



## **THE GREENHOUSE GAS EMISSIONS TRADING FEES AND CHARGES (SCOTLAND) SCHEME 2016**

The Scottish Environment Protection Agency, in exercise of its powers under Sections 41 and 41A of the Environment Act 1995 and in accordance with Section 42 and with the approval of the Scottish Ministers, makes 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 2016 (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 April 2016.
- 1.3 The Greenhouse Gas Emissions Trading Fees and Charges (Scotland) Scheme 2015 shall cease to have effect on 1 April 2016, insofar as it relates to any period on or after 1 April 2016.

### **2. INTERPRETATION**

- 2.1 In the Scheme, unless the contrary intention appears:
  - (a) any meanings given to words or phrases within the Regulations shall have the same meanings here
  - (b) “estimated annual reportable emissions” means a reasonable estimate, in the opinion of SEPA, of the reportable emissions emitted from the installation in the previous calendar year (if the installation held a permit during the whole of the previous calendar year) or the reportable emissions likely to be emitted from the installation in a calendar year. Verified data will be used wherever available.
  - (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) “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, as amended from time to time;

- (f) “permit” shall mean a “greenhouse gas emissions permit” or an “excluded installation emissions permit” as defined in the Regulations and “permitted” shall mean permitted in terms of the relevant permit;
- (g) “regulation” shall mean a regulation within “the Regulations”;
- (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 Regulations” means the Greenhouse Gas Emissions Trading Scheme Regulations 2012;
- (k) “the 1995 Act” means the Environment Act 1995;
- (l) “verified annual reportable emissions figure” means the annual reportable emissions from the installation verified by a verifier or determined by SEPA in accordance with regulation 30 of the Greenhouse Gas Emissions Trading Scheme Regulations 2005, regulation 44 of the Regulations or Article 70 of the Monitoring and Reporting Regulation;
- (m) “you” shall mean the body that has to pay our fees or charges and shall, therefore, include the “applicant”, “the operator” and “the party”.

2.2 The Interpretation Act 1978 shall apply to the Scheme; excepting that “year” and “financial year” shall each be defined as being that period from 1 April to 31 March.

2.3 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.

2.4 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.

#### 4. PERMIT APPLICATION FEE

4.1 If you submit an application for a permit under regulation 10 the application fee shall be payable to us in accordance with the following table:

Installation	Fee
Emitting less than 50kt per year	£1,337
Emitting at least 50kt and no more than 500kt per year	£2,502
Emitting more than 500kt per year	£5,971

#### 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:

Annual emissions from the Installation (See Note 1 below)	Charge
Less than 50kt	£2,546
at least 50kt and no more than 500kt	£3,318
more than 500kt	£4,080

Note 1 For installations that held a permit during the whole of the calendar year in the year two years prior to the subsistence charge being due, the annual emissions shall be taken as the verified annual reportable emissions figure for that year.

In relation to installations not falling in the above category, the annual emissions shall be taken as the estimated annual reportable emissions.

5.2 A subsistence charge shall not be payable in respect of a permit relating to a planned installation which is not put into operation during the year to which the charge relates;

5.3 Where during a year –

- (a) a permit is granted in relation to an installation under regulation 10
- (b) a planned installation is put into operation; or
- (d) a permit is partially transferred in accordance with regulation 12,

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.

5.4 The subsistence charge shall be payable in full on 1 April in each year.

5.5 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 Regulations; or
- (b) a permit is revoked under regulation 14 of the Regulations

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 £426.
- 6.2 We may vary the conditions of a permit, without receiving an application. If we do this, then subject to paragraph 6.3 below, we shall make a charge of £426.
- 6.3 The fee for varying an excluded installation emissions permit following termination of excluded status shall be £430.
- 6.4 The fee for an application to increase the emission targets following a capacity increase for installations that hold an excluded installation emissions permit shall be £1,120.
- 6.5 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 regulation 12 the transfer fee shall be £426 per permit.

## **8. SURRENDER OF PERMIT**

- 8.1 In respect of any application to surrender a permit, in terms of regulation 13 of the Regulations the surrender fee shall be £674 per permit.

## **9. REVOCATION OF PERMIT**

- 9.1 We may serve a revocation notice on you, as an operator, in terms of Regulation 14 of the Regulations. The revocation fee shall be £674 per permit and shall be payable by the date specified in the revocation notice.

## **10. NEW ENTRANT RESERVE**

- 10.1 In respect of any application for an allocation from the new entrant reserve under Schedule 6, paragraphs 2 or 3 of the Regulations, the fee shall be £1,121 per application.

**11. CHARGES FOR AIRCRAFT OPERATORS**

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

- 11.1 An application for a benchmarking plan under Schedule 7, paragraph 2 of the Regulations - £830;
- 11.2 An 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 Regulations - £1,120;
- 11.3 An application for an emissions plan under regulation 32 of the Regulations - £750;
- 11.4 An application for variation of an emissions plan pursuant to conditions in an emissions plan OR variation of an emissions plan under regulation 37 (1), (2) (b) or (3) of the Regulations- £430;
- 11.5 For maintaining a person as a UK aircraft operator for each year a fixed charge calculated by reference to the following table plus a variable charge calculated in accordance with clauses 11.6 and 11.7:

**Where the Estimated annual aviation emissions are**

	<b>Fee</b>
less than 50kt per year,	£1,920
at least 50kt and no more than 500kt per year	£2,490
more than 500kt per year	£3,060

- 11.6 Part of the subsistence charge is a variable charge which depends upon the length of time you have had an emissions plan in place during a particular compliance year. The variable charges for the year are as follows:

**Where the Estimated annual aviation emissions are**

	<b>Fee</b>
less than 50kt per year	£630
at least 50kt and no more than 500kt per year	£830
more than 500kt per year	£1020

- 11.7 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 plan, rather than the date on which you made your application.
- 11.8 If you permanently cease to be a UK 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 a UK aircraft operator up to and including the day on which you completed all requirements connected with your aviation activities performed in that year.

## **12. INCREASE IN CHARGES**

- 12.1 Subject to clause 12.2 with effect from 1 April 2017 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.
- 12.2 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 1995 Act.

## **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:
- (i) by cheque, made payable to “the Scottish Environment Protection Agency” and endorsed “A/C Payee only”
  - (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
  - (iii) by credit card or debit card and on completion of the appropriate form included with application forms/invoices
  - (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. DETERMINATION CHARGE**

- 14.1 A charge of £118 per hour is payable in relation to time spent by us in making a determination of emissions under regulation 44 of the Regulations or Article 70 of the Monitoring and Reporting Regulation.

## 15. LIABILITY TO PAY FEES AND CHARGES

- 15.1 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, 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, 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;
  - (c) for all other matters, the person or persons upon whom the relevant notice is served.

## 16. TIME TO MAKE PAYMENT OF FEES AND CHARGES

- 16.1 Fees and charges payable under this Scheme shall be due and payable in full at the following times on or after 1 April 2016:
- (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.

## 17. DECISIONS UNDER THE SCHEME

- 17.1 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 page are executed for and on behalf of SEPA by **Calum Sutherland MacDonald (subscribing his usual signature C MacDonald)**, Executive Director, at Stirling on the Thirtieth March, Two Thousand and Sixteen in the presence of Jane Dewar, Personal Assistant.

---