

2023 No. 577

CLIMATE CHANGE

The Carbon Accounting (Determination of Excess UK Assigned Amount Units) Regulations 2023

Made - - - - at 12.30 p.m. on 25th May 2023

Laid before Parliament at 3.30 p.m. on 25th May 2023

Coming into force 1st July 2023

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 27(3) and (5) and 90(3)(a) of the Climate Change Act 2008(a).

Before making these Regulations, the Secretary of State has consulted with the Scottish Ministers, the Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, in accordance with section 28(4)(b) of that Act.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Carbon Accounting (Determination of Excess UK Assigned Amount Units) Regulations 2023 and come into force on 1st July 2023.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

“assigned amount” means the maximum allowable level of emissions of the United Kingdom for the second commitment period, calculated pursuant to its quantified emission limitation and reduction commitment in accordance with the Kyoto Protocol;

“UK assigned amount unit” means a unit allocated to the United Kingdom pursuant to the Kyoto Protocol for the purpose of determining compliance by the United Kingdom with its obligation during the second commitment period not to exceed its assigned amount;

“the Kyoto Protocol” means the protocol to the United Nations Framework Convention on Climate Change signed at New York on 9th May 1992, signed at Kyoto on 11th December 1997 and amended by the Doha Amendment, signed at Doha on 8th December 2012(b);

“the second commitment period” means the second quantified emission limitation and reduction commitment period from 2013 to 2020 as adopted under the Kyoto Protocol.

(a) 2008 c. 27.

(b) The Kyoto Protocol can be accessed at: https://unfccc.int/kyoto_protocol. Hard copies can be obtained from the Foreign, Commonwealth & Development Office Treaty Section, King Charles Street, London SW1A 2AH.

Determination of excess UK assigned amount units

- 3.—(1) The Secretary of State must as soon as is practicable after 31st March 2024—
- (a) determine whether the assigned amount is greater than the sum of—
 - (i) the carbon budget(a) for the 2013–2017 budgetary period(b); and
 - (ii) that part of the carbon budget for the 2018–2022 budgetary period(c) which falls within the second commitment period; and
 - (b) where the assigned amount under sub-paragraph (a) is greater, calculate the number of UK assigned amount units that represent the excess.
- (2) The calculation under paragraph (1)(b) must be made using the best evidence available to the Secretary of State at the time the calculation is made and must take into account—
- (a) net UK emissions(d) as reported in—
 - (i) the final statement(e) for the carbon budget for the 2013–2017 budgetary period;
 - (ii) the annual statement(f) of UK emissions in respect of 2022 insofar as that statement relates to the second commitment period; and
 - (b) net UK emissions as reported to the United Nations Framework Convention on Climate Change in the final accounting report(g) for the United Kingdom for the second commitment period.
- (3) The Secretary of State must ensure that UK assigned amount units that represent the excess, as calculated under paragraph (1)(b), are not used to offset greenhouse gas emissions in the United Kingdom or elsewhere.

Graham Stuart

Minister of State for Energy Security and Net Zero
Department for Energy Security and Net Zero

At 12.30 p.m. on 25th May 2023

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- (a) Section 4(1) of the Climate Change Act 2008 sets out that it is the duty of the Secretary of State to set for each succeeding period of five years beginning with the period 2008–2012 (referred to as “budgetary periods”) an amount for the net UK carbon account. This amount is referred to as the “carbon budget”.
 - (b) See article 2(b) of the Carbon Budgets Order 2009 (S.I. 2009/1259) and <https://www.gov.uk/guidance/carbon-budgets#setting-of-the-second-carbon-budget-credit-limit>.
 - (c) See article 2(c) of the Carbon Budgets Order 2009 and <https://www.gov.uk/guidance/carbon-budgets#setting-of-the-third-carbon-budget-credit-limit>.
 - (d) Section 29(1)(c) of the Climate Change Act 2008 defines, for the purposes of Part 1 of that Act, the “net UK emissions” for a period, in relation to a greenhouse gas, as the amount of UK emissions of that gas for the period reduced by the amount for the period of UK removals of that gas.
 - (e) Under section 18 of the Climate Change Act 2008, the Secretary of State is required to lay before Parliament in respect of each budgetary period a statement containing the information set out in that section, referred to as the “final statement” for the relevant budgetary period. The final statement for the 2013–2017 budgetary period can be accessed at <https://www.gov.uk/government/statistics/final-statement-for-the-second-carbon-budget-period>. Hard copies can be obtained from the House of Commons Library, Palace of Westminster, London SW1A 0AA.
 - (f) Under section 16 of the Climate Change Act 2008, the Secretary of State is required to lay before Parliament in respect of each year an annual statement of emissions. The statement must be laid before Parliament not later than 31st March in the second year following that to which it relates. Adjustments to earlier years in the same budgetary period must be made to align with international carbon reporting practice methodology changes. The annual statement of emissions for 2022 will contain adjustments for the years 2018, 2019 and 2020. The annual statement of emissions for 2022 will be published and laid in Parliament no later than 31st March 2024. Once published, it can be accessed via <https://www.gov.uk> and hard copies can be obtained from the House of Commons Library, Palace of Westminster, London SW1A 0AA.
 - (g) Decision 13/CMP.1, Annex, paragraph 62 (modalities for the accounting for the assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol), in conjunction with decision 3/CMP.11, adopted by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol on 30th November 2005 and 13th December 2015 respectively. These decisions can be accessed at <https://unfccc.int/>. Hard copies can be obtained from the Foreign, Commonwealth & Development Office Treaty Section, King Charles Street, London SW1A 2AH. The final accounting report for the United Kingdom for the second commitment period has not yet been published. Once published, it can be accessed at <https://unfccc.int/> and hard copies can be obtained from the Department for Energy Security and Net Zero, 1 Victoria Street, London SW1H 0ET.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision under section 27(5) of the Climate Change Act 2008 (c. 27) (“the Act”) in respect of 2013 to 2020 for the purposes of Part 1 of the Act.

Regulation 3 requires the Secretary of State to determine whether the assigned amount is greater than the sum of the following carbon budgets as set by the Carbon Budgets Order 2009 (S.I. 2009/1259):

- the second carbon budget (2013-2017); and
- that part of the third carbon budget which falls within the second commitment period (2018-2020).

Where the assigned amount is greater, regulation 3 requires the Secretary of State to calculate the number of UK assigned amount units representing the excess. Regulation 3 also sets out what the Secretary of State must take into account when calculating this and requires that UK assigned amount units in excess are not used to offset greenhouse gas emissions in the United Kingdom or elsewhere.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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