

2021 No. 511

EXITING THE EUROPEAN UNION

CLIMATE CHANGE

**The Greenhouse Gas Emissions (Kyoto Protocol Registry)
Regulations 2021**

Made - - - - *27th April 2021*

Coming into force - - *1st May 2021*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Greenhouse Gas Emissions (Kyoto Protocol Registry) Regulations 2021 and come into force on 1st May 2021.

PART 2

**Amendments to the Greenhouse Gas Emissions Trading Scheme (Amendment) and
National Emissions Inventory Regulations 2005**

**Amendments to the Greenhouse Gas Emissions Trading Scheme (Amendment) and National
Emissions Inventory Regulations 2005**

2. In regulation 7 of the Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005(b)—

- (a) omit paragraph (6)(a) (together with the “and” at the end);
- (b) for paragraph (7) substitute—

(a) 2018 c. 16. Section 8 was amended by the European Union (Withdrawal Agreement) Act 2020 (c. 1), section 27(1) to (6). Paragraph 21(b) of Schedule 7 was amended by Schedule 5, paragraphs 38 and 53(1) and (2)(b), to that Act.
(b) S.I. 2005/2903. Regulation 7 was substituted by S.I. 2014/3075. There are no other amendments to regulation 7.

“(7) The Environment Agency may only authorise an applicant’s participation in a project activity or a proposed project activity if the Environment Agency is satisfied that to do so would be consistent with—

- (i) the UNFCCC;
- (ii) the Kyoto Protocol; and
- (iii) the decisions adopted pursuant to the UNFCCC or the Kyoto Protocol(a), as adopted and amended from time to time.”.

PART 3

Amendments to Commission Regulation (EU) No 389/2013

Interpretation

3. In this Part, “the Registries Regulation 2013” means Commission Regulation (EU) No 389/2013(b).

Amendments to Title 1 of the Registries Regulation 2013

4.—(1) Title 1 (common general provisions) of the Registries Regulation 2013 is amended as follows.

(2) For Articles 1 to 3 substitute—

Article 1

Subject matter

This Regulation lays down requirements concerning the Registry.

Article 2

Scope

This Regulation applies to Kyoto units.

Article 3

Definitions

1. Unless otherwise indicated, terms used in this Regulation have the same meaning as under Directive 2003/87/EC(c) and relevant international climate law.

2. In addition, in this Regulation—

- (a) “account holder” means a person that holds an account in the Registry;
- (b) “allowances” means allowances created pursuant to Directive 2003/87/EC;
- (c) “assigned amount units” (“AAUs”) means—
 - (i) units issued before IP completion day pursuant to Article 7(3) of Decision No 280/2004/EC(d); or
 - (ii) units corresponding to the United Kingdom’s emission levels determined pursuant to the Kyoto Protocol and issued on or after IP completion day;
- (d) “cancellation” means the definitive disposal of a Kyoto unit by its holder;

(a) All decisions can be found at unfccc.int.

(b) EUR 2013/389.

(c) OJ No. L 275, 25.10.2003, p. 32. This Directive was amended by Directive 2004/101/EC, OJ No. L 338, 13.11.2004, p. 18; Directive 2008/101/EC, OJ No. L 8, 13.1.2009, p. 3; and Directive 2009/29/EC, OJ No. L 140, 5.6.2009, p. 63. There are other amendments that are not relevant.

(d) OJ No. L 49, 19.02.2004, p. 1. Repealed by Regulation (EU) No 525/2013, OJ No. L 165, 18.6.2013, p. 13.

- (e) “designated national authority” means an entity that gives approval of an Article 6 project activity required by Article 6(1)(a) of the Kyoto Protocol or of voluntary participation in an Article 12 project activity required by Article 12(5)(a) of the Kyoto Protocol;
- (f) “directors” means the persons effectively directing the day-to-day operations of a legal person;
- (g) “the Kyoto Protocol” means the protocol to the UNFCCC signed at Kyoto on 11th December 1997;
- (h) “Kyoto units” means AAUs, emission reduction units (“ERUs”)(a), certified emission reductions (“CERs”)(b), RMUs, ICERs and tCERs;
- (i) “long-term certified emission reductions” (“ICERs”) means units issued for an afforestation or reforestation project activity under the clean development mechanism (“CDM”)(c) which, subject to Decision 5/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol(d), expire at the end of the emission reduction crediting period of the afforestation or reforestation project activity under the CDM for which they were issued;
- (j) “money laundering” has the meaning given by section 340(11) of the Proceeds of Crime Act 2002(e);
- (k) “the national administrator” means the Environment Agency;
- (l) “out of band confirmation” means a communication from the national administrator to an account holder or authorised representative for the purpose of ensuring compliance with UNFCCC security requirements;
- (m) “process” means an automated technical means to carry out an action relating to an account or a unit in the Registry;
- (n) “the Registry” means the registry administered on behalf of the United Kingdom for the purposes of its obligations as a party to the Kyoto Protocol;
- (o) “relevant international climate law” means—
 - (i) the UNFCCC;
 - (ii) the Kyoto Protocol; and
 - (iii) the decisions adopted pursuant to the UNFCCC or the Kyoto Protocol, as adopted and amended from time to time;
- (p) “removal units” (“RMUs”) means units issued pursuant to the relevant provisions in the annex to Decision 13/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol(f);
- (q) “second commitment period” means the period from 1st January 2013 to 31st December 2020 during which a party to the Kyoto Protocol shall limit their greenhouse gas emissions;
- (r) “serious crime” means an offence listed in Part 1 (England & Wales), Part 1A (Scotland) or Part 2 (Northern Ireland) of Schedule 1 to the Serious Crime Act 2007(g);

(a) “ERUs” is defined in Article 3(m) of Directive 2003/87/EC.
 (b) “CERs” is defined in Article 3(n) of Directive 2003/87/EC.
 (c) “CDM” is defined in Decision 3/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.
 (d) Decision 5/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (modalities and procedures for afforestation and reforestation project activities under the CDM in the first commitment period of the Kyoto Protocol).
 (e) 2002 c. 29. There are no relevant amendments.
 (f) Decision 13/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (modalities for the accounting of assigned amounts under Article 7, paragraph 4).
 (g) 2007 c. 27. Schedule 1 to that Act was amended by the Marine and Coastal Access Act 2009 (c. 23), Schedule 22; the Taxation (International and Other Provisions) Act 2010 (c. 8), Schedule 7, paragraph 101; the Bribery Act 2010 (c. 23), Schedule 1, paragraph 14; the Protection of Freedoms Act 2012 (c. 9), Schedule 9, paragraph 142; the Human Trafficking

- (s) “temporary certified emission reductions” (“tCERs”) means units issued for an afforestation or reforestation project activity under the CDM which, subject to Decision 5/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, expire at the end of the Kyoto Protocol commitment period following the one during which they were issued;
- (t) “terrorist financing” has the meaning given by regulation 3 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(a);
- (u) “transaction” means a process in the Registry that includes the transfer of a Kyoto unit from one account to another account;
- (v) “the UNFCCC” means the United Nations Framework Convention on Climate Change signed at New York on 9th May 1992;
- (w) “working day” means any day other than—
 - (i) Saturday, Sunday, Good Friday, or Christmas Day; or
 - (ii) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(b).”.

(3) Omit Articles 4 to 7.

(4) For Article 8 substitute—

“Article 8

National administrator

The national administrator must administer the Registry in accordance with this Regulation and relevant international climate law.”.

(5) For Article 9 substitute—

“Article 9

Accounts

1. The Secretary of State must ensure that the Registry contains accounts as required by relevant international climate law.

2. Each account type may hold the unit types permitted by relevant international climate law.”.

(6) In Article 10—

- (a) in paragraph 1, omit “, blocked, excluded”;
- (b) omit paragraphs 2 and 4 to 6.

(7) In Article 11—

- (a) for paragraph 1 substitute—

“1. The national administrator must administer every account on behalf of the Secretary of State.”;

- (b) omit paragraph 2;
- (c) in paragraph 3—

and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), Schedule 4, paragraph 7 and Schedule 5; the Serious Crime Act 2015 (c. 9), section 47 and Schedule 1, paragraph 31 and Schedule 4, paragraph 81; the Modern Slavery Act 2015 (c. 30), Schedule 5, paragraph 7; the Psychoactive Substances Act 2016 (c. 2), Schedule 5, paragraph 8; the Policing and Crime Act 2017 (c. 3), section 151; the Criminal Finances Act 2017 (c. 22), section 51; the Sanctions and Anti-Money Laundering Act 2018 (c. 13), Schedule 3, paragraph 5; the Counter-Terrorism and Border Security Act 2019 (c. 3), section 14; and S.I. 2019/1354, regulation 3.

(a) S.I. 2017/692. The definition of “terrorist financing” was amended by S.I. 2020/591.

(b) 1971 c. 80; see section 1 and Schedule 1 (which was amended by section 1 of the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (2007 asp 2)).

- (i) for “administrator of an account shall” substitute “national administrator must”;
 - (ii) omit “, change its status”;
 - (iii) for “administrator”, in the second place in which it occurs, substitute “national administrator”;
 - (iv) omit “, and initiate transactions as requested by the account holder in accordance with Article 23(5),”;
 - (d) in paragraph 4, for “administrator” substitute “national administrator”;
 - (e) omit paragraph 5.
- (8) Omit Article 12.
- (9) For Article 13 substitute—

“Article 13

Party holding accounts

1. At the request of the Secretary of State, the national administrator must open a party holding account for each year of the second commitment period within the period of 28 days beginning with the day after that on which the national administrator receives the information set out in Annex 3 from the Secretary of State.
2. The national administrator must act as the authorised representative of the account, unless the Secretary of State nominates another person.
3. The Secretary of State must provide the national administrator with the information set out in Table 8-1 of Annex 8 for each authorised representative of a party holding account.”.

- (10) Omit Articles 14 to 17.
- (11) In Article 18—
- (a) in the heading, omit—
 - (i) “and trading”;
 - (ii) “in the Union Registry”;
 - (b) in paragraph 1—
 - (i) omit “or trading account in the Union Registry”;
 - (ii) for “shall”, in each place in which it occurs, substitute “must”;
 - (c) in paragraph 2—
 - (i) for “Member State of the national administrator may” substitute “Secretary of State may”;
 - (ii) omit “or trading”;
 - (iii) for “Member State of the national administrator administrating the account” substitute “United Kingdom”;
 - (d) in paragraph 3—
 - (i) for “Member State of the national administrator may” substitute “Secretary of State may”;
 - (ii) omit “or trading”;
 - (iii) for “Member State of the national administrator of the account” substitute “United Kingdom”;
 - (e) in paragraph 4—
 - (i) for “shall” substitute “must”;
 - (ii) omit “or trading account”;
 - (iii) omit “Union”.

(12) Omit Articles 19 to 21.

(13) In Article 22—

(a) in paragraph 1, for “shall” substitute “must”;

(b) in paragraph 2—

(i) in the words before point (a), for “A national” substitute “The national”;

(ii) in point (c), omit “allowances or”;

(iii) for point (d) substitute—

“(d) if the national administrator is not satisfied that the proposed account holder is a fit and proper person to hold such an account.”;

(c) for paragraph 3 substitute—

“3. If the national administrator refuses to open an account, the person requesting the account opening may appeal against the decision in accordance with Article 110c.”.

(14) For Article 23 substitute—

“Article 23

Authorised representatives

1. Each account must have at least two authorised representatives. The authorised representatives may initiate transactions and other processes on behalf of the account holder.

2. In addition to the authorised representatives specified in paragraph 1, accounts may also have authorised representatives with “view only” access to the account.

3. The approval of an authorised representative is required in order to initiate a transaction.

4. The data exchange and technical specifications may set a maximum number of authorised representatives for each account type.

5. Authorised representatives must be natural persons over 18 years of age. All authorised representatives of a single account must be different persons but the same person can be an authorised representative on more than one account. The Secretary of State may require that at least one of the authorised representatives of an account is a permanent resident in the United Kingdom.”.

(15) In Article 24—

(a) in the heading, omit “and additional authorised representatives”;

(b) in paragraph 1—

(i) for “shall” substitute “must”;

(ii) omit “and additional authorised representatives”;

(c) in paragraph 2—

(i) omit “or additional authorised representative”;

(ii) for “shall”, in both places in which it occurs, substitute “must”;

(iii) for “administrator” substitute “national administrator”;

(d) in paragraph 3—

(i) for “shall” substitute “must”;

(ii) omit “or additional authorised representative,”;

(iii) for “administrator may” substitute “national administrator may”;

(e) in paragraph 4—

(i) for “shall” substitute “must”;

- (ii) omit “or additional authorised representative”;
 - (f) in paragraph 5—
 - (i) in the words before point (a), omit “or additional authorised representative”;
 - (ii) for point (c) substitute—
 - “(c) if the national administrator is not satisfied that the proposed authorised representative is a fit and proper person to act as an authorised representative.”;
 - (g) for paragraph 6 substitute—
 - “6. If the national administrator refuses to approve an authorised representative, the account holder may appeal against the decision in accordance with Article 110c.”.
- (16) In Article 25—
- (a) in paragraph 1, for “shall”, in both places in which it occurs, substitute “must”;
 - (b) omit paragraph 2;
 - (c) in paragraph 3—
 - (i) for “shall”, in each place in which it occurs, substitute “must”;
 - (ii) for “relevant national administrator” substitute “national administrator”;
 - (iii) before “approve the update of the information” insert “determine whether to”;
 - (iv) for “The administrator” substitute “The national administrator”;
 - (v) for the final sentence substitute “If the national administrator refuses to update the information, the account holder may appeal against the decision in accordance with Article 110c.”;
 - (d) in paragraph 4, for “shall”, in both places in which it occurs, substitute “must”;
 - (e) omit paragraph 5;
 - (f) in paragraph 6, for “Subject to paragraph 5, no” substitute “No”;
 - (g) in paragraph 7, omit “or additional authorised representative”;
 - (h) in paragraph 8—
 - (i) for “shall”, in both places in which it occurs, substitute “must”;
 - (ii) omit “or additional authorised representative”;
 - (iii) for “relevant administrator” substitute “national administrator”;
 - (i) in paragraph 9, omit “or additional authorised representatives”;
 - (j) omit paragraphs 10 and 11.
- (17) In Article 26—
- (a) for paragraph 1 substitute—
 - “1. Person holding accounts may have a trusted account list in the Registry.”;
 - (b) omit paragraph 3.
- (18) In Article 27—
- (a) omit “of an account other than those specified in Articles 28, 29, 30 and 31,”;
 - (b) for “administrator shall” substitute “national administrator must”.
- (19) Omit Articles 28 to 31.
- (20) In Article 32—
- (a) in paragraph 1—
 - (i) omit “allowances or” in both places in which it occurs;
 - (ii) for “an administrator” substitute “the national administrator”;
 - (iii) for “Articles 27, 28 and 29” substitute “Article 27”;

- (iv) for “the administrator”, in both places in which it occurs, substitute “the national administrator”;
 - (v) for “shall”, in each place in which it occurs, substitute “must”;
 - (vi) for “the administrator’s” substitute “the national administrator’s”;
 - (vii) omit “allowances and”;
 - (viii) for “its national holding account” substitute “a party holding account”;
- (b) in paragraph 2—
- (i) omit “allowances or”;
 - (ii) for “competent authority” substitute “Secretary of State”;
 - (iii) omit “allowances and”;
 - (iv) for “the relevant national account” substitute “a party holding account”.
- (21) In Article 33—
- (a) in the heading, for “administrator’s” substitute “national administrator’s”;
 - (b) in paragraph 1—
 - (i) for “competent authority”, in both places in which it occurs, substitute “Secretary of State”;
 - (ii) omit “, or in the case of operator holding accounts or aircraft operator holding accounts to set to blocked status,”;
 - (c) in paragraph 2, omit “or trading account” in both places in which it occurs;
 - (d) omit paragraph 3;
 - (e) in paragraph 4, omit “or an additional authorised representative” in both places in which it occurs;
 - (f) for paragraph 5 substitute—

“5. In accordance with Article 110c, the account holder may appeal against—

 - (a) a decision to close an account under paragraph 1 within the period of 30 days beginning with the day on which the account is closed; or
 - (b) a decision to remove an authorised representative under paragraph 4 within the period of 30 days beginning with the day on which the authorised representative is removed.”.
- (22) In Article 34—
- (a) in paragraph 1—
 - (i) in the words before point (a)—
 - (aa) for “An administrator” substitute “The national administrator”;
 - (bb) omit “or an additional authorised representative”;
 - (cc) for “registry” substitute “Registry”;
 - (dd) for “the administrator” substitute “the national administrator”;
 - (ii) in point (c), for “the Union Registry or the EUTL” substitute “the Registry”;
 - (b) in paragraph 2—
 - (i) in the words before point (a)—
 - (aa) for “An administrator” substitute “The national administrator”;
 - (bb) omit “or additional authorised representatives”;
 - (ii) in point (d), omit “or the central administrator”;
 - (iii) in point (g)—
 - (aa) in the first place in which it occurs, omit “Member State”;
 - (bb) for “Member State of the national administrator” substitute “United Kingdom”;

- (iv) in point (h)—
 - (aa) in the first place in which it occurs, omit “Member State”;
 - (bb) for “Member State of the administrator of the account” substitute “United Kingdom”;
- (c) in paragraph 3—
 - (i) in the words before point (a)—
 - (aa) for “An administrator” substitute “The national administrator”;
 - (bb) omit “or additional authorised representatives”;
 - (ii) in point (a)—
 - (aa) for “administrator” substitute “national administrator”;
 - (bb) for “crimes, or” substitute “crimes.”;
 - (iii) omit point (b);
- (d) in paragraph 5, for “administrator of the account shall” substitute “national administrator must”;
- (e) for paragraph 6 substitute—

“6. In accordance with Article 110c, the account holder may appeal against a decision to suspend access under paragraph 1 or 3 within the period of 30 days beginning with the day on which access is suspended.”;
- (f) in paragraph 7—
 - (i) for “competent authority or the Commission” substitute “Secretary of State”;
 - (ii) omit “or central administrator”;
- (g) omit paragraphs 8 to 10.

Amendments to Title 2 of the Registries Regulation 2013

- 5.—(1) Title 2 of the Registries Regulation 2013 is amended as follows.
- (2) For the heading of Title 2 (specific provisions for the union registry for the union emissions trading scheme) substitute—

“PROVISIONS FOR THE REGISTRY”.

- (3) Omit Chapter 1.
- (4) For Articles 39 to 40 substitute—

Article 39

Execution of transfers

1. For all transactions specified in this Chapter, an out of band confirmation must be required by the Registry before the transaction can be initiated. A transaction may only be initiated where an authorised representative has confirmed the transaction out of band.
2. If an account representative suspects that a transfer was initiated fraudulently, the account representative may request the national administrator to cancel the transfer on behalf of the account representative before the transfer is communicated for finalisation.

Article 40

Nature of Kyoto units and finality of transactions

1. The record of the Registry constitutes sufficient evidence of title over a Kyoto unit and of any other matter which is by this Regulation directed or authorised to be recorded in the Registry.

2. Any recovery or restitution obligations that may arise under United Kingdom law in respect of a Kyoto unit only apply to the Kyoto unit in kind.

3. Subject to this paragraph, a transaction is final and irrevocable upon its finalisation pursuant to Article 104. Except where a transaction may be reversed in accordance with relevant international climate law, and without prejudice to any provision of or remedy under United Kingdom law that may result in a requirement or order to execute a new transaction in the Registry, the national administrator may not reverse or revoke any transaction that has become final and irrevocable under this Regulation.

4. A purchaser and holder of a Kyoto unit acting in good faith acquires title to that Kyoto unit free of any defects in the title of the transferor.”.

(5) Omit Articles 41 to 64.

(6) For Article 65 substitute—

“Article 65

Transfers of Kyoto units initiated by an account holder

The Secretary of State must ensure that the Registry provides for the carrying out of any request from an account holder to transfer Kyoto units to any other account, unless such a transfer is prevented by the status of the initiating or receiving account.”.

(7) Omit Articles 66 to 68.

(8) For Article 69 substitute—

“Article 69

Cancellation of Kyoto units

The Secretary of State must ensure that the Registry provides for the carrying out of any request from an account holder to cancel Kyoto units held in its accounts by transferring a specified type and number of Kyoto units from the relevant account into the cancellation account of the Registry.”.

(9) Omit Articles 70 and 71.

Revocation of Title 3 of the Registries Regulation 2013

6. Omit Title 3 (specific provisions for KP registries) of the Registries Regulation 2013.

Revocation of Title 4 of the Registries Regulation 2013

7. Omit Title 4 (specific provisions for accounting transactions under Decision No 406/2009) of the Registries Regulation 2013.

Amendments to Title 5 of the Registries Regulation 2013

8.—(1) Title 5 (common technical provisions) of the Registries Regulation 2013 is amended as follows.

(2) Omit Article 91.

(3) For Article 92 substitute—

“Article 92

Helpdesk

The national administrator must provide assistance and support to account holders and account representatives in relation to the Registry through a helpdesk.”.

(4) Omit Article 93.

(5) For Article 94 substitute—

“Article 94

Accessing accounts in the Registry

If the security of the credentials of an authorised representative has been compromised, the authorised representative must inform the national administrator, who may suspend access to the relevant account.”.

(6) Omit Article 95.

(7) In Article 96—

(a) in paragraph 1—

(i) for “Commission” substitute “Secretary of State”;

(ii) omit “instruct the central administrator to”;

(iii) for “Union Registry or the EUTL”, in each place in which it occurs, substitute “Registry”;

(iv) for “it” substitute “the Secretary of State”;

(v) omit “, which includes the back-up facilities referred to in Article 91”;

(b) omit paragraph 2;

(c) in paragraph 3—

(i) for “a national administrator” substitute “the national administrator”;

(ii) for “shall”, in the first place in which it occurs, substitute “must”;

(iii) omit “the central administrator and”;

(iv) omit “The central administrator shall inform all national administrators as soon as possible.”;

(d) in paragraph 4—

(i) for “shall”, in both places in which it occurs, substitute “must”;

(ii) for “EUTL’s” substitute “Registry’s”.

(8) For Article 97 substitute—

“Article 97

Suspension of access to Kyoto units in the case of a suspected fraudulent transaction

The national administrator, acting on request of the Secretary of State, may suspend access to Kyoto units in the Registry for a maximum period of four weeks if it suspects that the Kyoto units have been the subject of a transaction constituting fraud, money laundering, terrorist financing, corruption or other serious crime.”.

(9) Omit Articles 98 to 99a.

(10) For the heading of Section 3 (automated checking, recording and completing of processes) substitute—

“Completing of processes”.

(11) Omit Articles 100 to 103.

(12) In Article 104—

(a) in paragraph 1—

(i) omit “in accordance with Article 7(1)”;

(ii) for “EUTL” substitute “Registry”;

(b) omit paragraphs 2 and 3.

(13) Omit Section 4.

(14) In Article 107—

(a) in paragraph 1—

- (i) for “central administrator and Member States shall” substitute “Secretary of State and national administrator must”;
 - (ii) for “Union Registry, the EUTL and other KP registries only store and process” substitute “Registry only stores and processes”;
 - (iii) omit “, Tables VI-I and VI-II of Annex VI, Table VII-I of Annex VII,”;
- (b) for paragraph 2 substitute—
- “2. The Secretary of State and the national administrator must ensure that no special categories of personal data (within the meaning given in Article 9(1) of Regulation (EU) 2016/679(a), as amended from time to time) are recorded in the Registry.”;
- (c) in paragraph 3, for “central administrator and Member States shall” substitute “Secretary of State and national administrator must”.
- (15) Omit Articles 108 and 109.
- (16) For Article 110 substitute—

“Article 110

Confidentiality

1. Information held in the Registry, including the holding of accounts, all transactions made, the unique unit identification code of the allowances and the unique numeric value of the unit serial number of the Kyoto units held or affected by a transaction, must be considered confidential except as otherwise required by domestic or international law, including relevant international climate law.

2. The national administrator may provide information held in the Registry to the following entities—

- (a) a designated national authority;
- (b) the European Anti-fraud Office of the European Commission;
- (c) law enforcement authorities, tax authorities or insolvency services in the United Kingdom;
- (d) international law enforcement authorities, tax authorities or insolvency services;
- (e) the UNFCCC;
- (f) the administrator of a registry connected to the UNFCCC International Transaction Log.

3. Information may be provided to the entities referred to in paragraph 2 upon their request to the national administrator if such requests are justified and necessary for the purposes of investigation, detection, prosecution, tax administration or enforcement, auditing and financial supervision of fraud involving Kyoto units, or of money laundering, terrorism financing, other serious crime, or a market manipulation offence for which the accounts in the Registry may be an instrument.

4. An entity receiving information in accordance with paragraph 3 must ensure that the information received is only used for the purposes stated in the request in accordance with paragraph 3 and is not made available deliberately or accidentally to persons not involved in the intended purpose of the information use. This provision does not preclude these entities from making the information available to other entities listed in paragraph 2, if this is necessary for the purposes stated in the request made in accordance with paragraph 3.

5. Upon their request, the national administrator may provide access to transaction information which does not allow the direct identification of specific persons to the entities referred to in paragraph 2 for the purpose of looking for suspicious transaction patterns.

(a) EUR 2016/679, amended by S.I. 2019/419.

Entities with such access may notify suspicious transaction patterns to other entities listed in paragraph 2.

6. The national administrator may decide to notify to law enforcement and tax authorities all transactions that involve a number of units above the number determined by the national administrator and to notify any account that is involved in a number of transactions within a period that is above a number determined by the national administrator.

7. The national administrator may not require account holders to submit price information concerning Kyoto units.

8. In this Article, “a market manipulation offence” means an offence under Part 7 of the Financial Services Act 2012(a).”.

(17) After Article 110, insert—

“Article 110a

Provision of information

1. For the purpose mentioned in paragraph 4, the national administrator or the Secretary of State (a “relevant body”) may, by notice, require a person (“P”) to furnish the relevant body with such information as is specified in the notice.

2. A notice under this paragraph must specify—

- (a) the form in which information is to be provided;
- (b) the period within which, or time at which, the information must be provided.

3. The information which P may be required to furnish by a notice under paragraph 1 includes information, which, although it is not in P’s possession or would not otherwise come into P’s possession, is information which it is reasonable to require P to compile for the purpose of complying with the notice.

4. The purpose referred to in paragraph 1 is the performance of the relevant body’s functions.

5. A relevant body must not disclose or publish any information it has received under paragraph 1 except where—

- (a) disclosure or publication is—
 - (i) required by this Regulation or otherwise by law;
 - (ii) necessary for the performance of the relevant body’s functions; or
 - (iii) made with the consent of the person by or on behalf of whom the information was provided; or
- (b) disclosure is between the relevant bodies.

6. The Secretary of State may use any information held or obtained for the purposes of this Regulation, and may share such information with other government bodies, for the purpose of preparing and publishing national energy and emissions statistics, including the preparation and publication of a national inventory.

7. In this Article—

- (a) “national inventory” means the estimation, under Article 4(1)(a) of the UNFCCC, of anthropogenic emissions of greenhouse gases by sources and removals of all greenhouse gases by sinks not controlled by the Montreal Protocol;
- (b) “functions” means functions—

(a) 2012 c. 21. Part 7 was amended by S.I. 2016/680, regulation 15 and S.I. 2018/1297, regulation 8.

- (i) under this Regulation; or
- (ii) related to compliance with relevant international climate law.

Article 110b

Right of appeal regarding Article 110a notices

1. Subject to paragraph 2, a person who is aggrieved by a notice served on them under Article 110a(1) may appeal against the notice to the First-tier Tribunal.
2. An appeal under paragraph 1 may not be made to the extent that the notice implements a direction given by—
 - (a) the Secretary of State under section 40 of the Environment Act 1995(a);
 - (b) the First-tier Tribunal under this Regulation.
3. The bringing of an appeal under paragraph 1 suspends the effect of the notice pending the final determination or withdrawal of the appeal.
4. Subject to paragraph 5, in determining an appeal under paragraph 1, the First-tier Tribunal may—
 - (a) affirm the notice;
 - (b) quash the notice; or
 - (c) vary any of the terms of the notice.
5. The First-tier Tribunal may not make a determination that would result in a notice which could not otherwise have been made under this Regulation.

Article 110c

Right of appeal regarding national administrator decisions

1. This Article applies to an appeal against a decision under Article 22(3), 24(6), 25(3), 33(5) or 34(6).
2. An appeal may be made to the First-tier Tribunal.
3. The bringing of an appeal does not suspend the effect of the decision pending the final determination or withdrawal of the appeal.
4. Subject to paragraph 5, in determining an appeal, the First-tier Tribunal may give directions to the national administrator as to the exercise of its functions under this Regulation.
5. The First-tier Tribunal may not make a determination that would result in a decision which could not otherwise have been made under this Regulation.

Article 110d

Guidance

1. The Secretary of State may issue guidance to the national administrator with respect to the carrying out of any of its functions—
 - (a) under this Regulation; or
 - (b) related to compliance with relevant international climate law.
2. The national administrator must have regard to any guidance issued under paragraph 1.

(a) 1995 c. 25. Section 40 was amended for Wales by the Natural Resources Body for Wales (Functions) Order 2013/755 (W.90), Schedule 2, paragraph 371; for Scotland by the Regulatory Reform (Scotland) Act 2014 asp 3, Schedule 3, paragraph 43(6); and for England, Scotland and Wales by S.I. 2019/458, regulation 3(2).

Article 110e

Notices

Annex 8a (notices) has effect.”.

(18) Omit Articles 111 and 112.

Revocation of transitional and final provisions of the Registries Regulation 2013

9. Omit Articles 113 to 118 (transitional and final provisions) of the Registries Regulation 2013.

Amendments to the Annexes to the Registries Regulation 2013

10.—(1) The Annexes to the Registries Regulation 2013 are amended as follows.

(2) Omit Annex 1.

(3) In Annex 3—

(a) in the heading, for “Articles 13, 14 and 19” substitute “Article 13”;

(b) in Table 3-1—

(i) in the heading to column E, for “administrator” substitute “national administrator”;

(ii) omit “Union” in item numbers 1 and 4 of column A;

(iii) omit column F.

(4) In Annex 4—

(a) for the heading (Information to be provided for opening an auction delivery account, a person holding account, a trading accounts or an external trading platform accounts (Articles 15, 18 and 20)) substitute—

“Information to be provided for opening a person holding account (Article 18)”;

(b) in point 2, after “a Member State of the European Economic Area” insert “or the United Kingdom”;

(c) in point 4(d), for “Member State of the administrator of the account” substitute “United Kingdom”;

(d) in point 5(d), for “Directive 2005/60/EC” substitute “regulation 3 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”;

(e) in point 7, for “The criminal” substitute “Any criminal”;

(f) in point 8, for “Member State requesting a copy” substitute “United Kingdom”;

(g) in point 9—

(i) for “administrator of the account” substitute “national administrator”;

(ii) for “the administrator” substitute “the national administrator”;

(h) in point 10, for “administrator of the account” substitute “national administrator”.

(5) Omit Annexes 5 to 7.

(6) In Annex 8—

(a) in the heading—

(i) omit “and additional authorised representatives”;

(ii) for “administrator of the account” substitute “national administrator”;

(b) in table 8-1—

(i) in the heading to column E, for “administrator” substitute “national administrator”;

(ii) omit column F;

(iii) omit row 22;

- (c) in point 2—
 - (i) omit “or additional authorised representative”;
 - (ii) omit “that additional authorised representative has the right to”;
 - (d) in point 4(d), for “Member State of the administrator of the account” substitute “United Kingdom”;
 - (e) in point 5, for “Criminal” substitute “Any criminal”;
 - (f) in point 6, for “Member State requesting a copy” substitute “United Kingdom”;
 - (g) in point 7 and 8, for “administrator of the account” substitute “national administrator”.
- (7) After Annex 8 insert—

“ANNEX 8a

Notices (Article 110e)

1. In this Annex, “notice” means any notice served by the national administrator under this Regulation.
 2. A notice must be in writing.
 3. A notice may be served on a person (“P”) by—
 - (a) delivering it to P in person;
 - (b) sending it to a postal or email address provided by P for the purpose of service of notices;
 - (c) leaving it at P’s proper address; or
 - (d) sending it by post or electronic means to P’s proper address.
 4. In the case of a body corporate, a notice may also be served on the secretary or clerk of that body.
 5. In the case of a partnership, a notice may also be served on a partner or a person having control or management of the partnership business.
 6. If a person (“Q”) to be served with a notice has specified an address in the United Kingdom (other than Q’s proper address) at which Q or someone on Q’s behalf will accept notices of that description, that address must instead be treated as Q’s proper address.
 7. For the purposes of this Annex, “proper address” means, subject to paragraph 6—
 - (a) in the case of a body corporate or its secretary or clerk—
 - (i) the registered or principal office of that body, or
 - (ii) the email address of the secretary or clerk;
 - (b) in the case of a partnership or a partner or person having control or management of the partnership business—
 - (i) the principal office of the partnership, or
 - (ii) the email address (or, in the case of a partnership established outside the United Kingdom, the last known address) of a partner or a person having that control or management;
 - (c) in any other case, a person’s last known address (which for the purpose of this point and point (b) includes an email address).
 8. For the purposes of paragraph 7, where a body corporate registered outside the United Kingdom or a partnership established outside the United Kingdom has an office in the United Kingdom, the principal office of that body corporate or partnership is its principal office in the United Kingdom.”.
- (8) Omit Annexes 9 to 14.

PART 4

Consequential amendments

Amendment to the Environment Act 1995

11. Section 41A of the Environment Act 1995(a) is amended as follows—

- (a) in subsection (1)(b)(i), for “a trading scheme registry” substitute “the Kyoto Protocol Registry”;
- (b) in subsection (6)(a), for “a trading scheme registry” substitute “the Kyoto Protocol Registry”;
- (c) in subsection (7), for the definition of “trading scheme registry” substitute—
“the Kyoto Protocol Registry” means the registry administered on behalf of the United Kingdom for the purposes of its obligations as a party to the Kyoto Protocol to the United Nations Framework Convention on Climate Change.”.

Partial revocation of the Greenhouse Gas Emissions Trading Scheme Regulations 2012

12.—(1) The Greenhouse Gas Emissions Trading Scheme Regulations 2012(b), in so far as they continue to apply in relation to the UK Registry(c), are revoked.

(2) In this regulation, “the UK Registry” has the meaning given in regulation 3 of the Greenhouse Gas Emissions Trading Scheme Regulations 2012.

Anne-Marie Trevelyan

Parliamentary Under Secretary of State

Department for Business, Energy and Industrial Strategy

27th April 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (c), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union).

These Regulations make amendments to legislation in the field of international climate change commitments. Part 2 amends the Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005 (S.I. 2005/2903), which relate to projects for reducing greenhouse gas emissions in accordance with the Kyoto Protocol to the United Nations Framework Convention on Climate Change. Part 3 amends Commission Regulation (EU) No 389/2013, which relates to maintaining a registry for the purposes of greenhouse gas emissions obligations under the Kyoto Protocol to the United Nations Framework Convention on Climate Change. Part 4 makes consequential amendments.

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.

(a) 1995 c. 25. Section 41A was inserted by S.I. 2005/925, Schedule 6, paragraph 1(1) and (2). Section 41A was amended by S.I. 2012/2788, regulation 5; S.I. 2013/1821, article 17; S.I. 2013/3135, regulation 13; S.I. 2019/458, regulation 3(4).

(b) S.I. 2012/3038, amended by S.I. 2013/3135, S.I. 2019/1440 and S.I.2020/1369. There are other amendments that are not relevant.

(c) S.I. 2020/1369 (the “2020 Regulations”) limited the application of S.I. 2012/2038 (the “2012 Regulations”), but regulation 46(1)(b) of the 2020 Regulations provided that the 2020 Regulations did not limit the application of the 2012 Regulations so far as the 2012 Regulations related to the UK Registry.

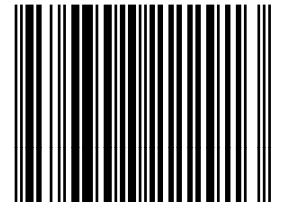
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