

Transposition Table: Directive 2003/87/EC as amended by Directive 2009/29/EC, establishing a scheme for greenhouse gas emission allowance trading within the Community (EU Emissions Trading System Directive).

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2003L0087:20090625:EN:PDF>

Article	Copy out (yes/no)	If no - justification	Previous National Provision	New National Provision
Art 1 – General description of directive	N/A	No transposition required	N/A	N/A
Art 2 – Scope	N/A	No transposition required	N/A	N/A
Art 3 – Definitions	Some	Many definitions are directly referenced but for some, additional clarification is required, e.g. the definition of ‘operator’ which in the Directive depends on national legislation.	Regulation 2 (SI2005/925)	Regulation 3 – Interpretation
Art 3a – 3g – Aviation-specific rules	N/A	No transposition required. Aviation provisions have already been transposed in The Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010 (SI 2010/1996), and amended by SI 2011/765. These have been incorporated into the new, consolidated regulations.	SI2010/1996 & SI2011/765	Part 3 and Schedules 7-10 – Aviation specific provisions
Art 4 – Requirement for greenhouse gas emissions permits to undertake listed activities	No	We have directly referred to the Directive’s list of activities.	Regulation 7 (SI2005/925)	Regulation 9 (and definition in Regulation 3) – requirement for permit to carry out regulated activities
Art 5 – Info required in a permit application	Some	Many elements of this article have been copied out (to provide a list of things for inclusion in a permit), but we have also specified additional minor details (e.g. applications will need to include the name and address of the operator requesting the permit, and this is not provided	Regulation 8 (SI2005/925)	Regulation 10 and Schedule 4(1) – application for and grant of greenhouse gas emissions permits

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		for in the Directive). This additional information requirement will be of benefit to operators as it ensures the regulator has the full and correct contact details, which will prevent delays if the regulator needs to contact the operator.		
Art 6 – Conditions and contents of permits	Some	Again, many conditions of permits have been copied from the Directive, but we have specified timelines for submission of this information to the regulator, and set out the format in which this information should be submitted. This will provide greater clarity to industry and limit the number of questions they have to ask the regulator before submitting information (and therefore reduce the overall burden of the process for operators).	Regulation 10 (SI2005/925)	Schedule 4(2) – content of greenhouse gas emissions permits
Art 7 – Operators must update the competent authority of any changes	Yes	This has been included as a permit condition.	Regulation 12 (SI2005/925)	Schedule 4(2)(7) – content of greenhouse gas emissions permits
Art 8 – Coordination with the Pollution Prevention and Control Directive	N/A	This is not covered in this transposition. The Environment Agency is the competent authority in the UK for both the ETS and PPC and make the necessary administrative arrangements to reduce the burden on industry	N/A	N/A
Art 9 – EU-wide quantity of allowances set by commission	N/A	No transposition required – only applicable to European Commission	N/A	N/A

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Art 9a – EU-wide quantity of allowances. Some data collection requirements for Member States	N/A	No transposition required. This was completed in 2009 (SI 2009/3130) which will be repealed by the new statutory instrument.	SI 2009/3130	N/A
Art 10 – Rules for auctioning allowances	N/A	No transposition required. The EU Auctioning Regulation (Regulation 1031/2010) is directly applicable and sets out the rules for auctioning under the Emissions Trading System	N/A	N/A
Art 10a – Free allocation rules	No	This article is directly implemented by Decision 2011/278/EU and so in general does not need transposition. In order to give that Decision legal effect we have had to include articles, which e.g. ensure consistency between definitions (for example cessation of operations is referred to as cessation of regulated activities).	N/A	Regulation 17 and Schedule 6 – Free allocation of allowances for 2013 to 2020
Art 10b – Measures to support sectors at risk from carbon leakage	N/A	No transposition required – only applicable to European Commission	N/A	N/A
Art 10c – Derogation for new EU entrants	N/A	UK not eligible	N/A	N/A
Art 11 – National Implementation Measures	N/A	No transposition required. This was completed in 2009 (SI 2009/3130), which will be repealed by the new SI. Issuance of allowances is covered under the directly applicable EU Registries Regulations (920/2010 & 1193/2011).	SI 2009/3130	N/A
Art 11a and 11b – Use of project credits (from Kyoto Protocol projects) in the EU ETS	No	This Article contains provisions from the Directive that are complex and are a mixture of obligations for Competent Authorities and operators. Copy out is not appropriate – we need to ensure the obligations on operators are	Regulation 27A (SI2005/925)	Regulation 45 – Limitations on the use of project credits

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		clearly defined to ensure compliance.		
Art 12 – Transfer, surrender and cancellation of allowances	No	<p>Some of these requirements do not need transposing since they are covered by the directly applicable EU Registries Regulations (920/2010 & 1193/2011).</p> <p>That part of the article which is not given effect by the Registries Regulations only specifies a general framework, leaving the detail of implementation to Member States. We have made it a condition of the permit that operators surrender allowances. If we did not specify this then there would be no obligation for operators to surrender allowances, and the integrity of the system would be damaged.</p>	Regulation 26 (SI2005/925)	<p>Regulation 43 – surrender of allowances : installations Regulation 44 – surrender of allowances : UK aviation operators Part 9 – The Union Registry</p>
Art 13 – Validity of allowances	N/A	No transposition required. This is covered by Article 57 of the directly applicable EU Registries Regulation (920/2010).	N/A	N/A
Art 14 – Monitoring and reporting of emissions	No	<p>This article places an obligation on Member States to ensure operators provide monitoring data to the regulator.</p> <p>We have passed this obligation on to operators by making it a condition of the permit or emissions plan This will benefit operators by clearly setting out their obligations in monitoring and reporting emissions, and ensure compliance.</p>	Regulations 10, 28, 29, 30 (SI2005/925)	<p>Part 3, Chapter 4 – Monitoring and reporting aviation emissions Schedule 4(2) – Content of greenhouse gas emissions permits</p>

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Art 15 – Verification and accreditation	No	<p>This article places an obligation on Member States to ensure the verification of data submitted to the regulator, but does not specify how Member States shall ensure this takes place.</p> <p>We have passed this obligation on to operators by making it a condition of the permit or emissions plan. This will benefit operators by making clear the requirement for properly verified data. We have provided a power (as required by the Directive) for the national registry administrator to prevent the transfer of allowances from accounts of operators who have not had their emissions data verified.</p>	Regulation 10 (SI2005/925)	<p>Regulation 37 – Emission plan conditions</p> <p>Schedule 4(2) – Content of greenhouse gas emissions permits</p> <p>Regulation 83 – The Union Registry</p>
Art 16 – Penalties.	No	<p>Although the Directive states that Member States must lay down the rules on penalties it provides no detail on how Member States should implement. Without penalties the system would be unworkable and could not have its policy intent. We are therefore establishing a system of penalties, which we have reviewed (informally consulting industry as part of this review), to ensure we have the right penalties in place in the new regulations, and which are effective, proportionate and dissuasive.</p>	Part 7 (SI2005/925)	Part 7 – Civil penalties
Art 17 – Making info available to the public	N/A	<p>No transposition required. This is covered by Directive 2003/4/EC on public access to environmental information. Existing UK regulations implement this through the Environmental Information Regulations 2004 (SI 2004/3391).</p>	N/A	N/A

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Art 18 – Competent Authority	No	This article requires Member States to designate the competent authorities for implementing various aspects of the Directive and we have done this (and for other relevant EU Regulations) in our regulations.	Regulations 2, 6, 27(15), 32(14) (SI2005/925)	Regulation 8 – Commission Regulations : designations
Art 19 – Registries	No	The EU Registries Regulations (920/2010 & 1193/2011) are directly applicable. Limited transposition was required to update references to this, to ensure competent authorities are correctly identified in national legislation and to ensure that where the Regulations provide for action to be taken against non-compliant operators, the consequence of non-compliance is clearly set out.	Regulation 26 (SI2005/925) (as amended in SI 2011/2911)	Part 9 – The Union Registry
Art 20 – Designation of central EU registry administrator	N/A	No transposition required – only applicable to European Commission.	N/A	N/A
Art 21 – Reporting by Member States	N/A	No transposition required. Administrative arrangements will be made with the regulators to ensure required data is collected.	N/A	N/A
Art 22 – Amendments to directive annexes	N/A	No transposition required.	N/A	N/A
Art 23 – Comitology committee and rules	N/A	No transposition required.	N/A	N/A

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Art 24 – Procedures for unilateral (Member State) inclusion of additional activities	N/A	No transposition required.	N/A	N/A
Art 24a – Harmonised rules for emissions reductions projects	N/A	No transposition required – only applicable to European Commission.	N/A	N/A
Art 25 – Links with other emissions trading schemes	N/A	No transposition required – only applicable to European Commission.	N/A	N/A
Art 25a – 3 rd country measures to reduce the climate change impact of aviation	N/A	No transposition required – only applicable to European Commission.	N/A	N/A
Art 26 – Amendment to the Integrated Pollution Prevention and Control Directive	N/A	No transposition required – only applicable to European Commission.	N/A	N/A
Art 27 – Exclusion of small emitters	No	This article provides Member States with the option to establish a scheme for small emitting installations and hospitals to opt out of the main scheme. The UK has indicated to industry that it intends to do this (to minimise burdens). Provisions have been included in the draft regulations to enable this.	N/A	Regulation 16 and Schedule 5 – excluded installations
Art 28 – Adjustments applicable if there is a new international agreement on climate change	N/A	No transposition required – only applicable to European Commission.	N/A	N/A

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Art 29 – Report on the functioning of the carbon market	N/A	No transposition required – only applicable to European Commission.	N/A	N/A
Art 29a – EU measures in the event of carbon price fluctuations	N/A	No transposition required – only applicable to European Commission.	N/A	N/A
Art 30 – Review and further development	N/A	No transposition required – mostly applicable to European Commission. This includes a reporting obligation on Member States linked to the Kyoto Protocol, but no transposition is required.	N/A	N/A
Art 31 – Implementation	N/A	No transposition required. [note article 2 of the Directive 2009/29/EC – the most recent directive amending the Emissions Trading System - specifies a transposition deadline of 31 Dec 2012 which is the key deadline for this work]	N/A	N/A
Art 32 – Entry into force	N/A	No transposition required.	N/A	N/A
Art 33 – Addressees	N/A	No transposition required.	N/A	N/A