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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 121**

**CLIMATE CHANGE**

**The Carbon Accounting Scheme  
(Scotland) Amendment Regulations 2017**

*Made* - - - - *18th April 2017*  
*Coming into force* - - *6th May 2017*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 13(5), 20(1) and 96(2) of the Climate Change (Scotland) Act 2009<sup>(1)</sup> and all other powers enabling them to do so<sup>(2)</sup>.

In accordance with section 96(4) of that Act<sup>(3)</sup>, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

1. These Regulations may be cited as the Carbon Accounting Scheme (Scotland) Amendment Regulations 2017 and come into force on 6th May 2017.

**Amendment of the Carbon Accounting Scheme (Scotland) Regulations 2010**

2.—(1) The Carbon Accounting Scheme (Scotland) Regulations 2010<sup>(4)</sup> are amended in accordance with paragraphs (2) to (5).

(2) In regulation 4(3) (carbon units), for the definition of “European Union allowance” substitute —

““European Union allowance” means an allowance for the purposes of the EUETS;”.

(3) In regulation 8B(4) omit “the relevant period for”.

(4) After regulation 8B insert—

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(1) 2009 asp 12.

(2) The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(3) Section 96(4) has been modified by paragraph 5 of schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

(4) S.S.I. 2010/216, as amended by S.I. 2011/1043, S.S.I. 2015/189 and S.S.I. 2016/46.

“8C.—(1) The Scottish Ministers must in respect of 2015 calculate whether an amount of carbon units is to be credited to or debited from the net Scottish emissions account as a result of the operation of the EU ETS.

(2) The calculation must be performed by 30th June 2017.

(3) The Scottish Ministers, when carrying out the calculation, must determine—

(a) whether the amount of emissions in respect of Scotland from aviation activities in 2015 is more or less than the aviation cap; and

(b) whether the amount of carbon units surrendered in respect of other activities in Scotland as a result of the operation of the EU ETS in the relevant period for 2015 is more or less than the fixed installation cap.

(4) If the amount of emissions in respect of Scotland from aviation activities in 2015 is—

(a) more than the aviation cap, an amount of carbon units equal to the excess must be credited to the net Scottish emissions account for 2015; or

(b) less than the aviation cap, an amount of carbon units equal to the shortfall must be debited from the net Scottish emissions account for 2015.

(5) If the amount of carbon units surrendered in respect of other activities in Scotland as a result of the operation of the EU ETS in the relevant period for 2015 is—

(a) more than the fixed installation cap, an amount of carbon units equal to the excess must be credited to the net Scottish emissions account for 2015; or

(b) less than the fixed installation cap, an amount of carbon units equal to the shortfall must be debited from the net Scottish emissions account for 2015.

(6) In this regulation—

“aviation activities” means aviation activities listed in Annex I;

“aviation cap” means 1,365,013 tonnes of carbon dioxide equivalent<sup>(5)</sup>;

“fixed installation cap” means 13,029,411 tonnes of carbon dioxide equivalent;

“other activities” means activities listed in Annex I other than aviation activities; and

“relevant period” means for 2015, the 16 months preceding 1st May 2016.”.

(5) In regulation 9 (register of transactions), after paragraph (5) insert—

“(6) In relation to carbon units to be credited or debited under regulation 8C, the register must contain details of the—

(a) date on which the calculation under regulation 8C(1) was performed;

(b) date of surrender;

(c) figures used in that calculation; and

(d) amount of units credited to or debited from the net Scottish emissions account.”.

St Andrew’s House, Edinburgh  
18th April 2017

*R CUNNINGHAM*  
A member of the Scottish Government

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(5) The aviation cap is the sum of the domestic aviation cap (443,255 tonnes of carbon dioxide equivalent) and the international aviation cap (921,758 tonnes of carbon dioxide equivalent).

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## EXPLANATORY NOTE

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

These Regulations amend the Carbon Accounting Scheme (Scotland) Regulations 2010 (“the 2010 Regulations”). The 2010 Regulations make provision about carbon units and carbon accounting for the purposes of Part 1 of the Climate Change (Scotland) Act 2009.

Regulation 2(2) updates the definition of “European Union allowance” to reflect the transition from phase 2 (2008-2012) to phase 3 (2013-2020) of the European Union Emissions Trading Scheme (“EU ETS”) established under [Directive 2003/87/EC](#) of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council [Directive 96/61/EC](#)(6), by ensuring that the definition is not restricted to allowances converted from assigned amount units for the phase 2 period. This update does not require any adjustment to the net Scottish emissions account figures previously reported.

Regulation 2(3) amends regulation 8B(4) to ensure that the rules for the accounting of carbon units in relation to emissions from aviation activities in 2014 match the method used to calculate the appropriate net Scottish emissions account figure for that year. Accordingly, this amendment does not require any adjustment to the figure previously reported for that year.

Regulation 2(4) inserts regulation 8C to provide a method for determining whether an amount of carbon units is to be credited to or debited from the net Scottish emissions account for 2015(7).

Regulation 2(5) inserts a provision to set out the information to be included in a register for 2015.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

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(6) OJ L 275, 25.10.2003, p.32, as last amended by Decision (EU) 2015/1814 of the European Parliament and of the Council (OJ L 264, 9.10.2015, p.1).

(7) The net Scottish emissions account is defined by section 13 of the Climate Change (Scotland) Act 2009 ([asp 12](#)).