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STATUTORY INSTRUMENTS

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**2012 No. 2788**

**The Greenhouse Gas Emissions Trading Scheme  
(Amendment) (Charging Schemes) Regulations 2012**

**PART 2**

Amendments to the Environment Act 1995

**Section 41A**

**5.—**(1) Section 41A (charges in respect of greenhouse gas emissions permits etc)<sup>(1)</sup> is amended as follows.

(2) In the heading, for “greenhouse gas emissions permits etc: supplementary” substitute “the EU greenhouse gas emissions trading scheme”.

(3) For subsection (1) substitute—

“(1) Each of the new Agencies may require the payment to it of such charges as may from time to time be prescribed—

- (a) as a means of recovering costs incurred by it in performing functions conferred under or by virtue of regulations made for the purpose of implementing the EU ETS Directive;
- (b) in respect of—
  - (i) an application to open an account that, under the Registries Regulation 2011, is required to be held in a trading scheme registry;
  - (ii) the subsistence of such an account;
  - (iii) the updating of information provided to the Agency in relation to such an account;

and in this section “prescribed” means specified in, or determined under, a scheme (in this section referred to as a “charging scheme”) made under this section by the new Agency in question.

(1A) A charging scheme may—

- (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities;
- (b) provide for the times at which, and the manner in which, the charges prescribed by the scheme are to be paid;
- (c) revoke or amend any previous charging scheme;
- (d) contain supplemental, incidental, consequential or transitional provision for the purposes of the scheme.

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<sup>(1)</sup> Section 41A was inserted by [S.I. 2005/925](#) and amended by [S.I. 2011/2911](#).

(1B) A charging scheme must specify, in relation to any charge prescribed by the scheme, the description of person who is liable to pay the charge.

(1C) A new Agency may not make a charging scheme unless the provisions of the scheme have been approved by the Secretary of State or the Scottish Ministers under section 42.”.

(4) In subsection (2)—

(a) for “operator registry charges or aircraft operator registry charges” substitute “charges under subsection (1)(b)”; and

(b) for “under section 42(2) below” substitute “or the Scottish Ministers under section 42”.

(5) In subsection (5), for “operator registry charges and any aircraft operator charges” substitute “charges under subsection (1)(b)”.

(6) For subsection (6)(a) substitute—

“(a) an application to open an account in a trading scheme registry, other than one that under the Registries Regulation 2011 is required to be held in that registry;”.

(7) For subsection (7) substitute—

“(7) In this section—

“the Registries Regulation 2011” means Commission Regulation (EU) No 1193/2011 establishing a Union Registry for the trading period commencing on 1 January 2013, and subsequent trading periods, of the Union emissions trading scheme 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<sup>(2)</sup>, as amended from time to time;

“trading scheme registry” means—

(a) any registry operated by the Agency for the purpose of meeting the obligations of the United Kingdom referred to in Article 3(1) of Commission Regulation (EU) No 920/2010 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<sup>(3)</sup>; or

(b) the registry established by Article 4(1) of the Registries Regulation 2011.”.

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<sup>(2)</sup> OJ No L 315, 29.11.11, p 1.

<sup>(3)</sup> OJ No L 270, 14.10.10, p 1.