STATUTORY INSTRUMENTS

# 2018 No. 841

# CLIMATE CHANGE

# The CRC Energy Efficiency Scheme (Revocation and Savings) Order 2018

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| *Made - - - -* | *11th July 2018* |
| *Laid before Parliament* | *18th July 2018* |
| *Laid before the Scottish Parliament* | *18th July 2018* |
| *Laid before the National Assembly for Wales* | *18th July 2018* |
| *Laid before the Northern Ireland Assembly* | *18th July 2018* |
| *Coming into force - -* | *1st October 2018* |

At the Court at Buckingham Palace, the 11th day of July 2018

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Secretary of State, the Scottish Ministers, the Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs of Northern Ireland(**a**) have in accordance with section 48 of and paragraph 10 of Schedule 3 to the Climate Change Act 2008(**b**)—

(a) obtained and taken into account the advice of the Committee on Climate Change in respect of this Order; and

(b) consulted such persons likely to be affected by this Order as they considered appropriate,

Her Majesty, in exercise of the powers conferred by sections 44 and 90(3) of, and Schedule 2 and paragraph 9 of Schedule 3, to the Climate Change Act 2008, is pleased, by and with the advice of Her Privy Council, to order as follows:

## Citation and Commencement

**1.** This Order may be cited as the CRC Energy Efficiency Scheme (Revocation and Savings) Order 2018 and comes into force on 1st October 2018.

## Interpretation

**2.** In this Order—

(**a**) The functions of the Department of the Environment of Northern Ireland in relation to Part 3 of the Climate Change Act 2008 were transferred to the Department of Agriculture, Environment and Rural Affairs of Northern Ireland by the Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76).

(**b**) 2008 c.27.

"the 2010 Order" means the CRC Energy Efficiency Scheme Order 2010(**a**);

"the 2013 Order" means the CRC Energy Efficiency Scheme Order 2013(**b**).

**Revocations, continuing effect and amendments**

**3.**—(1) Subject to paragraphs (2) and (3), the 2013 Order is revoked.

(2) The 2013 Order continues to have effect in relation to the initial phase of the trading scheme established under article 2(1) of the 2013 Order subject to the amendments made by Schedule 1.

(3) Article 96(2) and (3) of, and Schedule 9 to, the 2013 Order continue to have effect in relation to the first phase of the trading scheme established under article 2(1) of the 2010 Order.

(4) The 2010 Order as continued in effect by article 96(2) and (3) of the 2013 Order is amended in accordance with Schedule 2.

*Richard Tilbrook*
Clerk of the Privy Council

# SCHEDULE 1

Article 3(2)

## Amendments to the 2013 Order

**1.** The 2013 Order is amended as follows.

**2.** In article 3 (interpretation)—

(a) at the end of the definition of "account holder", insert "or, after the end of 31st March 2022, the public body, undertaking or other person in whose name an account in the Registry was held at the end of 31st March 2022";

(b) at the end of the definition of "third party", insert "before the end of 31st March 2022".

**3.** In article 13(3) (administrator's duty to maintain a list of participants), at the beginning, insert "Until the end of 31st March 2025,".

**4.** In article 37 (cancellation of allowances and surplus surrendered allowances)—

(a) in paragraph (4)(b), after "request", insert "before the end of 31st March 2025";

(b) after paragraph (4), insert—

"(4A) Where the account holder makes a request to the Secretary of State for repayment during the period beginning with 1st April 2022 and ending with 31st March 2025 with respect to any allowances held in the compliance account at the end of 31st March 2022, the Secretary of State may make a repayment to the account holder.";

(c) in paragraph (5), after "paragraph (4)", insert "or paragraph (4A)".

**5.** In article 38 (allowances and trading)—

(a) in paragraph (1), at the beginning, insert "Until the end of 31st March 2025,";

(b) in paragraph (2), at the beginning, insert "Before 1st April 2022,".

**6.** In article 50(1) (the Registry), at the beginning, insert "Until the end of 31st March 2022".

**7.** In article 54 (cancellation of registration of participants)—

(a) in paragraph (5), after "is cancelled", insert "before the end of 31st March 2022";

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(**a**) S.I. 2010/768, amended by S.I. 2011/234 and amended and revoked by S.I. 2013/1119 with savings. There are other amendments to the 2010 Order not relevant to this Order.

(**b**) S.I. 2013/1119, amended by S.I. 2014/502. There are other amendments not relevant to this Order.

(b) after paragraph (7), insert—

"(8) Nothing in this Order requires the administrator to cancel the registration of a participant after the end of 31st March 2025.".

**8.** After article 55 (account holders), insert—

**"Accounts on or after 1st April 2022**

**55A.** On 1st April 2022, the administrator must close the compliance accounts, the cancellation accounts and any other accounts set up under this Order.

**Communications on or after 1st April 2022**

**55B.**—(1) Communications occurring on or after 1st April 2022 between the administrator and—

(a) a participant; or

(b) a third party,

must take place in writing.

(2) Communications referred to in paragraph (1) may take place by post or by electronic means.

**Records and information on or after 1st April 2022**

**55C.**—(1) During the period beginning with 1st April 2022 and ending with 31st March 2025 ('the relevant period'), the administrator must maintain a record of the information held in the Registry at the end of 31st March 2022.

(2) The record referred to in paragraph (1) may be stored electronically.

(3) The record referred to in paragraph (1) must include a record of the information referred to in paragraph 2 of Schedule 6 as at the end of 31st March 2022.

(4) If—

(a) a participant; or

(b) an account holder,

makes a request in writing during the relevant period to the administrator to provide the information referred to in paragraph (5), the administrator must provide that information as soon as reasonably practicable.

(5) The information referred to in this paragraph is the information that would have been provided by the Registry on 31st March 2022 in accordance with paragraph 2 of Schedule 6 to that participant or account holder.

(6) The request and information may be made and provided electronically.".

**9.** In article 56 (notification), after "address", insert "occurring before 1st April 2025".

**10.** In article 74 (failures in respect of annual reports), after paragraph (5), insert—

"(6) After the end of 28th February 2022, the administrator must not impose a penalty requiring a participant to acquire and surrender additional allowances under paragraph (4)(b).".

**11.** In article 77 (failures to surrender allowances contrary to Part 4), after paragraph (3), insert—

"(4) After the end of 28th February 2022, the administrator must not impose a penalty requiring a participant to acquire and surrender additional allowances under paragraph (2)(a).".

**12.** In article 81 (blocking and publication)—

(a) after paragraph (1), insert—

"(1A) The penalty of blocking must not be—

(a) imposed; or

(b) if already imposed, continued,

after the end of 31st March 2022.";

(b) after paragraph (2), insert—

"(2A) The penalty of publication must not—

(a) be imposed; or

(b) if already imposed, be continued,

after the end of 31st March 2022.".

# SCHEDULE 2

Article 3(4)

## Amendments to the 2010 Order

**1.** The 2010 Order is amended as follows.

**2.** In article 3 (interpretation)—

(a) at the end of the definition of "account holder", insert "or, after the end of 31st March 2022, the public body, undertaking or other person in whose name an account in the Registry was held at the end of 31st March 2022";

(b) at the end of the definition of "third party", insert "before the end of 31st March 2022".

**3.** In article 13(3) (administrator's duty to maintain a list of participants), at the beginning, insert "Until the end of 31st March 2025,".

**4.** In article 54 (cancellation of allowances and surplus surrendered allowances)—

(a) in paragraph (4)(b), after "request", insert "before the end of 31st March 2025";

(b) after paragraph (4), insert—

"(4A) Where the account holder makes a request to the Secretary of State for repayment during the period beginning with 1st April 2022 and ending with 31st March 2025 with respect to any allowances held in the compliance account at the end of 31st March 2022, the Secretary of State may make a repayment to the account holder.";

(c) in paragraph (5), after "paragraph (4)", insert "or paragraph (4A)".

**5.** In article 55 (allowances and trading)—

(a) in paragraph (1), at the beginning, insert "Until the end of 31st March 2025,";

(b) in paragraph (2), at the beginning, insert "Before 1st April 2022,".

**6.** In article 68(1) (the Registry), at the beginning, insert "Until the end of 31st March 2022".

**7.** In article 72 (cancellation of registration of participants)—

(a) in paragraph (4), after "is cancelled", insert "before the end of 31st March 2022";

(b) after paragraph (6), insert—

"(7) Nothing in this Order requires the administrator to cancel the registration of a participant after the end of 31st March 2025.".

**8.** After article 73 (account holders), insert—

**"Accounts on or after 1st April 2022**

**73A.** On 1st April 2022, the administrator must close the compliance accounts, the cancellation accounts and any other accounts set up under this Order.

**Communications on or after 1st April 2022**

**73B.**—(1) Communications occurring on or after 1st April 2022 between the administrator and—

(a) a participant; or

(b) a third party,

must take place in writing.

(2) Communications referred to in paragraph (1) may take place by post or by electronic means.

**Records and information on or after 1st April 2022**

**73C.**—(1) During the period beginning with 1st April 2022 and ending with 31st March 2025 ('the relevant period'), the administrator must maintain a record of the information held in the Registry at the end of 31st March 2022.

(2) The record referred to in paragraph (1) may be stored electronically.

(3) The record referred to in paragraph (1) must include a record of the information referred to in paragraph 2 of Schedule 7 as at the end of 31st March 2022.

(4) If—

(a) a participant; or

(b) an account holder,

makes a request in writing during the relevant period to the administrator to provide the information referred to in paragraph (5), the administrator must provide that information as soon as reasonably practicable.

(5) The information referred to in this paragraph is the information that would have been provided by the Registry on 31st March 2022 in accordance with paragraph 2 of Schedule 7 to that participant or account holder.

(6) The request and information may be made and provided electronically.".

**9.** In article 97 (failures in respect of annual reports), after paragraph (5), insert—

"(6) After the end of 28th February 2022, the administrator must not impose a penalty requiring a participant to acquire and surrender additional allowances under paragraph (4)(b).".

**10.** In article 100 (failures to surrender allowances contrary to Part 6), after paragraph (3), insert—

"(4) After the end of 28th February 2022, the administrator must not impose a penalty requiring a participant to acquire and surrender additional allowances under paragraph (2)(a).".

**11.** In article 105 (blocking and publication)—

(a) after paragraph (1), insert—

"(1A) The penalty of blocking must not be—

(a) imposed; or

(b) if already imposed, continued,

after the end of 31st March 2022.";

(b) after paragraph (2), insert—

"(2A) The penalty of publication must not—

(a) be imposed; or

(b) if already imposed, be continued,

after the end of 31st March 2022.".

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order revokes in the United Kingdom the CRC Energy Efficiency Scheme Order ("the 2013 Order") with savings (article 3(1) and (2)). It also makes amendments to the 2013 Order to the extent that it continues to operate by virtue of those savings (Schedule 1); and amends the CRC Energy Efficiency Scheme Order ("the 2010 Order") to the extent that it continues to operate following its revocation, with savings, by the 2013 Order (Schedule 2). Both the 2013 Order and the 2010 Order established an emissions trading scheme which applies to direct and indirect emissions from supplies of electricity and gas by public bodies and undertakings.

The 2013 Order remains in effect for the purpose of the initial phase of the scheme it established. Under the initial phase, participants are required to monitor their supplies of electricity and gas from 1st April 2014 to 31st March 2019, and to annually purchase and surrender sufficient allowances to cover the related emissions. The surrender for the final year is due by the last working day of October 2019. The amendments made to the 2013 Order by Schedule 1 to this Order require the administrator to maintain the Registry used for this process, and participants' and third parties' access to the accounts for their allowances, until 31st March 2022. After that date, the administrator must close the accounts, is not required to maintain the Registry and is required to store the information that had been contained in the Registry, and to maintain the list of participants, until the end of March 2025 to facilitate any outstanding activities relating to the initial phase.

The 2010 Order also continues in effect for the purpose of the first phase of the scheme it created under article 3(3) of this Order. Under the first phase, participants are required to monitor their supplies of electricity and gas from 1st April 2010 to 31st March 2014, and to annually purchase and surrender sufficient allowances to cover the related emissions. The surrender for the final year was due by the last working day of October 2014. The amendments made to the 2010 Order by Schedule 2 to this Order require the administrator to maintain the Registry used for this process, and participants' and third parties' access to the accounts for their allowances, until 31st March 2022. After that date, the administrator must close the accounts, is not required to maintain the Registry and is required to store the information that had been contained in the Registry, and to maintain the list of participants, until the end of March 2025 to facilitate any outstanding activities relating to the first phase.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London, SW1H 0ET.

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