

CLIMATE CHANGE ACT 2008

THE GREENHOUSE GAS EMISSIONS TRADING SCHEME ORDER 2020

THE GREENHOUSE GAS EMISSIONS TRADING FEES AND CHARGES (SCOTLAND) SCHEME 2020

We have powers to make charging schemes to cover greenhouse gas emissions trading. These powers are contained in the Greenhouse Gas Emissions Trading Scheme Order 2020 (the Order), laid under the Climate Change Act 2008.

We have obtained the approval of the Scottish Ministers and so we make the following scheme of fees and charges.

1. CITATION, EXTENT, COMMENCEMENT AND REVOCATION

- 1.1. This scheme shall be cited and referred to as the Greenhouse Gas Emissions Trading Fees and Charges (Scotland) Scheme 2020 (and it shall be referred to here as “the Scheme”).
- 1.2. The Scheme shall apply to Scotland only and shall come into force on 1 January, 2021.
- 1.3. The Greenhouse Gas Emissions Trading Fees and Charges (Scotland) Scheme 2015 shall cease to have effect on 1 January 2021, insofar as it relates to any period on or after 1 January 2021.

2. INTERPRETATION

- 2.1. In the Scheme, unless the contrary intention appears:
 - (a) any meanings given to words or phrases within the Order shall have the same meanings here
 - (b) “estimated annual reportable emissions” means the estimated annual reportable emissions as stated in the operator’s emissions monitoring plan
 - (c) “estimated aviation emissions” means a reasonable estimate, in the opinion of SEPA, of the aviation emissions of the aircraft operator for the relevant year.
 - (d) “kt” shall mean kilotonne;
 - (e) “the Monitoring and Reporting Regulation” or “MRR” means Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council as given effect subject to modifications by Article 24 of the Order;
 - (f) “permit” shall mean a “greenhouse gas emissions permit” or a “hospital or small emitter permit” as defined in the Order and “permitted” shall mean permitted in terms of the relevant permit;

(g) “article” shall mean an article within the Order;

(h) “SEPA” means the Scottish Environment Protection Agency, incorporated under the Environment Act 1995 and having its Corporate Office at Strathallan House, Castle Business Park, Stirling, FK9 4TZ;

(i) “us” and “we” means SEPA;

(j) “the Order” means the Greenhouse Gas Emissions Trading Scheme Order 2020;

(k) “you” shall mean the body that has to pay our fees or charges and shall, therefore, include the “applicant”, “the operator” and “the party”.

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2.2. Any reference to any enactment, regulation or the like shall be a reference to the same as it may be amended, repealed or re-enacted from time to time.

2.3. The headings of each of the clauses are for information only and do not affect the meaning of the clauses.

3. FEES AND CHARGES – GENERAL

3.1. Except if we say otherwise in the Scheme, fees and charges must be paid in full at the same time as submission of the application to which the fee or charge relates. An application submitted without the fee or charge shall be treated as an invalid application.

3.2. We shall endeavour to issue an invoice for any fee or charge which does not have to be paid at the same time as an application is submitted. If, however, an invoice is not received or if an invoice is issued incorrectly the fee is still payable.

3.3. Subject to the remainder of the terms hereof, all fees and charges shall not be refunded in any circumstances. In particular, they shall not be refunded if the application for which the fee or charge submitted is refused or withdrawn.

3.4. The Scheme recovers SEPA’s costs for regulation of the UK ETS, including costs for the UK Registry and permitting system where appropriate.

4. PERMIT APPLICATION FEE

- 4.1. If you submit an application for a permit under Schedule 6 paragraph 1 of the Order, the application fee shall be payable to us in accordance with the following table:

Installation	Fee
Cat A – installations emitting less than 50kt per year, hospitals or small emitters - emitting less than 50kt per year	£2,300
Cat B – installations emitting at least 50kt per year and no more than 500kt per year	£3,830
Cat C – installations emitting more than 500kt per year	£4,600

5. SUBSISTENCE CHARGE

- 5.1. Subject to the remainder of this clause, during each year that a permit is in force you, as the operator, shall pay a subsistence charge in accordance with the following table:

Estimated annual reportable emissions	Charge
Less than 50kt per year	£3,285
At least 50kt and no more than 500kt per year	£4,270
More than 500kt per year	£5,260
Hospital or small emitter	£1,535

- 5.2. A subsistence charge shall not be payable in respect of a permit relating to –
- (a) a planned installation which is not put into operation during the year to which the charge relates;
 - (b) an installation in respect of which a retention notice has been served prior to 1 April in the year to which the charge relates and is not revoked during that year.
- 5.3. Where during a year –
- (a) a permit is granted in relation to an installation under Schedule 6 paragraph 3 of the Order,
 - (b) a planned installation is put into operation; or
 - (c) a permit is partially transferred in accordance with Schedule 6 paragraph 9 of the Order,
- 5.4. the subsistence charge relating to the installation (or in the case of a partially transferred permit, the transferred units) for the remainder of the year shall be a proportion of the charge calculated on a daily basis for the remainder of the period commencing on the date of the grant of the permit or the date upon which

the transfer took effect, as appropriate. In all other events the subsistence charge shall be payable in full.

- 5.5. The subsistence charge shall be payable in full on 1 April in each year.
- 5.6. Where an operator has paid the subsistence charge for a year in full and during that year
 - (a) a permit is surrendered under Schedule 6 paragraph 11 of the Order; or
 - (b) a permit is revoked under Schedule 6 paragraph 12 of the Order,

SEPA shall make a refund to the operator of a proportion of the subsistence charge in respect of the remainder of the year calculated on a daily basis for the remainder of the year commencing on the date on which the notice of surrender or revocation takes effect.

6 VARIATION OF PERMIT

- 6.1 In respect of any application to vary the conditions of a permit (other than an application referred to in paragraph 6.4) the application fee shall be £985.
- 6.2 We may vary the conditions of a permit, without receiving an application. If we do this we shall make a charge of £985.
- 6.3 The fee for an application to increase the emission targets following a capacity increase for installations that hold a hospital or small emitter permit shall be £2,300.
- 6.4 We shall waive the variation fee if the variation is of a minor nature, not involving us in more than one hour of staff time to process the application.

7 TRANSFER OF PERMIT

- 7.1 In respect of any application to transfer a permit, in whole or in part, in terms of Schedule 6 paragraph 7 of the Order the transfer fee shall be £1,535 per permit.

8 SURRENDER OF PERMIT

- 8.1 In respect of any application to surrender a permit, in terms of Schedule 6 paragraph 11 of the Order the surrender fee shall be £1,535 per permit.

9 REVOCATION OF PERMIT

- 9.1 We may serve a revocation notice on you, as an operator, in terms of Schedule 6 paragraph 12 of the Order. The revocation fee shall be £1,970 per permit and shall be payable by the date specified in the revocation notice.

10 CHARGES FOR AIRCRAFT OPERATORS

Charges shall be payable to us in respect of the following:-

- 10.1 An application for an emissions monitoring plan under article 28 of the Order - £2,300;
- 10.2 An application for variation of an emissions monitoring plan pursuant to conditions in an emissions monitoring plan or variation of an emissions monitoring plan under article 31 of the Order - £1,100;
- 10.3 For maintaining a person as a UK aircraft operator for a year (“the relevant year”) a fixed charge calculated by reference to the following table:

Where the Estimated annual aviation emissions are	Fee
less than 50kt per year,	£2,410
at least 50kt and no more than 500kt per year	£3,060
more than 500kt per year	£3,290

Pro-rata charges for subsistence fees

- 10.4 Where an emissions monitoring plan is issued part way through the year the charges will be calculated on a pro-rata basis for the remaining period up to the end of the year.
- 10.5 Part of the subsistence charge is a variable charge which depends upon the length of time you have had an emissions monitoring plan in place during a particular compliance year. The variable charges for the year are as follows:

Where the Estimated annual aviation emissions are	Fee
less than 50kt per year,	£630
at least 50kt and no more than 500kt per year	£830
more than 500kt per year	£1,020

- 10.6 Where your variable charge becomes payable part way through a financial year you will be charged (pro rata) for the number of whole days remaining in the year. The charge commences from the date that is indicated on your emissions monitoring plan, rather than the date on which you made your application.
- 10.7 If you permanently cease to be a regulated aircraft operator part way through a financial year your variable charge will be calculated (pro rata) in respect of the number of the days in the year for which you were an aircraft operator up to and including the day on which you completed all requirements connected with your aviation activities performed in that year.

11 INCREASE IN CHARGES

- 11.1 Subject to clause 11.2 with effect from 1 April 2022 and on every anniversary thereof, SEPA may increase all charges and fees under the Scheme annually in line with increases in the Office for National Statistics measures of inflation as at 30 September in the immediately preceding year. Fees and charges shall be rounded up to the nearest pound sterling.
- 11.2 We reserve the right to vary the charges by more than the Office for National Statistics measures of inflation, but shall do so only following a full consultation exercise as set out in terms of the regulation 36 of the Order.

12 Hourly Rate

- 12.1 A charge of £118 per hour is payable in relation to time spent by us in:
- (a) Making a determination of reportable emissions or aviation emissions under article 45 of the Order
 - (b) Giving an Information Notice under Article 75 of the Order

13 METHODS OF PAYMENT

- 13.1 Payment of a fee or charge shall not have been made until we are in receipt of cleared funds.
- 13.2 Subject to the terms of Clause 13.3, payment to us may be made by any of the following methods:
- (a) by cheque, made payable to “the Scottish Environment Protection Agency” and endorsed “A/C Payee only”
 - (b) (ii) by BACS transfer Sort Code: 83-34-00, Account No: 00137187, or such other sort code and account details as we may from time to time determine
 - (c) (iii) by credit card or debit card and on completion of the appropriate form included with application forms/invoices
 - (d) (iv) by cash.
- 13.3 Payment by credit cards shall attract a variable surcharge. If banks impose a surcharge on us for the use of other facilities, such as accepting payment by debit card, this fee shall be passed on in full to you.
- 13.4 It is your duty to ensure that we know that a payment has been made by BACS which has come from you and to which permit or application it relates.
- 13.5 We reserve the right to withdraw any method of payment and to introduce new methods of payment, all without notice.

14 LIABILITY TO PAY FEES AND CHARGES

14.1 The person or persons set out below shall be liable to pay the fees and charges payable under this Scheme:

- (a) for an application for a permit or emissions plan, the variation of a permit or emissions plan, the transfer of a permit, the surrender of a permit, or an allocation from the new entrant reserve or the special reserve, the person or persons making that application;
- (b) for a subsistence charge or determination charge, the holder of the permit or emissions plan in respect of which the charge is payable;
- (d) for all other matters, the person or persons upon whom the relevant notice is served.

15 TIME TO MAKE PAYMENT OF FEES AND CHARGES

15.1 Fees and charges payable under this Scheme shall be due and payable in full at the following times on or after 1 January 2021:

- (a) for fees relating to an application for a permit benchmarking plan or emissions plan, the variation of a permit benchmarking plan or emissions plan, the transfer of a permit, the surrender of a permit or an allocation from the new entrant reserve or the special reserve, on the making of the relevant application;
- (b) for subsistence charges, annually on 1 April, except in the circumstances set out in clause 5.3 of the Scheme, in which case the charge is payable on demand; and
- (c) for all other fees and charges on the date specified in the relevant notice or, where applicable, on demand.

Payment reference

15.2 We will consider that payment has been made when such payments clear reference:

- (a) the permit number (where a permit exists which is associated with the charge); or
- (b) if for a new permits, the name of the operator or operator account if relevant.

15.3 If a payment is not clearly referenced then it may not be processed which may result in an invalid application or subsistence payment.

16 DECISIONS UNDER THE SCHEME

- 16.1 All acts in terms of the Scheme are delegated to the Chief Executive or such officer or officers as he may from time to time authorise. For the avoidance of doubt this includes anything to be assessed, agreed, determined, certified or otherwise decided upon by us.

IN WITNESS WHERE OF these presents typewritten on this and the preceding pages are executed for and on behalf of SEPA by, **Terry P. A'Hearn, (subscribing his usual signature Terry A'Hearn)** Chief Executive, at Edinburgh on 23 December Two Thousand and Twenty in the presence of Jennifer McWhirter, SEPA Corporate Solicitor
