

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations transpose parts of Directive [2008/101/EC](#) of the European Parliament and of the Council amending Directive [2003/87/EC](#) so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community (OJ No L 8, 13.1.2009, p. 3). The Regulations apply in the United Kingdom. First, they establish a procedure to allow UK operators to apply for a free allocation of allowances for their participation in the emissions trading scheme. Secondly, they impose obligations on an aircraft operator to apply for an emissions plan; monitor emissions in each year from 2010; and to verify and report those emissions by 31st March in the following year.

Regulations 3 to 7 define aircraft operator, regulator and authority under these Regulations. Regulations 8 to 13 apply where a UK operator wishes to apply for a free allocation of allowances. Under these Regulations provision is made for the regulator to issue a plan to a UK operator and the UK operator must monitor its tonne-kilometre data in accordance with that plan in 2010 and submit a verified report of that data to the regulator.

Regulations 14 to 17 require aircraft operators to submit an application to the regulator for an emissions plan; to monitor emissions in accordance with a plan approved by the regulator in each calendar year from 1st January 2010; and to submit a verified report to the regulator of the monitored emissions by 31st March in the following year.

Regulation 18 makes provision for requiring aircraft operators to retain information and address non-conformities and misstatements identified by an independent verifier.

Regulation 19 gives the regulator the power to determine the emissions of an aircraft operator where the aircraft operator has failed to comply with its obligations to submit a report containing its verified emissions to the regulator.

Regulation 20 makes provision for the regulator to serve notices on aircraft operators requiring information to enable the regulator to discharge its functions under the Regulations.

Regulations 21 to 29 provide that where an aircraft operator or UK operator do not comply with their obligations they will be liable to a civil penalty.

Regulations 30 to 35 make provision for the detention and sale of aircraft by the regulator where a UK operator has not paid a civil penalty imposed on it. Schedule 1 sets out the steps that the regulator must take before applying to the court for leave to sell an aircraft.

Regulation 36 and 37 make provision to allow UK operators and aircraft operators to appeal various notices or deemed refusals of the regulator. Schedules 2, 3 and 4 contain provisions relating to the procedure for appeals and for delegating appellate functions under the Regulations. Regulations 38 and 39 give the authority the power to issue directions and guidance to the regulator relating to the discharge of the regulator's functions under the Regulations.

Regulation 40 makes provision for the service of documents under the Regulations. Schedule 5 contains detailed provisions on how notices may be served.

Regulation 41 makes provision relating to the submission of plans and reports.

Regulation 42 makes provision for the functions of the regulator in Northern Ireland, the chief inspector, to be delegated.

Regulation 43 requires the Civil Aviation Authority to provide assistance and advice to the regulator where requested.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department of Energy and Climate Change's Climate and Energy: Europe Division (telephone 0300 060 4000) and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website ([www.opsi.gov.uk](http://www.opsi.gov.uk)).

**Changes to legislation:**

There are currently no known outstanding effects for the The Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2009.