Draft Regulations laid before the House of Commons under section 21(7) of the Finance Act 2008, for approval by resolution of the House of Commons.

DRAFT STATUTORY INSTRUMENTS

2012 No.

CLIMATE CHANGE

EMISSIONS TRADING

The CRC Energy Efficiency Scheme (Allocation of Allowances for Payment) Regulations 2012

Made - - - - ***

Coming into force in accordance with regulation 1

The Treasury make the following Regulations in exercise of the powers conferred by section 21(1), (2) and (3) of the Finance Act 2008(**1**).

A draft of these Regulations has been laid before the House of Commons in accordance with section 21(7) of that Act and approved by a resolution of the House of Commons.

PART 1

INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the CRC Energy Efficiency Scheme (Allocation of Allowances for Payment) Regulations 2012 and come into force on the day after the day on which they are made.

Interpretation

2.—(1) In these Regulations—

"allocation" means an allocation of allowances conducted in accordance with Part 2 of these Regulations;

"allocation period" means such period as is determined in accordance with regulation 5;

(**1**) 2008 c.9.

"allowance" means an allowance allocated and issued by the Environment Agency pursuant to these Regulations;

"main allocation" means an allocation of allowances which is not a special allocation;

"the Order" means the CRC Energy Efficiency Scheme Order 2010()(**2**);

"primary allocation period" means such period as is determined in accordance with regulation 5(2), (4) and (5);

"registry account" means an account established by the Environment Agency as required by paragraph 1(1) of Schedule 7 to the Order;

"secondary allocation period" means such period as is determined in accordance with regulation 5(3), (4) and (5); and

"special allocation" means an allocation of allowances conducted following the issue of an enforcement notice or for the purposes of article 97(4)(b) or article 100(2) of the Order.

(2) The following words and phrases in these Regulations have the same meaning as in the Order:

"account holder";

"civil penalty";

"compliance account";

"enforcement notice";

"group";

"participant";

"the Registry";

"scheme"; and

"working day".

PART 2

ALLOCATIONS

Conduct of allocations

3.—(1) The Environment Agency(**3**) must conduct allocations of allowances in return for payment to the Secretary of State.

(2) The Environment Agency—

(a) may only conduct main allocations of allowances during a primary or secondary allocation period, and

(b) may conduct special allocations of allowances at any time.

Requests for allocation of allowances

4.—(1) An account holder wishing to be allocated allowances must submit a request to the Environment Agency.

(2) An account holder may only make a request to be allocated allowances—

(a) during a primary allocation period, or

(**2**) S.I. 2010/768, which has been amended by S.I. 2011/234.
(**3**) established under section 1(1) of the Environment Act 1995 (c.25).

(b) where the request is for a special allocation, following receipt of an enforcement notice or a notice of a civil penalty requiring allowances to be acquired.

(3) A request for allowances to be allocated must specify—

(a) the number of allowances that the account holder wishes to acquire,

(b) the name of the account holder making the request,

(c) the registry account to which the allowances allocated are to be issued, and

(d) whether the request relates to a main allocation or a special allocation.

(4) Unless otherwise agreed by the Environment Agency, the request must be made using such facilities as are provided by the Registry.

(5) An account holder may make multiple requests in respect of each primary allocation period.

Allocation periods

5.—(1) The Environment Agency must conduct main allocations of allowances during the allocation periods determined in accordance with this regulation.

(2) The primary allocation periods are as follows—

(a) the first primary allocation period begins on 1st June 2012 and ends on 31st July 2012,

(b) the second primary allocation period begins on 3rd June 2013 and ends on 31st July 2013, and

(c) the third primary allocation period begins on 2nd June 2014 and ends on 31st July 2014.

(3) The secondary allocation periods are as follows—

(a) the first secondary allocation period begins on 13th August 2012 and ends on 7th September 2012,

(b) the second secondary allocation period begins on 12th August 2013 and ends on 6th September 2013, and

(c) the third secondary allocation period begins on 11th August 2014 and ends on 5th September 2014.

(4) Where an allocation period referred to in this regulation begins on a day which is not a working day, the allocation period is to begin on the next working day.

(5) Where an allocation period referred to in this regulation ends on a day which is not a working day, the allocation period is to end on the previous working day.

Allocations

6.—(1) Only an account holder of a compliance account may make a request to be allocated allowances at an allocation.

(2) A request to be allocated allowances at an allocation is not valid unless payment is made in accordance with regulation 7(2) or (3).

(3) Where payment is not received in full the Environment Agency must allocate allowances up to the value for which payment has been received.

(4) Where payment is received after the time required under regulation 7(2) or (3), or where a balance is remaining after allowances have been allocated under regulation 6(3), the Secretary of State must repay the payment or balance to the account holder making the request as soon as reasonably practicable.

Payment for allowances

7.—(1) The amount required to be paid for each allowance at an allocation is £12.

(2) Payment for allocations requested in a primary allocation period must be made no later than the last day of that allocation period.

(3) Payment for allocations requested at a special allocation must be made—

(a) no later than the date specified in the enforcement notice or within 5 working days of the effective date of a notice of a civil penalty, or

(b) where the relevant notice is appealed, no later than 5 working days of the final determination of the appeal.

PART 3

GENERAL

Fees

8.—(1) The Environment Agency may require the payment by an account holder who requests the allocation of allowances of a fee of an amount determined by reference to the costs of allocating the allowances.

(2) Where the Environment Agency requires the payment of such a fee in relation to an allocation, the Environment Agency must, prior to the allocation, give notice of the amount of the fee to the account holder who has requested the allocation of allowances.

(3) Where an account holder has not paid, in full, a fee notified under this regulation, any outstanding amount is recoverable as a civil debt by the Environment Agency.

Payments

9.—(1) Payments under these Regulations must be made into a bank account nominated—

(a) for allowances, by the Secretary of State, and

(b) for fees, by the Environment Agency.

(2) Payments under these Regulations must be made—

(a) by electronic transfer from an account with a credit institution,

(b) accompanied by information which identifies the account holder making the payment, and

(c) in sterling.

(3) Payment is deemed to have been made for allowances when the Secretary of State receives cleared funds.

(4) Payment is deemed to have been made for fees when the Environment Agency receives cleared funds.

(5) In this regulation "credit institution" means—

(a) an institution which has permission under Part 4 of the Financial Services and Markets Act 2000(**4**) to carry on the regulated activity of accepting deposits and persons authorised to carry on similar activities under the law of a country other than the United Kingdom, or

(b) an electronic money institution as defined by article 2 of Directive 2009/110/EC of the European Parliament and of the Council on the taking up, pursuit and prudential

(**4**) 2000 c.8.