STATUTORY INSTRUMENTS

2018 No. 306

CLIMATE CHANGE

The Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations 2018

Made - - - -	*5th March 2018*
Laid before Parliament	*7th March 2018*
Coming into force - -	*31st March 2018*

The Secretary of State is a Minister designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the environment.

In accordance with section 2(4)(**3**) of the Pollution Prevention and Control Act 1999 ("the 1999 Act"), the Secretary of State has consulted the Environment Agency, the Natural Resources Body for Wales, the Scottish Environment Protection Agency, and such bodies or persons appearing to the Secretary of State to be representative of the interests of local government, industry, agriculture and small businesses, and such other bodies and persons, as the Secretary of State considers appropriate.

The Secretary of State, in exercise of the powers conferred by sections 2 and 7(9) of, and Schedule 1 to, the 1999 Act and by section 2(2) of the European Communities Act 1972, makes the following Regulations(**4**):

Citation and commencement

1. These Regulations may be cited as the Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations 2018 and come into force on 31st March 2018.

(**1**) S.I. 2008/301.

(**2**) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

(**3**) 1999 c. 24. Section 2(4) was amended by paragraph 395 of Schedule 2 to the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W. 90)).

(**4**) Under section 57 of the Scotland Act 1998 (c. 46), despite the transfer to the Scottish Ministers of functions in relation to observing and implementing obligations under EU law in respect of devolved matters, any function of the Secretary of State in relation to any matter continues to be exercisable as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972. And similarly, under paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c. 32), despite the transfer to the Welsh Ministers of functions under section 2 of the 1999 Act so far as exercisable in relation to Wales (except in relation to offshore oil and gas exploration and exploitation), those functions continue to be exercisable by the Secretary of State in relation to Wales for such purposes.

Amendment of the Greenhouse Gas Emissions Trading Scheme Regulations 2012

2.—(1) The Greenhouse Gas Emissions Trading Scheme Regulations 2012(**5**) are amended in accordance with paragraphs (2) to (9).

(2) In regulation 32(7), for "2015 or 2016" substitute "2015 to 2023".

(3) In regulation 32A—

(a) in the heading, for "2015 activities and 2016 activities" substitute "activities during 2015 to 2023";

(b) in paragraph (1), for "the scheme years 2015 ("the 2015 activities") or 2016 ("the 2016 activities")" substitute "the scheme years 2015 to 2023 ("the relevant activities")";

(c) for paragraph (3), substitute—

"(3) Where B is unable to foresee the date on which B is due to commence the relevant activities, B must—

(a) where the relevant activities are due to commence during the scheme years 2017 or 2018, apply to the regulator for a monitoring plan without delay after B is aware that B will commence these activities and in any event by the later of 6 weeks after 31st March 2018 or 6 weeks after the date on which the relevant activities commence;

(b) where the relevant activities are due to commence during a scheme year other than 2017 or 2018, apply to the regulator for a monitoring plan without delay after B is aware that B will commence the relevant activities and in any event by a date no later than 6 weeks after the date on which the relevant activities commence; and

(c) include with the application a written explanation of why B was unable to comply with paragraph (2).";

(d) in paragraph (5)(a), for "in respect of, as appropriate, the 2015 activities or the 2016 activities" substitute "in respect of the relevant activities";

(e) for paragraph (8), substitute—

"(8) In this regulation—

(a) "application date" means—

(i) where the relevant activities are due to commence during the scheme year 2015, the later of 31st January 2015 or the date which is 4 months before the date on which the 2015 activities are due to commence;

(ii) where the relevant activities are due to commence during the scheme year 2016, the date which is 4 months before the date on which the 2016 activities are due to commence;

(iii) where the relevant activities are due to commence during the scheme years 2017 or 2018, the later of 30th April 2018 or the date which is 4 months before the date on which these activities are due to commence; and

(iv) where the relevant activities are due to commence during the scheme years 2019 to 2023, the date which is 4 months before the date on which these activities are due to commence;

(b) "transferred operator application date" means—

(**5**) S.I. 2012/3038, amended by S.I. 2013/755 (W. 90), S.I. 2013/1037, S.I. 2013/3135, S.I. 2014/3125, S.I. 2015/912, S.I. 2015/933, S.I. 2015/1388, S.I. 2015/1849, S.I. 2016/28, S.I. 2016/1154 and S.I. 2017/1207.