

---

## EXPLANATORY NOTE

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

[Directive 2003/87/EC](#) of the European Parliament and of the Council establishing a scheme for greenhouse gas emissions allowances trading within the Community<sup>(1)</sup> (“the Directive”) is implemented in the United Kingdom by the Greenhouse Gas Emissions Trading Scheme Regulations 2012 ([S.I. 2012/3038](#)) (“the 2012 Regulations”). Those Regulations consolidated (with amendments) and replaced the previous implementing Regulations, namely the Greenhouse Gas Emissions Trading Scheme Regulations 2005 ([S.I. 2005/925](#)) and the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010 ([S.I. 2010/1996](#)).

*Regulations 2* adds new definitions to the 2012 Regulations.

*Regulation 3* amends regulation 13 of the 2012 Regulations to provide a deadline for an application to surrender a permit, where an operator suspends the carrying out of regulated activities at an installation while it is an excluded installation, the suspension is ongoing after the installation ceases to be an excluded installation and the operator does not recommence the carrying out of regulated activities at the installation within the period of 6 months beginning with the date of the suspension.

*Regulations 4 and 5, and Regulation 14* make provision for the addition of Schedule 6A to the 2012 Regulations. Schedule 6A provides for the allocation of allowances to operators of installations which cease to be excluded installations, and for the adjustment of such allocations, in respect of changes in the capacity or activity level of the installation which occurred while it was an excluded installation.

*Regulation 6* inserts regulations 58A and 58B into the 2012 Regulations. Regulation 58A provides for a penalty when an operator of an installation which ceases to be an excluded installation fails to notify the regulator of a significant capacity reduction or partial cessation which occurred while the installation is was excluded installation. Regulation 58B provides for a penalty when an operator of an excluded installation which ceases to be an excluded installation fails to notify the regulator that the operator has suspended the carrying out of regulated activities at the installation.

*Regulation 7* provides for a penalty for failing to return allowances, for an operator of an installation which ceases to be an excluded installation.

*Regulation 8* provides for a penalty when an operator of an installation which ceases to be an excluded installation provides false or misleading information in relation to a significant capacity reduction or partial cessation which occurred while the installation is was excluded installation.

*Regulations 9 and 10* provide for rights of appeal in respect of decisions of the regulator or notifications give to the operator of an excluded installation, in relation to changes of capacity of activity levels which occur while an installation is an excluded installation.

*Regulation 11* makes a minor amendment to regulation 80 of the 2012 Regulations.

*Regulation 12* amends Schedule 4 of the 2012 Regulations, to amend the cross-referencing to Schedule 6.

*Regulation 13* amends Schedule 6 of the 2012 Regulations. It provides that Schedule 6 does not apply in relation to changes of capacity of activity level which occur while an installation which

---

(1) OJ No L 275, 25.10.2003, p 32: the Directive was amended by European Parliament and Council Directives [2004/101/EC](#) (OJ No L 338, 13.11.2004, p 18), [2008/101/EC](#) (OJ No L 8, 13.1.2009, p 3) and [2009/29/EC](#) (OJ No L 140 5.6.2009, p 63), and by Regulation [\(EC\) No 219/2009](#) of the European Parliament and of the Council (OJ No L 87, 31.3.2009, p 109) and by Regulation No 421/2014 of the European Parliament and of the Council (OJ No L 129, 30.4.2014, p 1).

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

has ceased to be an excluded installation was an excluded installation. It also provides that where an installation permanently ceases regulated activities following a suspension of such activities, the date of the permanent cessation is deemed to be the date on which the suspension occurred.

A full regulatory impact assessment has not been produced for this instrument as no significant impact on the private or voluntary sectors is foreseen.