

**EXPLANATORY MEMORANDUM TO
THE CLIMATE CHANGE AGREEMENTS (ADMINISTRATION) (AMENDMENT)
REGULATIONS 2014**

2014 No.2872

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change (DECC) and is laid before the House of Commons by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This instrument amends The Climate Change Agreements (Administration) Regulations 2012 (S.I.2012/1976) (“CCA Regulations”) and comes into force on the 28/11/2014.
 - 2.2 The effect of the amendment is to remove the requirement on the scheme administrator to take reasonable steps to ensure that from, at the latest, 1 December 2014, if requested by an operator¹, (a) as far as reasonably practicable, that operator can communicate with the administrator using the IT Register² and (b) that operator can access its account to input any information to meet its obligations under its Climate Change Agreement (“CCA”) ((a) and (b) together referred to as “full read-write access”). The requirement on the scheme administrator to take reasonable steps to ensure that from, at the latest, 1st December 2014, if requested by an operator, that operator is able to access its account to update its personal information (including contact name, job title and email address), will remain.
3. **Matters of special interest to the Select Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The regulations are being made pursuant to powers in the parent legislation, the Finance Act 2000.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to all of the United Kingdom
6. **European Convention on Human Rights**

¹ An operator is a legal person or organisation that is party to an underlying CCA.

² The Environment Agency, as scheme administrator has created the IT Register, an online portal for managing the administration of underlying agreements, target units and facilities under the Climate Change Agreements scheme.

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 While it remains the Government's policy intent that operators should be provided with choice and flexibility in terms of how to interact with the scheme administrator and report their data, since making the CCA Regulations, the following has changed:

- Since the CCA Regulations came into force, the Metallurgical and Mineralogical³ exemption has been announced, which changes the incentives for CCA participation for a significant number of operators. It would be imprudent to make the investment in the IT systems to enable scheme participants to interact fully and directly with the IT Register, including for data reporting, while the impact of the exemption on participation in the scheme is unclear.
- At the time of laying the CCA Regulations the arrangements for reporting of data were still to be developed by the Environment Agency ("EA") as scheme administrator, making it difficult to estimate the demand for full read-write access. Now reporting arrangements are in place, operators have signalled no demand for full read-write access when associated costs, which would fall on operators, are taken into account.
- Furthermore, with a system for reporting through sector associations now developed, it has also become clear there are significant additional technical complexities of providing full direct interaction with the IT Register as a parallel system.

7.2 Against this background it would not be cost-effective for the scheme administrator to provide full read-write access from 1st December 2014. To formalise this position, the CCA Regulations are being amended, as set out in paragraph 2.

7.3 As this instrument relates to arrangements for administration of the scheme, this will have no impact on wider stakeholders beyond the scheme and as such the level of public interest is limited.

8. Consultation outcome

8.1 A formal consultation has not been conducted as this is a change to arrangements that affects only scheme participants within the boundaries of the administration of the scheme. Accordingly a number of soundings were taken on demand from operators for full read-write access, and a survey was conducted by the Emissions Trading Group, which represents operators and sectors in the scheme, in early 2014. Operators have signalled no demand for

³ As announced by the Chancellor (at Budget 2013), Government has introduced exemptions to the Climate Change Levy for energy used in metallurgical and mineralogical processes to help ensure UK manufacturers remain competitive with producers in other EU member states. From 1st April 2014, eligible processes have received 100% discount on CCL. Companies may continue to participate in the CCA Scheme.

full read-write access, particularly when costs, which would need to fall on operators, are taken into account.

9. Guidance

- 9.1 Full guidance notes for users of the IT Register, to which this amendment pertains, are available on the Gov.UK website.

10. Impact

- 10.1 CCAs are voluntary and provide specified energy intensive businesses with the opportunity to receive a discount on the Climate Change Levy⁴ (“CCL”) they pay if they meet energy efficiency or emission reduction targets. For those businesses signed up to agreements there is a potential positive impact on their CCL tax bill.
- 10.2 There is no impact on charities or voluntary bodies.
- 10.3 The impact on the public sector is nil. This policy does not cover the public sector.
- 10.4 An Impact Assessment has not been prepared for this instrument as the amendment to the CCA Regulations is minor. It will not place additional costs or regulatory burdens on business.

11. Regulating small business

- 11.1 The legislation applies to small business.
- 11.2 This legislation will not have a significant impact on small business, as the amendment does not change how business currently interacts with the IT Register. The CCA scheme is voluntary and small businesses do not have to participate in it. However, if they do, they receive a CCL discount which outweighs any of the voluntary participatory costs.

12. Monitoring & review

- 12.1 To assess any future demand from operators for full read-write access, the scheme administrator may consult industry further as part of a wider Charging Review planned for 2015.

13. Contact

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⁴ CCL is a tax on the supply of specified energy products ('taxable commodities') such as electricity, gas and coal for use as fuels (that is for lighting, heating and power) by business consumers.