

Draft for consultation

THE ENVIRONMENT AGENCY (EU EMISSIONS TRADING) (ENGLAND) CHARGING SCHEME

The Environment Agency, in exercise of its powers under section 41A of the Environment Act 1995 and with the approval of the Secretary of State and the consent of the Treasury hereby makes the following Charging Scheme.

PART 1

GENERAL

Commencement and citation

1. This Charging Scheme may be referred to as the Environment Agency (EU Emissions Trading) (England) Charging Scheme 2018 (the Scheme) and comes into force on 1 April 2018.

Interpretation

2. In this Scheme -

“the 2012 Regulations” means the Greenhouse Gas Emissions Trading Scheme Regulations 2012 and expressions used in this Scheme shall have the meaning set out in the Regulations;

“Monitoring and Reporting Regulation” means Commission Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council; and

“year” means a period of 12 months commencing on 1 April, unless otherwise stated.

Liability to pay charge

3. The person or persons set out below are liable to pay the charges payable under this Scheme –
 - (a) in respect of an application referred to in this Scheme, the person or persons making that application;
 - (b) in respect of a subsistence or determination charge referred to in this Scheme, the holder of the permit, emissions plan or registry account in respect of which the charge is payable; and
 - (c) in respect of charges arising under paragraph 11 of this Scheme, the person or persons upon whom the relevant notice is served.

Time of payment

4. Charges payable under this Scheme are due and payable in full at the following times –
- (a) in respect of charges relating to an application referred to in this Scheme (with the exception of the application under paragraphs 15(b) and 19(3)), on the making of the relevant application;
 - (b) in respect of the charge relating to the application under paragraph 15(b) of this Scheme, on the making of an application for a benchmarking plan;
 - (c) in respect of subsistence charges arising under Part 2 and under paragraph 20 of this Scheme, annually on 1 April except in the circumstances set out in paragraph 8(3) of this Scheme, in which case the charge is payable on the date specified in the notice of the charge;
 - (d) in respect of subsistence charges arising under Part 3 of this Scheme, annually on 1 January;
 - (e) in respect of charges arising under paragraph 11 of this Scheme, on the date specified in the relevant notice; and
 - (f) in respect of charges for the determination of emissions arising under this Scheme and charges arising under paragraph 19(3), on demand.

Revocation

5. The Emissions Trading Charging Scheme which came into effect on 18 August 2014 is revoked in so far as it relates to any period beginning on 1 April 2018.

PART 2

CHARGES RELATING TO INSTALLATIONS

Interpretation

6. In this Part -

“annual emissions from the installation” means the reportable emissions likely to be emitted from the installation in a calendar year;

“the Directive” means Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emissions allowance trading within the Community and amending Council Directive 96/61/EC;

“permit” means a permit granted under Regulation 9 of the 2005 Regulations or Regulation 10 of the 2012 Regulations;

“regulated activity” means an activity (other than an aviation activity) that (a) is listed in Annex 1 to the Directive and (b) results in specified emissions;

“reportable emissions” means the total specified emissions (expressed in tonnes of carbon dioxide equivalent) which arise from the regulated activities carried out at

that installation;

“the 2005 Regulations” means the Greenhouse Gas Emissions Trading Scheme Regulations 2005;

“specified emissions”, in relation to an activity listed in Annex I to the Directive, means emissions of gases specified in Annex I in respect of that activity;

“the Verification Regulation” means Commission Regulation (EU) No 600/2012 of 21 June 2012 on the verification of greenhouse gas emission reports and tonne-kilometre reports and accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council;

“verifier” means a legal person or another legal entity carrying out verification activities pursuant to the Verification Regulation and accredited by a national accreditation body pursuant to Regulation (EC) No 765/2008 and the Verification Regulation or a natural person otherwise authorised, without prejudice to Article 5(2) of Regulation (EC) No 765/2008, at the time a verification report is issued.

Permit application charge

7. (1) A permit application charge must accompany an application for a permit made under Regulation 10 of the 2012 Regulations.

(2) The permit application charge is as follows -

Annual emissions from the installation	Charge
Less than 50kt per year	£1,340
At least 50kt and no more than 500kt	£2,500
More than 500kt per year	£5,970

Subsistence charge

8. (1) Subject to sub-paragraph (3), an annual subsistence charge is payable in respect of the subsistence of a permit on 1 April each year.

(2) The subsistence charge is £3,065.

Mid-year adjustments

(3) Where during a relevant year -

(a) a permit is granted in relation to an installation under Regulation 10 of the 2012 Regulations; or

(b) a permit is partially transferred in accordance with Regulation 12 of the 2012 Regulations,

the charge relating to the installation (or in the case of a partially transferred permit, the transferred units) will be $N/365$ of the subsistence charge, where N is the number of days remaining in the relevant year after the day on which the permit is granted or the transfer took effect, as appropriate.

(4) Where an operator has paid the subsistence charge for a year in full and during that year –

(a) a permit is surrendered under Regulation 13 of the 2012 Regulations; or

(b) a permit is revoked under Regulation 14(1)(a) of the 2012 Regulations,

the Environment Agency will refund the operator a proportion of the subsistence charge in respect of the remainder of the year calculated on a daily basis commencing on the date on which the notice of surrender or revocation takes effect.

Transfer charge

9. A transfer charge of £430 must accompany an application to transfer a permit, in whole or in part made under Regulation 12 of the 2012 Regulations.

Surrender charge

10. A surrender charge of £670 must accompany an application to surrender a permit made under Regulation 13 of the 2012 Regulations.

Revocation charge

11. A revocation charge of £670 is payable in respect of a revocation notice served under Regulation 14 of the 2012 Regulations.

Charge for allocation from new entrant reserve

12. A charge of £1,120 must accompany an application for an allocation from the new entrant reserve under Schedule 6, paragraphs 2 or 3 of the 2012 Regulations.

Charge for increase to emissions target

13. A charge of £1,120 must accompany an application by an excluded installation for an increase in the emissions target for the installation under Schedule 5, paragraph 6 of the 2012 Regulations.

Determination charge

14. A charge of £125 per hour is payable in relation to time spent by the Environment Agency in determining reportable emissions under Regulation 30 of the 2005 Regulations, Regulation 44 of the 2012 Regulations or Article 70 of the Monitoring and Reporting Regulation.

PART 3

CHARGES RELATING TO AVIATION

Application charges

15. The following charges must accompany the following applications -

Application	Charge
(a) Application for a benchmarking plan under Schedule 7, paragraph 2 of the 2012 Regulations	£830
(b) Application for a free allocation from the special reserve (including an application for a benchmarking plan) under Schedule 8, paragraphs 2 and 6 of the 2012 Regulations	£1,120
(c) Application for an emissions plan under Regulation 32 of the 2012 Regulations	£750

Subsistence charge

16. (1) An annual subsistence charge is payable in respect of subsistence as a UK aircraft operator on 1 January each year.
- (2) The subsistence charge is £3,135.

Mid-year adjustments

- (3) In the year that the emissions plan is issued under Regulation 34 of the 2012 Regulations (the relevant year), the charge will be $N/365$ of the subsistence charge, where N is the number of days remaining in the relevant year after the day on which the emissions plan was issued.

Determination charge

17. A charge of £125 per hour is payable in relation to time spent by the Environment Agency in determining emissions under Regulation 22 of the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010, Regulation 44 of the 2012 Regulations or Article 70 of the Monitoring and Reporting Regulation.

PART 4

CHARGES RELATING TO THE REGISTRY

Interpretation

18. In this Part –

“the Registries Regulation 2013” means Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011; and

“Registry” means any registry referred to in Articles 4 or 5 of the Registries Regulation 2013 which is used or operated by the Environment Agency.

Application charges

19. (1) Subject to paragraph (2), the following charges must accompany the following applications in relation to the Registry –

Application	Charge
Application for a person holding account or trading account	£915
Application for a verifier account	£500
Application by the holder of a person holding account, trading account, operator holding account or aircraft operator holding account to nominate an authorised representative (in addition to the 2 authorised representatives required to be nominated at the same time as the account application), change an authorised representative or nominate an additional authorised representative	£880
Application by a verifier to nominate or change an authorised representative	£880

- (2) Where, in respect of a verifier, the application for a verifier account included a nomination of only one person to act as its authorised representative, there will be no charge for that verifier’s first subsequent application to nominate or change an authorised representative.
- (3) A charge of £125 per hour is payable in relation to time spent by the Environment Agency in assessing applications for external trading platform accounts.

Subsistence charge

20. An annual subsistence charge of £255 is payable in relation to the maintenance of a person holding account, former operator holding account or trading account.

PART 5

CHARGES RELATING TO PROJECT ACTIVITIES

Interpretation

21. In this Part -

"the Regulations" means the Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005 (as amended by the Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory (Amendment) Regulations 2014) and expressions used in this Part shall have the meaning set out in the Regulations.

Application charges

22. The following charges must accompany the following applications made under regulation 5(1) or (2) of the Regulations –

Application	Charge
Where the application relates to a proposed Article 6 project activity	£700
Where the application relates to a proposed Article 12 project activity for the production of hydro-electric power with a generating capacity of more than 20 megawatts	£700
Where the application relates to any other Article 12 project activity	£250

Signed for and on behalf of the Environment Agency

Title

Date