STATUTORY RULES OF NORTHERN IRELAND

2026 No.

CLIMATE CHANGE

The Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations (Northern Ireland) 2026

Made - - - -	*00 Dec 2026*
Coming into operation -	*00 Dec 2026*

The Department of Agriculture, Environment and Rural Affairs(**a**), makes these Regulations in exercise of the powers conferred by section 11 of, and paragraph 11M of Part 1C of Schedule 2 to, the European Union (Withdrawal) Act 2018(**b**).

Citation, commencement and interpretation

1.— (1) These Regulations may be cited as the Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations (Northern Ireland) 2026 and come into operation on XX Month 2026.

(2) The Interpretation Act (Northern Ireland) 1954(**c**), shall apply to these Regulations as it applies to an Act of the Assembly.

Amendments to the Greenhouse Gas Emissions Trading Scheme Regulations 2012

2. The Greenhouse Gas Emissions Trading Scheme Regulations 2012(**d**) are amended in accordance with regulations 3 to 15.

Application

3. After regulation 1A, insert—

"Option for operators to continue in the EU emissions trading scheme for greenhouse gases in certain circumstances

1B.—(1) This regulation applies in relation to an installation ("a relevant installation") that—

(a) falls within the definition of "installation" in Article 3(e) of the Directive because the activities carried out there include the operation of combustion units with a total rated thermal input exceeding 20 megawatts; and

(**a**) 2018 c. 16; section 11 and Part 1C of Schedule 2 confer powers on devolved authorities. A "devolved authority" is defined under section 20(1) to include a 'Northern Ireland Department'. The Department of Agriculture, Environment and Rural Affairs is named as a Northern Ireland department in section 1 of, and Schedule 1 to, the Departments Act (Northern Ireland) 2016 c. 5 (N.I.).

(**b**) 2018 c. 16; Part 1C of Schedule 2 was inserted by section 22 of the European Union (Withdrawal Agreement) Act 2020 (c.1) (the 2020 Act).

(**c**) 1954 c. 33 (N.I).

(**d**) S.I. 2012/3038 as amended by S.I. 2020/1369.

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(b) changes its production processes to reduce its greenhouse gas emissions so that it no longer meets that threshold.

(2) The operator of a relevant installation may decide that the relevant installation is to continue to be treated, for the purposes of these Regulations, as an installation at which a regulated activity is carried out during—

(a) the five-year period during which the change to production process occurs ("the current five-year period"); or

(b) the current five-year period and the subsequent five-year period.

(3) Where an operator makes a decision described in paragraph (2)—

(a) the operator must notify the regulator of the decision; and

(b) for the relevant period, the operation of combustion units at the relevant installation is to be treated for the purposes of these Regulations as a regulated activity even where they do not have a total rated thermal input exceeding 20 megawatts.

(4) In paragraph (3)(b), "the relevant period" means, where a decision is made in accordance with—

(a) paragraph (2)(a), the period ending with the end of the current five-year period;

(b) paragraph (2)(b), the period ending with the end of the five-year period subsequent to the current five-year period.

(5) Where the regulator is notified in accordance with paragraph (3)(a), the regulator must notify the European Commission of changes compared to the list submitted to the Commission pursuant to Article 11(1) of the Directive.

(6) In this regulation, "five-year period" means the period referred to in Article 11(1), second sub-paragraph, of the Directive."

Amendments to definitions

4. In regulation 3—

(a) after the definition of "authority" insert—

""biomass" has the meaning given in Article 2(24) of the Renewable Energy Directive(**a**);";

(b) in the definition of "bioliquids" substitute "2(h)" for "2(32)";

(c) in the definition of "fee" for paragraph (d) substitute—

"section 223 of the Planning Act (Northern Ireland) 2011(b);";

(d) for the definition of "greenhouse gas emissions permit" substitute—

""greenhouse gas emissions permit" means a permit granted under regulation 10(1);";

(e) in the definition of "the Planning Appeals Commission" for "article 110 of the Planning (Northern Ireland) Order 1991" substitute "section 203 of the Planning Act (Northern Ireland) 2011;";

(f) in the definition of "registry account" for "Article 10 of the Registries Regulation 2013" substitute "Article 9 of the Registries Regulation 2019(**c**);";

(g) for the definition of "regulated activity" substitute—

""regulated activity" means—

(a) an activity that—

(i) is listed in Annex 1 to the Directive, and

(ii) results in specified emissions; or

(**a**) O.J. No. L328, 21.12.2018, pp. 82–209.
(**b**) 2011 c. 25; section 253 repealed Article 127 of the Planning (Northern Ireland) Order 1991 S.I. 1991/1220 (N.I. 11).
(**c**) O.J. No. L177, 2.7.2019, pp. 3-62.

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(b) an activity that is to be treated as a regulated activity by virtue of regulation 1B(3)(b);";

(h) for the definition of "the Renewable Energy Directive" substitute—

""the Renewable Energy Directive" means Directive 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast);";

(i) in the definition of "the Union Registry" for "2013" substitute "2019";

(j) omit the following definitions—

(i) "KP registry administrator",

(ii) "the Registries Regulation 2010",

(iii) "the Registries Regulation 2013",

(iv) "the UK Registry".

Provision of Information

5. In regulation 45 omit paragraphs (6)(d) and (e).

Failure to comply with the condition of a permit

6. In regulation 53 omit paragraph (1)(c) and the "or" which precedes it.

Failure to surrender allowances

7. In regulation 54(5)(b) for "April" substitute "September".

Appeals: Interpretation

8. In regulation 72(b)(ii) omit "or the KP registry administrator".

Rights of appeal: registries

9. In regulation 74(1) omit "or KP registry administrator(**a**)".

Determination of an appeal

10. In regulation 77(2) omit "or the KP registry administrator".

The Union Registry

11. In regulation 80—

(a) omit paragraph (6)(b) and the "or" which precedes it;

(b) In paragraph (6) after "installation" omit "or UK aircraft operator;";

(c) In paragraph (15) omit "or the KP registry administrator";

(d) In paragraph (15)(a) omit "or the UK Registry".

The UK Registry

12. Omit regulation 81.

(**a**) The reference to KP registry administrator was inserted by regulation 5(5)(a)(i) of S.I. 2013/3135.

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Applications etc.

13. In Schedule 3—

(a) omit paragraph 1(2)(b) and the "and" which precedes it.

Permits

14. In Schedule 4—

(a) in paragraph 2(3)(b)(ii) for "31st March" substitute "30th June";

(b) for paragraph 2(3)(c) substitute "a requirement to satisfy the regulator, if an emission factor of zero has been reported in respect of the use of bioliquids or biomass, that the sustainability criteria set out in Article 29(2) to (7) and (10) of the Renewable Energy Directive have been fulfilled in accordance with Article 30(1) of that Directive; and";

(c) in paragraph 2(4)(b) for "April" substitute "September".

Excluded Installations

15. In Schedule 5 for paragraph 3(8)(c) substitute "a requirement to satisfy the regulator, if an emission factor of zero has been reported in respect of the use of bioliquids or biomass, that the sustainability criteria set out in Article 29(2) to (7) and (10) of the Renewable Energy Directive have been fulfilled in accordance with Article 30(1) of that Directive; and".

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on XX MONTH 2026.

L.S.

Name
A senior officer of the Department of Agriculture, Environment and Rural Affairs

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EXPLANATORY NOTE

(This note is not part of the Regulations)

The Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038) ("the 2012 Regulations") implement Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community (O.J. L No 275, 25.10.2004, p. 32-46) ("the Directive").

In accordance with Article 9 of, and Annex 4 to, the Windsor Framework, the Directive continues to apply in NI, in respect of the generation, transmission, distribution, and supply of electricity, trading in wholesale electricity or cross-border exchanges in electricity.

These Regulations amend the 2012 Regulations to implement some of the amendments made to the Directive by Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system (O.J. L No 130, 16.05.2023, p. 134-202) ("the Amending Directive").

Regulation 3 amends regulation 1 of the 2012 Regulations to provide operators with a choice to remain in the EU emissions trading scheme for greenhouse gases ("EU ETS"), up to the end of the current and subsequent allocation period, when there is a change in production that results in the installation no longer meeting the prescribed threshold to remain in the EU ETS.

Regulation 4 updates definitions of various expressions used in the 2012 Regulations. In particular this regulation defines "biomass" and updates the reference to the Renewable Energy Directive to enable the Greenhouse Gas Savings outlined in Article 29 of that directive to be applied.

Regulation 5 updates regulation 45 of the 2012 Regulations to remove the references to the 2010 and 2013 Registries Regulations which have been replaced by the 2019 Registries Regulation.

Regulation 6 updates regulation 53 of the 2012 Regulations to remove the reference to a provision within the 2005 Regulations which is no longer applicable.

Regulation 7 is updating regulation 54 of 2012 Regulations to bring the date to surrender allowances in line with the EU requirements.

Regulations 8, 9, 10, 11 are updating the 2012 Regulations to remove the references within regulations 72, 74, 77, 80 to the KP registry administrator and the UK Registry as these are no longer applicable in NI under the EU ETS.

Regulation 11 also updates regulation 80 of the 2012 Regulations to remove the reference to UK aircraft operators as the 2012 Regulations are no longer applicable to this sector.

Regulation 12 is amending the 2012 Regulations to remove regulation 81 which contains the provision relating to the UK Registry as the UK Registry is not applicable to the EU ETS.

Regulation 13 updates Schedule 3 of the 2012 Regulations to remove the reference to the KP registry administrator and the UK Registry as these are no longer applicable in NI under the EU ETS.

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Regulation 14 amends Schedule 4 of the 2012 Regulations to bring the monitoring, reporting and surrender deadlines in line with EU requirements. It incorporates biomass and updates references to the Renewable Energy Directive to enable the Greenhouse Gas Savings outlined in Article 29 of that directive to be applied.

Regulation 15 amends Schedule 5 of the 2012 Regulations to incorporate biomass and update the references to the Renewable Energy Directive to enable the Greenhouse Gas Savings outlined in Article 29 of that directive to be applied.

A transposition note and an impact assessment of the effect that this Statutory Rule will have on the costs to NI Operators are attached to the Explanatory Memorandum which is available alongside the Statutory Rule on www.legislation.gov.uk.

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