Draft Regulations laid before Parliament under sections 28(2)(a) and 91(1) of the Climate Change Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. XXXX

CLIMATE CHANGE

The Carbon Accounting Regulations 2009

Made - - - -	*2009*
Coming into force - -	*31st May 2009*

A draft of this instrument has been laid before and approved by a resolution of each House of Parliament, in accordance with sections 28(2)(a) and 91(1) of the Climate Change Act 2008 ("the Act")(**1**).

Before the draft was so laid, the Secretary of State—

(a) consulted the Scottish Ministers, the Welsh Ministers and the Department of the Environment in Northern Ireland, in accordance with section 28(4)(a) of the Act(**2**); and

(b) obtained and took into account the advice of the Committee on Climate Change, in accordance with section 28(5)(a) of the Act.

Accordingly the Secretary of State, in exercise of the powers conferred by sections 26(1) and (2), 27 and 90(3) of the Act, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Carbon Accounting Regulations 2009 and come into force on 31st May 2009.

Interpretation

2.—(1) In these Regulations—

"assigned amount unit" means a unit issued—

(a) under Article 7(3) of Decision No 280/2004/EC(**3**) of the European Parliament and of the Council concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol; or

(b) by a party to the Kyoto Protocol which is not subject to that Decision;

(**1**) 2008 c. 27.
(**2**) See the definitions of "national authority" and "the relevant Northern Ireland department" in sections 95 and 96 of the Act.
(**3**) O.J. No. L 49, 19.2.2004, p. 1.

"credit account" has the meaning given by regulation 4(1);

"the Emissions Trading Directive" means 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(**4**);

"the EUETS" means the European Union Emissions Trading Scheme established under the Emissions Trading Directive as implemented by the Greenhouse Gas Emissions Trading Scheme Regulations 2005(**5**);

"European Union allowance" means an assigned amount unit converted into an allowance for the purposes of the EU ETS in accordance with Article 45 of the Registries Regulation;

"the Kyoto Protocol" means the Kyoto Protocol to the UNFCCC signed at Kyoto on 11th December 1997;

"the Registries Regulation" means Commission Regulation (EC) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council(**6**);

"the registry administrator" means the Environment Agency, being the body appointed as the registry administrator for the UK registry for the purposes of the Registries Regulation;

"the relevant share of the UK assigned amount" means the amount of the UK assigned amount which is attributable to UK emissions;

"removal unit" means a unit issued under Article 3 of the Kyoto Protocol;

"the UK assigned amount" means 3,412,080,630 tonnes of carbon dioxide equivalent, being the assigned amount for the United Kingdom in the Annex to Commission Decision 2006/944/EC(**7**) determining the respective emission levels allocated to the Community and each of its Member States under the Kyoto Protocol pursuant to Council Decision 2002/358/EC;

"the UK registry" means the registry established for the United Kingdom in accordance with the Registries Regulation; and

"the UNFCCC" means the United Nations Framework Convention on Climate Change signed at New York on 9th May 1992.

(2) In these Regulations "cancellation" of a carbon unit means voluntary cancellation in accordance with the Registries Regulation; and a unit is "cancelled" if the Secretary of State instructs the registry administrator to transfer it to the account known as the "National Cancellation Account" in the UK registry.

(3) In these Regulations "operator" and "installation" have the meanings given by regulation 2 of the Greenhouse Gas Emissions Trading Scheme Regulations 2005, and "surrender" means surrender in accordance with regulation 10(3) of those Regulations.

Carbon units

3.—(1) For the purposes of Part 1 of the Climate Change Act 2008 the following are carbon units—

(a) assigned amount units;

(b) European Union allowances;

(c) certified emission reductions;

(**4**) O.J. No. L 275, 25.10.2003, p. 32; amended by Directive 2004/101/EC, O.J. No. L 338, 13.11.2004, p. 18.
(**5**) S.I. 2005/925; amended by S.I. 2005/2903, 2006/737, 2007/465, 2007/1096, 2007/3433 and 2007/3538.
(**6**) O.J. No. L 386, 29.12.2004, p. 1; amended by Commission Regulation (EC) No 916/2007, O.J. No. L 200, 1.8.2007, p. 5.
(**7**) O.J. No. L 358, 16.12.2006, p. 87.

(d) emission reduction units; and

(e) removal units.

(2) Each carbon unit has a value of 1 tonne of carbon dioxide equivalent.

(3) In this regulation—

"certified emission reduction" means a unit issued under Article 12 of the Kyoto Protocol and the decisions adopted under the UNFCCC or the Kyoto Protocol; and

"emission reduction unit" means a unit issued under Article 6 of the Kyoto Protocol and the decisions adopted under the UNFCCC or the Kyoto Protocol.

Duty to request the opening of a credit account

4.—(1) It is the duty of the Secretary of State, as soon as is reasonably practicable after these regulations come into force, to instruct the registry administrator to open an account ("the credit account") in the UK registry for the purpose of holding carbon units which are to be credited to the net UK carbon account in accordance with regulation 5.

(2) Unless paragraph (3) applies, carbon units in the credit account may only be transferred out of the credit account for the purposes of cancellation and no other request to transfer a carbon unit is to be regarded as an instruction to the registry administrator for the purposes of the Registries Regulation.

(3) The registry administrator may treat a request to transfer a carbon unit out of the credit account for purposes other than cancellation as an instruction only if it is satisfied that—

(a) no declaration under regulation 5(2)(b) has been made in respect of that carbon unit; and

(b) the carbon unit was transferred to the credit account by mistake.

(4) Any carbon unit transferred out of the credit account in accordance with paragraph (3) is to be returned to the account from which it was originally transferred.

Power to credit carbon units to the net UK carbon account

5.—(1) Carbon units may be credited to the net UK carbon account as follows.

(2) A carbon unit is credited to the net UK carbon account if—

(a) a person transfers the carbon unit to the credit account; and

(b) a Minister of the Crown declares that the carbon unit is credited to the net UK carbon account.

(3) A declaration under paragraph (2)(b)—

(a) must state the year in respect of which the carbon unit is to be credited; and

(b) may be made in such manner and at such time as the Minister of the Crown considers appropriate.

(4) No Minister of the Crown may make a declaration under paragraph (2)(b)—

(a) in respect of any removal unit that was originally issued to the United Kingdom; or

(b) if the Minister reasonably believes that the carbon unit has been used to offset greenhouse gas emissions which are not UK emissions.

(5) If a Minister of the Crown is minded not to make a declaration in respect of a carbon unit transferred to the credit account by the Scottish Ministers, the Welsh Ministers or a Northern Ireland department then the Minister of the Crown must consult that national authority before making a final decision.