

**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<sup>(a)</sup>.

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<sup>(b)</sup>—

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

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<sup>(a)</sup> 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.  
<sup>(b)</sup> S.I. 2005/2903. Regulation 7 was substituted by S.I. 2014/3075. There are no other amendments to regulation 7.

- (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”;

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—

- (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.

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(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—

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

*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

27th April 2021

Department for Business, Energy and Industrial Strategy

#### **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.

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(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.

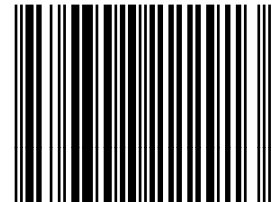
(c) S.I. 2020/1369 (the “2020 Regulations”) limited the application of S.I. 2012/2038 (the “2012 Regulations”), but regulation 46(1)(b) of the 2020 Regulations provided that the 2020 Regulations did not limit the application of the 2012 Regulations so far as the 2012 Regulations related to the UK Registry.



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