



STATUTORY INSTRUMENTS.

S.I. No. 553 of 2014



EUROPEAN COMMUNITIES (GREENHOUSE GAS EMISSIONS
TRADING) (AVIATION) (AMENDMENT) REGULATIONS 2014

EUROPEAN COMMUNITIES (GREENHOUSE GAS EMISSIONS TRADING) (AVIATION) (AMENDMENT) REGULATIONS 2014

I, ALAN KELLY, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and by sections 6 and 53 of the Environmental Protection Agency Act 1992 (No. 7 of 1992) and for the purpose of giving further effect to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003¹, as amended by Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004², Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008³, and Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009⁴ hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Greenhouse Gas Emissions Trading) (Aviation) (Amendment) Regulations 2014.

2. In these Regulations “Directive” means Directive 2003/87/EC of 13 October 2003¹ establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC⁵, as amended by Directive 2004/101/EC of 27 October 2004² in respect of the Kyoto Protocol’s project mechanisms, by Directive 2008/101/EC of 19 November 2008³ so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community, by Regulation (EC) No 219/2009 of 11 March 2009⁶ on adaptation to the regulatory procedure with scrutiny, by Directive 2009/29/EC of 23 April 2009⁴ so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community, and by Regulation (EC) No 421/2014⁷ of 16 April 2014 in view of the implementation by 2020 of an international agreement applying a single global market-based measure to international aviation emissions;

“LDCs” means Least Developed Countries as defined by the Committee for Economic Development and endorsed by the Economic and Social Council of the United Nations.

3. A word or expression that is used in these Regulations and is also used in the Directive has the same meaning in these Regulations that it has in the Directive.

¹O.J. No L 275 25.10.2003 p32

²O.J. No. L 338 13.11.2004 p. 18

³O.J. No. L 8 13.1.2009 p. 3

⁴O.J. No. L 140 5.6.2009 p. 63

⁵O.J. No. L 257 10.10.1996 p. 26

⁶O.J. No. L 87 31.3.2009 p. 109

⁷O.J. No. L 129 30.04.2014 p.1

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 9th December, 2014.

4. The European Communities (Greenhouse Gas Emissions Trading) (Aviation) Regulations 2010 (S.I. No. 261 of 2010) are amended-

(a) By inserting the following after Regulation 15

“15A. (1) Without prejudice to the application of Article 28(3) and (4) of the Directive, paragraphs 2 to 7 of this Regulation shall apply,

(2) To the extent that the levels of CER and ERU use, allowed to an aircraft operator for the period from 2008 to 2012, have not been used up, an aircraft operator may request the Agency to issue allowances to it valid from 2013 onwards in exchange for CERs and ERUs issued in respect of emission reductions up until 2012 from project types which were eligible for use in the Community scheme during the period from 2008 to 2012. Until 31 March 2015, the Agency shall make such an exchange on request.

(3) To the extent that the levels of CER and ERU use, allowed to an aircraft operator for the period from 2008 to 2012, have not been used up, the Agency shall allow an aircraft operator to exchange CERs and ERUs from projects that were registered before 2013 issued in respect of emission reductions from 2013 onwards for allowances valid from 2013 onwards. This paragraph shall apply to CERs and ERUs for all project types which were eligible for use in the Community scheme during the period from 2008 to 2012.

(4) To the extent that the levels of CER and ERU use, allowed to an aircraft operator for the period from 2008 to 2012, have not been used up, the Agency shall allow an aircraft operator to exchange CERs issued in respect of emission reductions from 2013 onwards for allowances from new projects started from 2013 onwards in LDCs. This paragraph shall apply to CERs for all project types which were eligible for use in the Community scheme during the period from 2008 to 2012, until those countries have ratified a relevant agreement with the Community or until 2020, whichever is the earlier.

(5) To the extent that the levels of CER and ERU use, allowed to an aircraft operator for the period from 2008 to 2012, have not been used up and in the event that the negotiations on an international agreement on climate change are not concluded by 31 December 2009, credits from projects or other emission reducing activities may be used in the Community scheme in accordance with agreements concluded with third countries, specifying levels of use. In accordance with such agreements, an aircraft operator shall be able to use credits from project activities in those third countries to comply with their obligations under the Community scheme.

(6) Any agreements referred to in paragraph 5 shall provide for the use of credits in the Community scheme from project types which were eligible for use in the Community scheme during the period from 2008

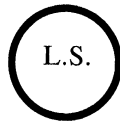
to 2012, including renewable energy or energy efficiency technologies which promote technological transfer and sustainable development. Any such agreement may also provide for the use of credits from projects where the baseline used is below the level of free allocation under the measures referred to in Article 10a of the Directive or below the levels required by Community legislation.

(7) Once an international agreement on climate change has been reached, only credits from projects from third countries which have ratified that agreement shall be accepted in the Community scheme from 1 January 2013.

(b) By inserting the following after Regulation 15A:

“15B. (1) When hosting project activities, no ERUs or CERs will be issued for reductions or limitations of greenhouse gas emissions from activities falling within the scope of the Directive.

(2) Project activities shall only be authorised where all project participants have headquarters either in a country that has concluded the international agreement relating to such projects or in a country or sub-federal or regional entity which is linked to the Community scheme pursuant to Article 25 of the Directive”



GIVEN under my Official Seal,
1 December 2014.

ALAN KELLY,
Minister for the Environment, Community and Local
Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

The purpose of these Regulations is to provide further amendments to the European Communities (Greenhouse Gas Emissions Trading) (Aviation) Regulations 2010 in order to fully transpose Directive 2008/101/EC.

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(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€2.54



Wt. (b30828). 285. 12/14. Clondalkin. Gr 30-15.