of the notice which is the subject matter of the appeal;
- (d) in the case of an appeal under regulation 32(1)(f) against a determination of reportable emissions, before the expiry of the period of two months beginning with the date of the notice which is the subject matter of the appeal;
- (e) in the case of an appeal under regulation 32(3)(b) or (c), before the expiry of the period of 15 working days beginning with the date of the decision which is the subject matter of the appeal;
- (f) in the case of an appeal under regulation 32(3)(d) or (e), 32(4), or 33(3)(a), before the expiry of the period of two months beginning with the date of the decision which is the subject matter of the appeal;

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(g) in the case of an appeal under regulation 33(2), before the expiry of the period of 2 months beginning with the date of service of the certificate or notice which is the subject matter of the appeal.

(2) The appeal body may in a particular case allow notice of appeal to be given after the expiry of the periods mentioned in sub-paragraph (1)(a) or (c).

3.—(1) In the case of an appeal under regulation 32, the regulator shall, within 14 days of receipt of the copy of the notice of appeal sent in accordance with paragraph 1, give notice of it to any person who appears to the regulator to have a particular interest in the subject matter of the appeal.

(2) In the case of an appeal under regulation 33, the appeal body shall, within 14 days of receipt of the copy of the notice of appeal sent in accordance with paragraph 1, give notice of it to any person who appears to the appeal body to have a particular interest in the subject matter of the appeal.

(3) A notice under sub-paragraph (1) or (2) shall—

- (a) state that notice of appeal has been given;
- (b) state the name of the appellant and the location of the installation concerned;
- (c) describe the decision or notice to which the appeal relates;
- (d) state that representations with respect to the appeal may be made to the appeal body in writing by any recipient of the notice within a period of 21 days beginning with the date of the notice and that copies of any representations so made will be furnished to the appellant and to the regulator; and
- (e) state that if a hearing is to be held wholly or partly in public, a person mentioned in sub-paragraph (1) or (2) will be notified of the date of the hearing.

(4) The regulator shall, within 14 days of sending a notice under sub-paragraph (1), notify the appeal body of the persons to whom and the date on which the notice was sent.

(5) In the event of an appeal under regulation 32 being withdrawn, the regulator shall give notice of the withdrawal to every person to whom notice was given under sub-paragraph (1).

(6) In the event of an appeal under regulation 33 being withdrawn, the appeal body shall give notice of the withdrawal to every person to whom notice was given under sub-paragraph (2).

4.—(1) Before determining an appeal, the appeal body may afford the appellant and, where applicable, the regulator an opportunity of appearing before and being heard by a person appointed by it (the “person holding the hearing”) and it shall do so in any case where a request is duly made by the appellant or, where applicable, the regulator to be so heard.

(2) A hearing held under sub-paragraph (1) may, if the person holding the hearing so decides, be held wholly or partly, in private.

(3) Where the appeal body causes a hearing to be held under sub-paragraph (1) it shall give the appellant and, if applicable, the regulator at least 28 days notice (or such shorter period of notice as they may agree) of the date, time and place fixed for the holding of the hearing.

(4) In the case of a hearing which is to be held wholly or partly in public, the appeal body shall, at least 21 days before the date fixed for the holding of the hearing—

- (a) publish a copy of the notice mentioned in sub-paragraph (3) in a newspaper circulating in the locality in which the installation is operated; and
- (b) serve a copy of that notice on every person mentioned in paragraph 3(1) who has made representations in writing to the appeal body.

(5) The appeal body may vary the date fixed for the holding of any hearing and sub-paragraphs (3) and (4) shall apply to the variation of a date as they applied to the date originally fixed.

(6) The appeal body may also vary the time or place for the holding of a hearing and shall give such notice of any such variation as appears to him to be reasonable.

(7) The persons entitled to be heard at a hearing are the appellant and, if applicable, the regulator.

(8) Nothing in sub-paragraph (7) shall prevent the person holding the hearing from permitting any other persons to be heard at the hearing and such permission shall not be unreasonably withheld.

(9) After the conclusion of a hearing, the person holding the hearing shall make a report in writing to the appeal body which shall include his conclusions and his recommendations or his reasons for not making any recommendation.

(10) Paragraph 4(5) and (6) of Schedule 3 shall apply to hearings held under this paragraph as if references to the appointed person in those paragraphs were references to the person holding the hearing under this paragraph.

5.—(1) Where an appeal under regulation 32 (other than an appeal which relates to an offshore installation) is to be disposed of on the basis of written representations, the regulator shall submit any written representations to the appeal body not later than 28 days after receiving a copy of the documents mentioned in paragraph 1(2)(a) and (f).

(2) The appellant shall make any further representations by way of reply to any representations from the regulator not later than 17 days after the date of submission of those representations by the regulator.

(3) Any representations made by the appellant or the regulator shall bear the date on which they are submitted to the appeal body.

(4) When the regulator or the appellant submits any representations to the appeal body they shall at the same time send a copy of them to the other party.

(5) The appeal body shall send to the appellant and the regulator a copy of any representations made to it by the persons mentioned in paragraph 3(1) and shall allow the appellant and the regulator a period of not less than 14 days in which to make representations on them.

(6) The appeal body may in a particular case—

- (a) set later time limits than those mentioned in this paragraph;
- (b) require exchanges of representations between the parties in addition to those mentioned in paragraphs (1) and (2).

6.—(1) The appeal body shall give notice to the appellant of its determination of the appeal and shall provide him with a copy of any report mentioned in paragraph 4(9).

(2) The appeal body shall at the same time send—

- (a) a copy of the documents mentioned in sub-paragraph (1) to the regulator; and
- (b) a copy of its determination of the appeal to any person mentioned in paragraph 3(1) who made representations to the appeal body and, if a hearing was held, to any other person who made representations in relation to the appeal at the hearing.

7. Where a determination of the appeal body on an appeal is quashed in proceedings before any court, the appeal body—

- (a) shall send to the persons notified of its determination under paragraph 6 a statement of the matters with respect to which further representations are invited for the purposes of its further consideration of the appeal;
- (b) shall afford to those persons the opportunity of making, within 28 days of the date of the statement, written representations in respect of those matters; and

(c) may, as it thinks fit, cause a hearing to be held or reopened and, if it does so, paragraphs 4(2) to (10) shall apply to the hearing or the reopened hearing as they apply to a hearing held under paragraph 4(1),
and paragraph 6 shall apply to the re-determination of the appeal as it applies to the determination of an appeal.

SCHEDULE 3

Regulation 34(3)

Delegation of Appellate Functions

1. In this Schedule—
 - “appointed person” means a person appointed under regulation 34(2)(a);
 - “appointment”, in the case of any appointed person, means appointment under regulation 34(2)(a).
2. An appointment must be in writing and—
 - (a) may relate to any particular appeal, matters or questions specified in the appointment or to appeals, matters or questions of a description so specified;
 - (b) may provide for any function to which it relates to be exercisable by the appointed person either unconditionally or subject to the fulfilment of such conditions as may be specified in the appointment; and
 - (c) may, by notice in writing to the appointed person, be revoked at any time by the appeal body in respect of any appeal, matter or question which has not been determined by the appointed person before that time.
3. Subject to the provisions of this Schedule, an appointed person shall, in relation to any appeal, matter or question to which his appointment relates, have the same powers and duties as the appeal body, other than any function of appointing a person for the purpose—
 - (a) of enabling persons to appear before and be heard by the person so appointed; or
 - (b) of referring any question or matter to that person.
- 4.—(1) If either of the parties to the appeal, matter or question expresses a wish to appear before and be heard by the appointed person, the appointed person shall give both of them an opportunity of appearing and being heard.
 - (2) Whether or not a party to an appeal, matter or question has asked for an opportunity to appear and be heard, the appointed person—
 - (a) may hold a local inquiry or other hearing in connection with the appeal, matter or question; and
 - (b) shall if the appeal body so directs, hold a local inquiry in connection with an appeal, matter or question.
 - (3) Where an appointed person holds a local inquiry or other hearing by virtue of this Schedule, an assessor may be appointed by the appeal body to sit with the appointed person at the inquiry or hearing and advise him on any matters arising, notwithstanding that the appointed person is to determine the appeal, matter or question.
 - (4) Subject to paragraphs (5) and (6), the costs of a local inquiry held under this Schedule shall be defrayed by the appeal body.

(5) Subject to sub-paragraph (6), subsections (2) to (5) of section 250 of the Local Government Act 1972⁽¹⁾ (local inquiries: evidence and costs) shall apply to hearings held under this Schedule by an appointed person as they apply to inquiries caused to be held under that section by a Minister, but with the following modifications, that is to say—

- (a) with the substitution in subsection (2) (evidence) for the reference to the person appointed to hold the inquiry of a reference to the appointed person;
- (b) with the substitution in subsection (4) (recovery of costs of holding the inquiry) for the references to the Minister causing the inquiry to be held of references to the appeal body;
- (c) with the substitution for the reference in that subsection to a local authority of a reference to the regulator;
- (d) with the substitution in subsection (5) (orders as to the costs of the parties) for the reference to the Minister causing the inquiry to be held of a reference to the appeal body.

(6) In the case of an appeal to the Scottish Ministers, subsections (3) to (8) of section 210 of the Local Government (Scotland) Act 1973⁽²⁾ (which relates to the costs of and holding of local inquiries) shall apply to hearings held under this Schedule by an appointed person as they apply to inquiries held under that section, but with the following modifications, that is to say—

- (a) with the substitution in subsection (3) (notice of inquiry) for the reference to the person appointed to hold the inquiry of a reference to the appointed person;
- (b) with the substitution in subsection (4) (evidence) for the reference to the person appointed to hold the inquiry and, in paragraph (b), the reference to the person holding the inquiry of references to the appointed person;
- (c) with the substitution in subsection (6) (expenses of witnesses etc) for the references to the Minister causing the inquiry to be held of a reference to the appointed person or the Scottish Ministers;
- (d) with the substitution in subsection (7) (expenses)—
 - (i) for the first reference to the Minister of a reference to the Scottish Ministers; and
 - (ii) for the second reference to the Minister of a reference to the appointed person or the Scottish Ministers;
- (e) with the substitution in subsection (7A) (recovery of entire administrative expense)—
 - (i) for the first reference to the Minister of a reference to the appointed person or the Scottish Ministers;
 - (ii) in paragraph (a), for the reference to the Minister of a reference to the Scottish Ministers; and
 - (iii) in paragraph (b), for the reference to the Minister holding the inquiry of a reference to the Scottish Ministers;
- (f) with the substitution in subsection (7B) (power to prescribe daily amount)—
 - (i) for the first reference to the Minister of a reference to the Scottish Ministers;
 - (ii) in paragraphs (a) and (c), for the references to the person appointed to hold the inquiry of references to the appointed person; and
 - (iii) in paragraph (d), for the reference to the Minister of a reference to the appointed person or the Scottish Ministers; and

(1) 1972 c. 70; section 250 has been amended by the Statute Law (Repeals) Act 1989 (c. 43), Schedule 1, Part IV, the Criminal Justice Act 1982 (c. 48), sections 37, 38 and 46 and the Housing and Planning Act 1986 (c. 63), Schedule 12, Part III.

(2) 1973 c. 65, section 210 was amended by the Criminal Procedure (Scotland) Act 1975 (c. 21), sections 289F and 289G (which were inserted into that Act by the Criminal Justice Act 1982 (c. 48), section 54) and the Housing and Planning Act 1986, Schedule 11, paragraph 39.

- (g) with the substitution in subsection (8) (certification of expenses)—
 - (i) for the words “the Minister has”, of the words “the Scottish Ministers have”;
 - (ii) for the reference to him and the reference to the Crown of references to the appointed person or the Scottish Ministers.

5.—(1) Where under paragraph 2(c) the appointment of the appointed person is revoked in respect of any appeal, matter or question, the appeal body shall, unless it proposes to determine the appeal, matter or question itself, appoint another person under regulation 34(2)(a) to determine the appeal, matter or question instead.

(2) Where such a new appointment is made, the consideration of the appeal, matter or question, or any hearing in connection with it, shall be begun afresh.

(3) Nothing in sub-paragraph (2) shall require any person to be given an opportunity of making fresh representations or modifying or withdrawing representations already made.

6.—(1) Anything done or omitted to be done by an appointed person in, or in connection with, the exercise or purported exercise of any function to which the appointment relates shall be treated for all purposes as done or omitted to be done by the appeal body in its capacity as such.

(2) Sub-paragraph (1) shall not apply—

- (a) for the purposes of so much of any contract made between the appeal body and the appointed person as relates to the exercise of the function; or
- (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by an appointed person in, or in connection with, the exercise or purported exercise of any function to which the appointment relates.

SCHEDULE 4

Regulation 34(4)

Appeals under regulation 32: Northern Ireland

1.—(1) A person who wishes to appeal to the Planning Appeals Commission (“the appeals commission”) under regulation 32 shall give to the appeals commission written notice of the appeal together with the documents specified in sub-paragraph (2) and shall at the same time send to the regulator a copy of that notice together with copies of the documents specified in sub-paragraphs (2)(a) and (f).

(2) The documents mentioned in sub-paragraph (1) are—

- (a) a statement of the grounds of appeal;
- (b) a copy of any relevant application;
- (c) a copy of any relevant greenhouse gas emissions permit;
- (d) a copy of any relevant correspondence between the appellant and the regulator;
- (e) a copy of any decision or notice which is the subject matter of the appeal; and
- (f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be disposed of on the basis of written representations.

(3) An appellant may withdraw an appeal by notifying the appeal body in writing and shall send a copy of that notification to the regulator.

2.—(1) Subject to sub-paragraph (2), notice of appeal in accordance with paragraph 1 is to be given—

- (a) in the case of an appeal under regulation 32(1)(a) to (e), before the expiry of the period of six months beginning with the date of the decision or deemed decision which is the subject matter of the appeal;
- (b) in the case of an appeal under regulation 32(2) against a revocation notice, before the date on which the revocation notice takes effect;
- (c) in the case of an appeal under regulation 32(2) against a variation notice or an enforcement notice or an appeal under regulation 32(3)(a), before the expiry of the period of two months beginning with the date of the notice which is the subject matter of the appeal;
- (d) in the case of an appeal under regulation 32(1)(f) against a determination of reportable emissions, before the expiry of the period of two months beginning with the date of the notice which is the subject matter of the appeal;
- (e) in the case of an appeal under regulation 32(3)(b) or (c), before the expiry of the period of 15 working days beginning with the date of the decision which is the subject matter of the appeal;
- (f) in the case of an appeal under regulation 32(3)(d) or (e), 32(4), before the expiry of the period of 2 months beginning with the date of the decision which is the subject matter of the appeal.

(2) The appeals commission may in a particular case allow notice of appeal to be given after the expiry of the periods mentioned in sub-paragraph (1)(a) or (c).

3.—(1) The regulator shall, within 14 days of receipt of the copy of the notice of appeal sent in accordance with paragraph 1, give notice of it to any person who appears to the regulator to have a particular interest in the subject matter of the appeal.

(2) A notice under sub-paragraph (1) shall—

- (a) state that notice of appeal has been given;
- (b) state the name of the appellant and the location of the installation concerned;
- (c) describe the application or greenhouse gas emissions permit to which the appeal relates;
- (d) state that representations with respect to the appeal may be made to the appeals commission in writing by any recipient of the notice within a period of 21 days beginning with the date of the notice and that copies of any representations so made will be furnished to the appellant and to the regulator; and
- (e) state that if a hearing is to be held wholly or partly in public, a person mentioned in sub-paragraph (1) or (2) who makes representations with respect to the appeal and any person mentioned in sub-paragraph (1) will be notified of the date of the hearing.

(3) The regulator shall, within 14 days of sending a notice under sub-paragraph (1), notify the appeals commission of the persons to whom and the date on which the notice was sent.

(4) In the event of an appeal under regulation 32 being withdrawn, the regulator shall give notice of the withdrawal to every person to whom notice was given under sub-paragraph (1).

4.—(1) The appeals commission shall determine the appeal and paragraphs (1), (3), (4) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991 shall apply in relation to the determination of the appeal as they apply in relation to the determination of an appeal under that Order.

(2) If either party to the appeal so requests, the appeals commission shall afford to each of them an opportunity of appearing before and being heard by the appeals commission.

(3) A hearing held under sub-paragraph (2) may, if the appeals commission so decides, be held wholly or partly, in private.

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SCHEDULE 5

Regulation 8(1), 9(5), 14(3), (4) and (10),
15(3) and (5), 16(5) and (6), 17(6), 18(1),
(3), (4) and (5), 22(4), (6) and (7), 24(8)
and 26(12)

Fees And Charges

PART 1

Fees in relation to the grant, variation, transfer, surrender and revocation of a greenhouse gas emissions permit

- 1.—(1) The following fees are prescribed and shall be payable to the regulator—
- (a) in respect of an application for a greenhouse gas emissions permit under regulation 8(1) (other than in respect of an offshore installation)—
 - (i) in respect of an installation emitting less than 50kt per year, £1230;
 - (ii) in respect of an installation emitting at least 50 and no more than 500kt per year, £2300;
 - (iii) in respect of an installation emitting more than 500kt per year, £5490;
 - (b) in respect of the grant of a greenhouse gas emissions permit authorising the operation of an offshore installation—
 - (i) in respect of an installation emitting less than 50kt per year, £1230;
 - (ii) in respect of an installation emitting at least 50 and no more than 500kt per year, £2300;
 - (iii) in respect of an installation emitting more than 500kt per year, £5490;
 - (c) in respect of the grant of the greenhouse gas emissions permit where regulation 9(5)(b) applies—
 - (i) in respect of an installation emitting less than 50kt per year, £700;
 - (ii) in respect of an installation emitting at least 50 and no more than 500kt per year, £1770;
 - (iii) in respect of an installation emitting more than 500kt per year, £4960;
 - (d) in respect of an application for the variation of the provisions of a greenhouse gas emissions permit under regulation 14(2) (except where the regulator considers that a variation relates to minor changes or changes of a purely administrative nature), £240;
 - (e) in respect of a variation notice varying the provisions of a greenhouse gas emissions permit otherwise than on an application under regulation 14(2) (except where the regulator considers that a variation relates to minor changes or changes of a purely administrative nature), £240.
 - (f) in respect of an application under regulation 15(1) to transfer a greenhouse gas emissions permit, in whole or in part, £240;
 - (g) in respect of an application under regulation 16(1) to surrender a greenhouse gas emissions permit, £620;
 - (h) in respect of the revocation of a greenhouse gas emissions permit pursuant to regulation 17(2), 24(11) or 25(3), £620.
- (2) A fee prescribed under paragraph 1 in respect of a variation notice or in respect of a revocation notice shall be payable by the date specified in the notice.

PART 2

Fees in respect of the allocation of allowances

- 2.—(1) The following fees are prescribed and shall be payable to the regulator—
- (a) in respect of an application for an allocation from the new entrant reserve under regulation 22(1), £1030.
 - (b) in respect of a retention notice or a notice under regulation 24(7)(b), £115 multiplied by the number of hours specified in the notice in accordance with regulation 24(8).
- (2) A fee prescribed under sub-paragraph (1)(b) shall be payable by the date specified in the notice to which it relates.

PART 3

Registry fees

- 3.—(1) The following fees are prescribed and shall be payable to the regulator—
- (a) in respect of an application for the creation of a person holding account under Article 19(1) of the Registries Regulation, £175;
 - (b) subject to sub-paragraph (2), in respect of each notification under Article 19(3) of the Registries Regulation concerning a change to the authorised representatives for the account or the nomination or change of an additional authorised representative for the account, £50
- (2) Where the application referred to in sub-paragraph (1)(a) does not include a nomination for an additional authorised representative, sub-paragraph (1)(b) shall not apply to the first notification under Article 19(3) of the Registries Regulation concerning either a change to the authorised representatives for the account or the nomination of an additional authorised representative for the account.

PART 4

Subsistence Charges

4. Subject to paragraphs 6, 9 and 13 of this Schedule, the charge payable by an operator to the regulator prescribed for the subsistence of a greenhouse gas emissions permit for the financial year 2005/2006 shall be as shown in Table 1 and shall be payable in accordance with paragraph 10 of this Schedule.

Table 1

Charge for the financial year 2005/2006

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	<i>Estimated 2005 emissions or, where applicable, the estimated annual specified emissions from the installation to which the greenhouse gas emissions permit relates-</i>			
	<i>less than 50 kilotonnes per year</i>	<i>at least 50 and no more than 500 kilotonnes per year</i>	<i>greater than 500 kilotonnes per year</i>	
Charge if on date on which these Regulations enter into force, the total number of installations published by the Secretary of State in accordance with paragraph 7(b) of this Schedule is-	less than 500	£2,540	£3,390	£4,230
	500 to 599	£2,280	£3,050	£3,810
	600 to 699	£2,110	£2,820	£3,520
	700 to 799	£1,990	£2,650	£3,320
	800 to 899	£1,900	£2,530	£3,170
	900 to 999	£1,830	£2,440	£3,050
	1000 to 1099	£1,750	£2,350	£2,900
	1100 to 1199	£1,720	£2,300	£2,870
	1200 or more	£1,690	£2,250	£2,810

5. Subject to paragraphs 6, 9 and 13 of this Schedule, the charges payable by an operator prescribed for the subsistence of a greenhouse gas emissions permit for the financial year 2006/2007 and for each subsequent financial year shall be as shown in Table 2 and shall be payable in accordance with paragraph 10 of this Schedule.

Table 2

Charge for the financial year 2006/2007 and subsequent financial years

	<i>Amount of annual specified emissions or, where applicable, estimated annual specified emissions from the installation to which the greenhouse gas emissions permit relates-</i>			
	<i>less than 50 kilotonnes per year</i>	<i>at least 50 and no more than 500 kilotonnes per year</i>	<i>greater than 500 kilotonnes per year</i>	
Charge if on 1 st April of the	less than 500	£2,915	£3,765	£4,605

	<i>Amount of annual specified emissions or, where applicable, estimated annual specified emissions from the installation to which the greenhouse gas emissions permit relates-</i>		
	<i>less than 50 kilotonnes per year</i>	<i>at least 50 and no more than 500 kilotonnes per year</i>	<i>greater than 500 kilotonnes per year</i>
financial year to which the charge relates, the total number of installations published by the Secretary of State in accordance with paragraph 7(b) of this Schedule is-			
	500 to 599	£2,553	£3,323
	600 to 699	£2,341	£3,051
	700 to 799	£2,190	£2,850
	800 to 899	£2,076	£2,706
	900 to 999	£1,988	£2,598
	1000 to 1099	£1,893	£2,493
	1100 to 1199	£1,850	£2,430
	1200 or more	£1,815	£2,375

6. The charge prescribed for the subsistence of a greenhouse gas emissions permit under paragraph 4 or 5 of this Schedule shall not be payable in respect of a greenhouse gas emissions permit relating to—

- (a) an installation which is for the duration of the financial year to which the charge relates an excluded installation;
- (b) a planned installation which is not put into operation during the financial year to which the charge relates; or
- (c) an installation in respect of which a retention notice has been served prior to 1st April in the financial year to which the charge relates and is not revoked during that financial year.

7. Subject to paragraph 8 of this Schedule, the Secretary of State shall before the expiry of a period of 7 days beginning, in relation to the financial year 2005/2006, on the date on which these Regulations enter into force or, in relation to the financial year 2006/2007 and each subsequent financial year, on 1st April 2006 and 1st April in each subsequent financial year—

- (a) calculate the total number of installations on 1st April in that financial year; and
- (b) publish in such manner as she considers appropriate the total number of installations calculated under sub-paragraph (a) and the appropriate charges for the financial year as set out in relation to the financial year 2005/2006 in Table 1 in paragraph 4 of this Schedule or in relation to subsequent financial years, in Table 2 in paragraph 5 of this Schedule.

Status: This is the original version (as it was originally made).

8. Where on the date of entry into force of these Regulations—

- (a) the Secretary of State has made an application for an installation to be temporarily excluded under Article 27(2) of the Directive and the European Commission has not made a decision determining the application; or
- (b) the date determined in accordance with regulation 11(3) by which an application under regulation 11(1) must be made has not passed (“the application deadline”),

paragraphs 4 and 7 of this Schedule shall apply as if references to the date on which these Regulations enter into force were to the date of the expiry of a period of 7 days beginning on the application deadline or, where the European Commission refuses the application, the date on which the European Commission notifies its decision.

9. Where during a financial year—

- (a) a greenhouse gas emissions permit is granted in relation to an installation under regulation 9(4);
- (b) an installation ceases to be an excluded installation; or
- (c) a planned installation is put into operation,

the charge payable under paragraph 4 or 5 of this Schedule in respect of the subsistence of the greenhouse gas emissions permit relating to the installation for the remainder of that financial year shall be a proportion of the charge shown in relation to the financial year 2005/06, in Table 1 or in relation to the financial year 2006/2007 and subsequent financial years, in Table 2 calculated on a daily basis for the remainder of the financial year commencing on the date of the grant of the greenhouse gas emissions permit, the date on which the installation ceased to be an excluded installation or the planned installation is put into operation, as appropriate.

10. Subject to paragraph 11 of this Schedule—

- (a) the charge prescribed under paragraph 4 of this Schedule shall be payable on the expiry of a period of 28 days beginning on the date on which notice of the estimated 2005 emissions or, where paragraph 9 applies in relation to the installation, the estimated annual specified emissions and the charge is sent by the regulator to the operator;
- (b) the charge prescribed under paragraph 5 of this Schedule shall be payable on the expiry of a period of 28 days beginning on the date on which notice of the charge and, in relation to a charge for a financial year in which paragraph 9 applies in relation to the installation and the following financial year, the estimated annual specified emissions, is sent by the regulator to the operator.

11. The operator of an installation may notify the regulator that it wishes to pay the charges prescribed under paragraphs 4 and 5 of this Schedule in instalments.

12. Where an operator notifies the regulator under paragraph 11—

- (a) in the financial year in which the notice is given, the charge shall be payable in equal instalments payable on the first day of each quarter remaining in the financial year or, if later, on the expiry of a period of 28 days beginning on the date on which notice of—
 - (i) in relation to a charge for the financial year 2005/2006, the estimated 2005 emissions or, where paragraph 9 applies in relation to the installation, the estimated annual specified emissions; and
 - (ii) the charge,
 is sent by the regulator to the operator;
- (b) in subsequent financial years, the charge shall be payable in four equal instalments payable on the first day of each quarter in the financial year or, if later, on the expiry of a period of 28 days beginning on the date on which notice of—

- (i) in relation to a charge for a financial year in which paragraph 9 applies in relation to the installation and the following financial year, the estimated annual specified emissions; and
- (ii) the charge,

is sent by the regulator to the operator.

13. Where during a financial year a greenhouse gas emissions permit is surrendered under regulation 16 or revoked under regulation 17(1) or the installation to which the permit relates becomes an excluded installation, the regulator shall make a refund to the operator of a proportion of the charge payable under paragraph 4 or 5 of this Schedule in respect of the remainder of that financial year calculated as follows—

- (a) if the charge has been paid for the whole financial year, a refund calculated on a daily basis for the remainder of the financial year commencing on the date on which the notice of surrender or revocation notice takes effect or the date of service of the certificate under regulation 11(6), as appropriate; or
- (b) if the charge has been paid only for the quarter in which the surrender or revocation occurs, a refund calculated on a daily basis for the remainder of that quarter commencing on the date on which the notice of surrender or revocation notice takes effect or the date of service of the certificate under regulation 11(6), as appropriate.

14.—(1) The registry administrator shall within 14 days of the date on which the Secretary of State publishes the total number of installations in accordance with paragraph 7(b), notify the regulator of the element of the charge prescribed under paragraph 4 or 5 which relates to the subsistence of the operator holding account in the registry (“the operator registry charge”).

(2) The regulator shall pass on to the registry administrator any operator registry charge which it receives.

15. For the purposes of this Schedule—

“annual specified emissions” means the annual reportable emissions from the installation in the scheme year which ended in the financial year prior to the financial year to which the charge relates;

“estimated 2005 emissions” means a reasonable estimate, in the opinion of the regulator, of the reportable emissions likely to be emitted from the installation in the calendar year 2005;

“estimated annual specified emissions” means, in relation to a financial year in which paragraph 9 applies in relation to the installation and the following financial year, a reasonable estimate, in the opinion of the regulator of the reportable emissions likely to be emitted from the installation in the year beginning on the date on which the permit is granted, the installation ceases to be an excluded installation or the planned installation is put into operation;

“financial year” means a year beginning on 1st April and ending on 31st March;

“planned installation” means an installation in respect of which an operator has notified the regulator under regulation 13(1);

“quarter” means a three month period beginning with 1st April, 1st July, 1st October and 1st January;

“total number of installations” means the number of installations covered by greenhouse gas emissions permits in the United Kingdom excluding—

- (i) any excluded installations or planned installations;
- (ii) any installation in respect of which a retention notice has been served; and

- (iii) any installations included in the European Commission’s provision for temporary exclusion under Article 27(2) of the Directive which have applied for a certificate of temporary exclusion in accordance with regulation 11(1).

SCHEDULE 6

Regulation 48

Consequential Amendments

The Environment Act 1995

- 1.—(1) The 1995 Act shall be amended in accordance with this paragraph.
- (2) After section 41, insert a new section 41A as follows—

“Charges in respect of greenhouse gas emissions permits

41A.—(1) Without prejudice to subsections (1)(b) and (2) of section 41 above, the following charges may be prescribed under that section as respects permits (“greenhouse gas emissions permits”) granted under the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (“the regulations”)—

- (a) charges in respect of, or in respect of an application for, the allocation of allowances to an operator;
 - (b) charges in respect of, or in respect of an application for, the retention of allowances by an operator ceasing to carry on an activity to which they relate;
 - (c) charges in respect of the revocation of a greenhouse gas emissions permit;
 - (d) charges in respect of the subsistence of an account required to be held in the trading scheme registry by an operator (“operator registry charges”).
- (2) If the Agency—
- (a) proposes to prescribe operator registry charges, or to amend any provision for such charges included in a charging scheme, and
 - (b) notifies SEPA of its proposals,

the Agency and SEPA shall each include in a charging scheme (subject to approval by the Secretary of State under section 42(2) below) provision giving effect to the proposals.

(3) If the Agency revises any proposals of which it has given notification under subsection (2) above, and notifies SEPA accordingly, the obligations imposed by that subsection apply in relation to the proposals as revised.

(4) A notification under subsection (2) or (3) above shall include details of the amount of the proposed charges.

(5) SEPA shall pass on to the Agency any operator registry charges that it receives.

(6) A charging scheme made by the Agency may require the payment to the Agency of such charges as may from time to time be prescribed in respect of—

- (a) the creation of an account in the trading scheme registry, other than one that is required to be held by an operator;
- (b) the subsistence of such an account;
- (c) the updating of information provided to the Agency in relation to such an account.

(7) In this section—

“allowance” and “operator” have the same meaning as in the regulations;

“charging scheme” and “prescribed” have the same meaning as in section 41;

“trading scheme registry” means the registry established under the regulations.”

(3) In sub-section (1) of section 56 of the 1995 Act (interpretation of Part 1), in each of the two definitions of “environmental licence” insert after paragraph (j)—

“(k) a greenhouse gas emissions permit granted under the Greenhouse Gas Emissions Trading Scheme Regulations 2005”.

The Pollution Prevention and Control Act 1999

2.—(1) The Pollution Prevention and Control Act 1999 shall be amended in accordance with sub-paragraph (2).

(2) In Schedule 1—

(a) after paragraph 9, insert a new paragraph 9A as follows—

“**9A.**—(1) Authorising the Secretary of State to make schemes for the charging by regulators of charges, as respects greenhouse gas emissions permits in relation to offshore installations, corresponding to those that may be prescribed under section 41 (read with section 41A) of the Environment Act 1995.

(2) Subsections (2) to (5) of section 41A of that Act apply in relation to the Secretary of State and a charging scheme made by virtue of this paragraph as they apply in relation to the Scottish Environment Protection Agency and a charging scheme made by that Agency under the 1995 Act.

(3) In this paragraph “greenhouse gas emissions permit” and “offshore installation” have the same meaning as in the Greenhouse Gas Emissions Trading Scheme Regulations 2005.”

(b) in after paragraph 24, after “paragraph 9” insert “, 9A”.