



THE GREENHOUSE GAS EMISSIONS TRADING FEES AND CHARGES (SCOTLAND) SCHEME 2013

We have powers to make charging schemes to cover greenhouse gas emissions trading. These powers are contained in the Environment Act 1995, sections 41, 41A and 42 and the Greenhouse Gas Emissions Trading Scheme Regulations 2012 regulation 18. 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 2013 (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, 2013.
- 1.3 Except as stated in Clause 2.4, the Scheme supersedes the Regulations, Schedule 5 and the Greenhouse Gas Emissions Trading Fees and Charges (Scotland) Scheme 2012 in so far it relates to any activity taking place on or after 1 April 2013.

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) “kt” shall mean kilotonne;
 - (d) “permit” shall mean a “greenhouse gas emissions permit” as granted under regulation 9 of the Regulations and “permitted” shall mean permitted in terms of the permit;
 - (e) “regulation” shall mean a regulation within “the Regulations”;

- (f) “SEPA” means the Scottish Environment Protection Agency, incorporated under the Environment Act 1995 and having its Corporate Office at Erskine Court, Castle Business Park, Stirling, FK9 4TR;
- (g) “us” and “we” means SEPA;
- (h) “the Regulations” means the Greenhouse Gas Emissions Trading Scheme Regulations 2012
- (i) “the 1995 Act” means the Environment Act 1995;
- (j) “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 Regulations;
- (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”.
- (l) “excluded emissions permit” shall mean an excluded installation emissions permit as in the Regulations.

- 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 In the event that any provision of this Scheme is found to be unenforceable the terms of the Regulations, Schedule 5, which were replaced by the unenforceable provisions, shall be deemed to apply without any further action being required by us.
- 2.5 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 8(1) 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) an installation which is for the duration of the year to which the fee relates an excluded installation
 - (b) a planned installation which is not put into operation during the year to which the charge relates; or
 - (c) 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 regulation 9(4)
 - (b) an installation ceases to be an excluded installation;
 - (c) a planned installation is put into operation; or
 - (d) a permit is partially transferred in accordance with regulation 15,

the subsistence charge relating to the installation (or in the case of a partially transferred permit, the transferred unit) 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, the date on which the installation ceased to be an excluded installation, the date on which the planned installation is put into operation, 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 16;
- (b) a permit is revoked under regulation 17(1); or
- (c) the installation to which the permit relates becomes an excluded installation.

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 or the date of service of the service of the certificate under regulation 11(6) of the Regulations, as appropriate, declaring, however, that a refund shall only be due on a surrender or revocation where all requirements of the surrender or revocation have been discharged.

6. VARIATION OF PERMIT

6.1 In respect of any application to vary the conditions of a permit in terms of regulation 14(2) the application fee shall be £426 per permit.

6.2 We may vary the conditions of a permit, in terms of regulation 14(1), without receiving an application. If we do this we shall make a charge of £426 per permit.

6.3 Variation fee for an excluded emissions permit following termination of excluded status shall be £430

6.4 The fee for an application to increase emission target following a capacity increase by an excluded installation (opt-out) 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 15(1) 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 16(1) 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 17(1), 17(2), 24(11) or 25(3). 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, in terms of regulation 22(1) the fee shall be £1,121 per application.

11. CHARGES FOR AIRCRAFT OPERATORS

- 11.1 Determining an application for a benchmarking plan £830;
 11.2 Determining an application for a free allocation from the special reserve, £1,120;
 11.3 Determining an application for an emissions plan under regulation 18, £750;
 11.4 Determining emissions £115 per hour;
 11.5 Varying an emissions plan which requires a technical assessment £430;
 11.6 Subsistence charge for maintaining a person as an aircraft operator for each year where:

Estimated annual emissions of carbon dioxide

< 50 kt	£1,920 plus a variable charge in accordance with clause 11.7 and 11.8
50 and 500 kt	£2,490 plus a variable charge in accordance with clause 11.7 and 11.8
> 500 kt	£3,060 plus a variable charge in accordance with clause 11.7 and 11.8

- 11.7 Part of the subsistence charge depends upon the length of time you have had an emissions plan in place during a particular compliance year. Charges are as follows:

Estimated annual emissions of carbon dioxide

< 50kt	£630
50 to 500kt	£830
> 500kt	£1,020

- 11.8 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 you made your application.

12. INCREASE IN CHARGES

- 12.1 Subject to clause 12.2, with effect from 1 April 2013 we may annually increase fees and charges in the Scheme in line with the annual increase in the Retail Price Index ("RPI") as at 30 September in the immediately preceding calendar year. Increased 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 RPI, 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”; or
 - (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. RETENTION OF ALLOCATION

- 14.1 In respect of
- (i) a retention notice served under regulation 24(7)(a) of the Regulations; or
 - (ii) a notice served under regulation 24(7)(b) of the Regulations,
- a charge of £118 multiplied by the number of hours specified in the relevant notice shall be payable.
- 14.2 The charge shall be payable by the date specified in the relevant notice.

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, the variation of a permit, the transfer of a permit, the surrender of a permit, an allocation from the new entrant reserve or an application to retain an allocation, the person or persons making that application;
- (b) for the subsistence charge, the holder of the permit 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 2013:

- (a) for fees relating to an application for a permit, the variation of a permit, the transfer of a permit, the surrender of a permit or an allocation from the new entrant reserve or an application to retain an allocation, 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 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 six preceding pages are executed for and on behalf of SEPA by Professor James Crowe Curran (subscribing his usual signature James C Curran), Chief Executive, at Stirling on the Twenty Eighth March, Two Thousand and Thirteen in the presence of Karen Cochrane, Executive Officer in SEPA's Secretariat.
