



STATUTORY INSTRUMENTS.

S.I. No. 471 of 2024



EUROPEAN COMMUNITIES (GREENHOUSE GAS EMISSIONS
TRADING) (AVIATION) REGULATIONS 2024

EUROPEAN COMMUNITIES (GREENHOUSE GAS EMISSIONS
TRADING) (AVIATION) REGULATIONS 2024

INDEX

1. Citation
2. Interpretation
3. Purpose and Application
4. Administering Member State
5. Competent Authority
6. Monitoring Plan for Emissions
7. Fee
8. Monitoring of Emissions
9. Reporting and Verification of Emissions
10. Application for and Allocation of Allowances for the use of sustainable aviation fuels
11. Use of CERs and ERUs from project activities in the EU-ETS
12. Transfer, Surrender and Cancellation of Allowances
13. Validity of Allowances
14. Issue of Direction
15. Direction
16. Service of Direction
17. Appeal from a Direction issued under Regulation 14
18. Injunctive Relief
19. Offences
20. Excess Emissions Penalties
21. Appeal against a Penalty
22. Access to information
23. Registry
24. Third Country measures to reduce the climate change impact of aviation
25. Assistance to be provided by the Irish Aviation Authority
26. Authorised Officer
27. Reporting to the Commission
28. Revocation

Schedule 1

CATEGORIES OF ACTIVITIES

Schedule 2

GREENHOUSE GASES

Schedule 3

PRINCIPLES FOR MONITORING AND REPORTING

Schedule 4

CRITERIA FOR VERIFICATION

S.I. No. 471 of 2024

EUROPEAN COMMUNITIES (GREENHOUSE GAS EMISSIONS
TRADING) (AVIATION) REGULATIONS 2024

I, EAMON RYAN, Minister for the Environment, Climate and Communications, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purpose of: giving further effect to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003¹, as amended by Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004², Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008³, Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009⁴, Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009⁵, Decision No 1359/2013/EU of the European Parliament and of the Council of 17 December 2013⁶, Regulation (EU) No 421/2014 of the European Parliament and of the Council of 16 April 2014⁷, Decision (EU) 2015/1814 of the European Parliament and of the Council of 6 October 2015⁸, Regulation (EU) 2017/2392 of the European Parliament and of the Council of 13 December 2017⁹, Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018¹⁰, Commission delegated decision (EU) 2020/1071 of 18 May 2020¹¹, Commission Delegated Regulation (EU) 2021/1416 of 17 June 2021¹², Decision (EU) 2023/136 of the European Parliament and of the Council of 18 January 2023¹³, Regulation (EU) 2023/435 of the European Parliament and of the Council of 27 February 2023¹⁴, Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023¹⁵, and Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023¹⁶.

Citation

1. These Regulations may be cited as the European Communities (Greenhouse Gas Emissions Trading) (Aviation) Regulations 2024.

¹ O.J. No L 275 25.10.2003 p.32

² O.J. No L 338 13.11.2004 p. 18

³ O.J. No. L 8 13.1.2009 p.3

⁴ O.J. No. L 87 31.3.2009 p.109

⁵ O.J. No. L 140 5.6.2009 p. 63

⁶ O.J. No. L 343 12.12.2013 p. 1

⁷ O.J. No. L 129 30.4.2014 p.1

⁸ O.J. No. L 264 9.10.2015 p.1

⁹ O.J. No. L 350 29.12.2017 p.7

¹⁰ O.J. No. L 76 19.3.2018 p 3

¹¹ O.J. No. L234 21.7.2020 p.16

¹² O.J. No. L305 31.8.2021 p.1

¹³ O.J. No. L19 20.1.2023 p.1

¹⁴ O.J. No. L63 28.2.2023 p.1

¹⁵ O.J. No. L130 16.5.2023 p.115

¹⁶ O.J. No. L130 16.5.2023 p.130

Interpretation

2. (1) In these Regulations—

“administering Member State” means the Member State responsible for administering the EU-ETS in respect of an aircraft operator in accordance with Regulation 4;

“Agency” means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Act 1992 (No. 7 of 1992);

“aircraft operator” means the person who operates an aircraft at the time it performs an aviation activity listed in Schedule 1 or, where that person is not known or is not identified by the owner of the aircraft, the owner of the aircraft;

“allowance” means an allowance to emit one tonne of carbon dioxide equivalent during a specified period, which shall be valid only for the purposes of meeting the requirements of these Regulations;

“Annex I Party” means a Party listed in Annex I to the United Nations Framework Convention on Climate Change that has ratified the Kyoto Protocol as specified in Article 1(7) of the Protocol;

“attributed aviation emissions” means emissions from all flights falling within the aviation activities listed in Schedule 1 which depart from an aerodrome situated in the territory of a Member State and those which arrive in such an aerodrome from a third country;

“certified emission reduction unit” or “CER” means a unit issued pursuant to Article 12 of the Kyoto Protocol and the decisions adopted pursuant to the Convention or the Protocol;

“commercial air transport operator” means an operator that, for remuneration, provides scheduled or non-scheduled air transport services to the public for the carriage of passengers, freight or mail;

“Commission” means the European Commission;

“Commission’s Interpretation of Aviation Activities” means Commission Decision of 8 June 2009¹⁷ on the detailed interpretation of the aviation activities listed in Annex I to Directive 2003/87/EC¹;

“Commission’s Monitoring and Reporting Regulation” means Commission Regulation (EU) No 601/2012 of 21 June 2012¹⁸ on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC, as amended by Commission Implementing Regulation (EU) 2018/2066, Commission Implementing Regulation (EU) 2020/2085; Commission Implementing Regulation (EU) 2022/388; Commission Implementing Regulation (EU) 2022/1371, Commission Implementing Regulation (EU) 2023/2122 and subsequent amendments;

“Commission’s Verification and Accreditation Regulation” means Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018¹⁹ on the

¹⁷ O.J. No 149 12.6.2009 p. 69

¹⁸ O.J. No L 181 12.7.2012 p.30

¹⁹ O.J. No L 334 31.12.2018 p 94

verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC¹ of the European Parliament and of the Council as amended;

“competent authority” means, in respect of the State, the Agency, and in respect of other Member States of the European Communities, any competent authority specified in the national law of that State as notified by the Commission;

“Convention” means the 1992 United Nations Framework Convention on Climate Change;

“direction” means a direction issued by the Agency pursuant to Regulation 14;

“Directive” means Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003¹ establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC, as amended by Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004², Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008³, Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009⁴, Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009⁵, Decision No 1359/2013/EU of the European Parliament and of the Council of 17 December 2013⁶, Regulation (EU) No 421/2014 of the European Parliament and of the Council of 16 April 2014⁷, Decision (EU) 2015/1814 of the European Parliament and of the Council of 6 October 2015⁸, Regulation (EU) 2017/2392 of the European Parliament and of the Council of 13 December 2017⁹, Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018¹⁰, Commission delegated decision (EU) 2020/1071 of 18 May 2020¹¹, Commission delegated regulation (EU) 2021/1416 of 17 June 2021¹², Decision (EU) 2023/136 of the European Parliament and of the Council of 18 January 2023¹³, Regulation (EU) 2023/435 of the European Parliament and of the Council of 27 February 2023¹⁴, Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023¹⁵, and Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023¹⁶. ;

“emission reduction unit” or “ERU” means a unit issued pursuant to Article 6 of the Protocol and the decisions adopted pursuant to the Convention or the Protocol;

“emissions” means the release of greenhouse gases into the atmosphere from an aircraft performing an aviation activity listed in Schedule 1 of the gases specified in respect of that activity;

“greenhouse gases” means the gases listed in Schedule 2 and other gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation the gases listed in Schedule 2;

“historical aviation emissions” means the mean average of the annual emissions in the calendar years 2004, 2005 and 2006 from aircraft performing an aviation activity listed in Schedule 1;

“Irish Aviation Authority” means the Irish Aviation Authority established under the Irish Aviation Authority Act 1993 (No. 29 of 1993);

“Minister” means the Minister for the Environment, Climate and Communications;

“non-CO₂ aviation effects” means the effects on the climate of the release, during fuel combustion, of oxides of nitrogen (NO_x), soot particles, oxidised sulphur species, and effects from water vapour, including contrails, from an aircraft performing an aviation activity listed in Schedule I;

“person” means any natural or legal person;

“project activity” means a project activity within the meaning of Article 6 or Article 12 of the Protocol and the decisions adopted pursuant to the Convention or the Protocol;

“Protocol” means the 1997 Kyoto Protocol to the 1992 United Nations Framework Convention on Climate Change;

“public” means one or more persons and associations, organisations or groups of persons; and

“tonne of carbon dioxide equivalent” means one metric tonne of carbon dioxide (CO₂) or an amount of any other greenhouse gas listed in Schedule 2 with an equivalent global-warming potential.

(2) A word or expression that is used in these Regulations and is also used in the Directive has the same meaning in these Regulations that it has in the Directive.

(3) A word or expression that is used in these Regulations and is also used in the Commission’s Monitoring and Reporting Regulation has the same meaning in these Regulations that it has in the Commission’s Monitoring and Reporting Regulation.

Purpose and Application

3. (1) These Regulations provide for the implementation in the State of a scheme for greenhouse gas emission allowance trading within the European Union in order to promote reductions of greenhouse gas emissions from aviation activities in a cost effective and economically efficient manner.

(2) These Regulations apply to emissions from aviation activities listed in Schedule 1.

Administering Member State

4. (1) The administering Member State in respect of an aircraft operator shall be the State—

- (a) in the case of an aircraft operator with a valid operating licence granted by the Irish Aviation Authority in accordance with the provisions of Council Regulation (EEC) No 2407/92 of 23 July 1992²⁰ on licensing of air carriers, and
- (b) in the case of an aircraft operator who does not have a valid operating licence in accordance with the provisions of Council Regulation (EEC) No. 2407/92 of 23 July 1992²⁰ on licensing of

²⁰ O.J. No. L 240 24.8.1992 p.1

air carriers from any Member State, where the greatest estimated aviation emissions from flights performed by that aircraft operator in the base year are attributable to the State.

(2) The administering Member State shall be the State for those aircraft operators assigned to the State in accordance with the list of aircraft operators published by the Commission pursuant to Article 18a(3) of the Directive.

(3) For the purposes of this Regulation, “base year” means, in relation to an aircraft operator which started operating in the Union Community after 1 January 2006, the first calendar year of operation, and in all other cases, the calendar year starting on 1 January 2006.

- (4) (a) Where in the first two years of any period referred to in Regulation 6, none of the attributed aviation emissions from flights performed by an aircraft operator falling within Regulation 4(1)(b) are attributed to the State, the aircraft operator shall be transferred to another administering Member State in respect of the next period.
- (b) The new administering Member State shall be the Member State with the greatest estimated attributed aviation emissions from flights performed by that aircraft operator during the first two years of the previous period.

Competent Authority

5. (1) The Agency is designated as the competent authority in the State for the purposes of these Regulations and the Directive.

(2) As competent authority, the Agency shall be responsible for administering the EU-ETS in respect of aircraft operators for whom the State is the administering Member State.

Monitoring Plan for Emissions

6. (1) An aircraft operator shall submit to the Agency a monitoring plan setting out measures to monitor and report emissions and in accordance with—

- (a) the principles set out in Schedule 3;
- (b) the Commission’s Monitoring and Reporting Regulation;
- (c) any detailed provision on monitoring and reporting of emissions adopted by the Commission pursuant to Article 14 of the Directive;

and

- d) any other requirements of the Agency which are necessary for the purposes of the administration and implementation of the Directive.

(2) The monitoring plan for monitoring and reporting emissions shall be approved by the Agency if the Agency is satisfied that an aircraft operator has complied with Regulations 6(1) and 7(1).

(3) A person who contravenes paragraph (1) commits an offence.

(4) A person who in making an application for approval of a monitoring plan pursuant to this Regulation wilfully makes a false or misleading statement commits an offence.

Fee

7. (1) An administration fee, subject to a minimum fee of €200 and a maximum fee of €500, shall be determined by the Agency in respect of an application for the approval of a monitoring plan pursuant to Regulation 6. The Agency may, however, waive the fee payable where it is satisfied that the payment of a similar fee for the approval of a monitoring plan has already been paid to another administering Member State.

(2) A fee charged under this Regulation shall be payable by an aircraft operator to whom the approval relates and the Agency may refuse to grant or may revoke an approval of a monitoring plan if the fee has not been paid.

(3) A fee charged under this Regulation may be recovered by the Agency, as a simple contract debt in a court of competent jurisdiction.

(4) The Public Offices Fees Act 1879 does not apply in respect of fees payable under this Regulation.

Monitoring of Emissions

8. (1) An aircraft operator shall monitor emissions from the aircraft which it operates in accordance with—

- (a) its monitoring plan for monitoring and reporting emissions as approved by the Agency under Regulation 6;
- (b) the principles set out in Schedule 3; and
- (c) the Commission's Monitoring and Reporting Regulation; and
- (d) any detailed provision on monitoring and reporting of emissions adopted by the Commission pursuant to Article 14 of the Directive.

(2) A person who contravenes paragraph (1) commits an offence.

Reporting and Verification of Emissions

9. (1) An aircraft operator shall report the emissions from the aircraft which it operates during each calendar year to the Agency, not later than 31 March of the following year in accordance with—

- (a) its monitoring plan for monitoring and reporting emissions as approved by the Agency under Regulation 6;
 - (b) the principles set out in Schedule 3;
 - (c) the Commission's Monitoring and Reporting Regulation;
- and

- (d) any detailed provision on monitoring and reporting of emissions adopted by the Commission pursuant to Article 14 of the Directive.

(2) The aircraft operator shall ensure that the report referred to in paragraph (1) is verified in accordance with—

- (a) the criteria set out in Schedule 4; and
- (b) the Commission's Verification and Accreditation Regulation; and
- (c) any detailed provisions on verification and accreditation adopted by the Commission pursuant to Article 15 of the Directive.

(3) An aircraft operator whose report has not been verified or has not submitted a verification report to the satisfaction of the Agency by 31 March each year in accordance with paragraph (1), for emissions during the preceding year, cannot make further transfers of allowances until a report from that operator has been verified as satisfactory.

(4) A person who contravenes paragraph (1) or (2) commits an offence.

(5) A person who in submitting a report of emissions pursuant to this Regulation wilfully makes a false or misleading statement commits an offence.

Allocation of Allowances to Aircraft Operators

10. (1) Allowances which are allocated for free shall be allocated to aircraft operators in accordance with Article 3c and Article 3d of the Directive and any Commission Decision under Regulation 2019/1122 as amended.

(2) The Agency shall, not later than 30 June of each year and commencing after 1 January 2024, issue to each aircraft operator the number of allowances allocated to that aircraft operator for that year under this Regulation and in accordance with any detailed provisions for a standardised and secured system of registries adopted by the Commission pursuant to Article 19 of the Directive.

(3) The allowances reserved under Article 3c(6) of the Directive shall be allocated by the Agency to eligible aircraft operators to cover part of or all of the price differential between the use of fossil kerosene and the use of the relevant eligible aviation fuels, taking into account incentives from the price of carbon and from harmonised minimum levels of taxation on fossil fuels in accordance with Article 3c(6) of the Directive and any delegated acts adopted by the Commission under that article.

(4) On a yearly basis, commercial aircraft operators may apply to the Agency for an allocation of allowances based on the quantity of each eligible aviation fuel used on flights for which allowances have to be surrendered in accordance with Article 12(3) of the Directive between 1 January 2024 and 31 December 2030, excluding flights for which that requirement is considered to be satisfied pursuant to Article 28a(1) of the Directive. Such application and award of allowances shall take into account the provisions of Article 3c(6) of the Directive and any delegated acts adopted by the Commission under the same.

Use of CERs and ERUs from project activities in the EU-ETS

11. (1) The use of CERs and ERUs pursuant to this Regulation shall be in accordance with the Commissions Restrictions on Industrial Gas Credits and any detailed provisions on the use of specific credits from project types adopted by the Commission pursuant to Article 11a of the Directive, and in accordance with any detailed provisions for a standardised and secured system of registries adopted by the Commission pursuant to Article 19 of the Directive.

Transfer, Surrender and Cancellation of Allowances

12. (1) Subject to Regulation 9(3), allowances shall be transferable between persons within the Union.

(2) Subject to paragraph (6), only allowances issued by a competent authority shall be recognised for the purpose of meeting an aircraft operator's obligations under paragraph (3).

(3) Subject to Regulation 11, each aircraft operator shall surrender, not later than 30 September of each year, a number of allowances equal to the total emissions during the preceding calendar year from aviation activities listed in Schedule 1 for which it is the aircraft operator, as verified in accordance with Regulation 9(2).

(4) The Agency shall cancel or cause to be cancelled allowances surrendered in accordance with paragraph (3).

(5) The Agency shall cancel or cause to be cancelled allowances at any time at the request of the person holding them.

(6) The transfer, surrender and cancellation of allowances shall be in accordance with any detailed provisions for a standardised and secured system of registries adopted by the Commission pursuant to Article 19 of the Directive.

(7) A person who contravenes paragraph (3) commits an offence.

Validity of allowances

13. (1) Allowances shall only be valid for emissions during the periods for which they are issued.

(2) (a) Four months after the beginning of each five-year period beginning on 1st January 2021 allowances which are no longer valid and have not been surrendered and cancelled in accordance with Regulation 16 shall be cancelled or caused to be cancelled by the Agency.

(b) The Agency shall, as soon as practicable, issue allowances to persons for the current period to replace any allowances held by them which are cancelled or caused to be cancelled in accordance with subparagraph (a).

Issue of Direction

14. (1) The Agency may issue a direction to an aircraft operator to comply with Regulations 6(1), 6(4), 8(1), 9(1), 9(2), 9(5) or 12(3).

(2) An aircraft operator who contravenes a direction issued to him or her commits an offence.

Direction

15. A direction issued by the Agency pursuant to Regulation 14 shall be—

- (a) in writing;
- (b) served in accordance with Regulation 16;
- (c) contain reasons for the direction; and
- (d) advise the recipient of his or her right of appeal pursuant to Regulation 17.

Service of Direction

16. (1) Where a direction is required to be issued by the Agency, the direction shall be in writing and shall be addressed to the aircraft operator and shall be given to the aircraft operator in one of the following ways—

- (a) by delivering it to the aircraft operator;
- (b) by leaving it at the address at which the aircraft operator carries on business;
- (c) by sending it by post in a pre-paid registered letter addressed to the aircraft operator at the address at which the aircraft operator carries on his or her business;
- (d) if an address for the service of a direction has been furnished by the aircraft operator, by leaving it at, or sending it by pre-paid registered post addressed to the aircraft operator, to that address;
- (e) by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the aircraft operator carries on business or, if an address for the service of a direction has been furnished by the aircraft operator, that address:

provided that—

- (i) the sender's—
 - (I) facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or
 - (II) facsimile machine generates a message confirming successful

transmission of the total number of pages of the direction,

and

(ii) the direction is also given in one of the other ways mentioned in any of the preceding paragraphs.

(2) For the purposes of paragraph (1)—

- (a) a company registered under the Companies Acts is deemed to be ordinarily resident at its registered office, and
- (b) every other body corporate and every unincorporated body is deemed to be ordinarily resident at its principal office or place of business.

(3) A copy of a direction, which has endorsed on it a certificate purporting to be signed by an officer of the Agency authorised in that behalf by the Agency stating that the copy is a true copy of the direction or reply may, without proof of signature of that person, be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the direction or reply.

Appeal from a Direction issued under Regulation 14

17. (1) A direction referred to in Regulation 14 shall take effect—

- (a) where it is received by the person on whom it is served, or
- (b) where an appeal is brought against the direction, on the day immediately following—
 - (i) the day on which the direction is confirmed on appeal or the appeal is withdrawn, or
 - (ii) the day specified in the direction.

(2) The bringing of an appeal against a direction referred to in paragraph (1) shall not have the effect of suspending the operation of the direction, but the appellant may apply to the court to have the operation of the direction suspended until the appeal is disposed of and, on such application, the court may, if it thinks proper to do so, direct that the operation of the notice be suspended until the appeal is disposed of.

(3) A person on whom a direction referred to in paragraph (1) is served may, within 7 days beginning on the day on which the direction is served on him or her, appeal against the direction to a judge of the District Court in the district court district in which the direction was served and in determining the appeal the judge may, if he or she is satisfied that it is reasonable to do so, confirm, vary or cancel the notice.

(4) Where, on the hearing of an appeal under this Regulation, a direction is confirmed, notwithstanding paragraph (1), the judge by whom the appeal is heard may, on the application of the appellant, suspend the operation of the direction for such period as in the circumstances of the case the judge considers appropriate.

(5) A person who—

- (a) brings an appeal under paragraph (3), or

- (b) applies for the suspension of the operation of a direction under paragraph (4) shall at the same time notify the Agency of the appeal or application, and the grounds for the appeal or application.

Injunctive Relief

18. (1) Where, on application by the Agency to the High Court, the Court is satisfied that an aircraft operator has contravened a direction or a requirement of these Regulations, the Court may by order—

- (a) direct the person to comply with the direction or requirement, and
- (b) make such other provision, including provision in relation to the payment of costs, as the Court considers appropriate.

(2) An application for an order under this Regulation shall be by motion, and the High Court, when considering the matter, may make such interim or interlocutory order as it considers appropriate.

(3) An application for an order under this Regulation may be made whether or not there has been a prosecution for an offence under these Regulations in relation to the activity concerned and shall not prejudice the initiation of a prosecution for an offence under these Regulations in relation to the activity concerned.

Offences

19. (1) A person who commits an offence under Regulation 6(1), 6(4), 8(1), 9(1), 9(2), 9(5), 12(3) or 14 shall be liable—

- (a) on summary conviction, to a Class A fine or to imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000, or to imprisonment for a term not exceeding 3 years, or both.

(2) Subject to subsection (3), where a person continues to contravene a provision of these Regulations in respect of which he or she has been convicted, he or she shall commit an offence on every day on which the contravention continues after the original conviction and for each such offence, he or she shall be liable on summary conviction, to a fine not exceeding €1,000 or, on conviction on indictment, not exceeding €130,000;

(3) The maximum cumulative fines under subsection (2) shall not exceed €500,000.

(4) Where an offence under these Regulations is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been facilitated by any neglect on the part of any director, manager, secretary or any other officer of such body, such person commits an offence.

(5) Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence under these Regulations, prosecuted by the Agency,

it shall, on the application of the Agency (made before the time of such imposition, affirmation or variation), provide by order for the payment of the amount of the fine to the Agency and such payment may be enforced by the Agency, as if it were due to it on foot of a decree or order made by the court in civil proceedings.

(6) An offence under Regulation 6, 8, 9, 12(3) or 14, as the case may be, may be prosecuted summarily by the Agency.

(7) Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under these Regulations may be commenced—

- (a) at any time within 12 months from the date on which the offence was committed, or
- (b) at any time within 6 months from the date on which evidence sufficient, in the opinion of the person by whom the proceedings are initiated, to justify the proceedings, comes to such person's knowledge, whichever is the later: provided that no such proceedings shall be initiated later than 5 years from the date on which the offence concerned was committed.

(8) For the purposes of this Regulation, a certificate signed by or on behalf of the person initiating the proceedings as to the date on which evidence relating to the offence came to his or her knowledge shall be *prima facie* evidence thereof and in any legal proceedings a document purporting to be a certificate issued for the purposes of this paragraph and to be so signed shall be deemed to be so signed and shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown.

(9) Where a person is convicted of an offence under these Regulations, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Agency the costs and expenses, measured by the court, incurred by the Agency in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of directors, employees, consultants and advisers.

Excess Emissions Penalties

20. (1) The Agency shall publish the names of aircraft operators who are in breach of the requirements to surrender allowances as required by Regulation 12(3), and the details of such breach.

(2) An aircraft operator who fails to surrender allowances as required by Regulation 12(3), not later than 30 September of each year, to cover its emissions during the preceding year shall be liable for payment to the Agency of an excess emissions penalty in the amount of €100 for each tonne of carbon dioxide equivalent emitted for which the aircraft operator has not surrendered allowances.

(3) The excess emissions penalty relating to allowances issued from 1 January 2013 onwards shall increase in accordance with the European index of consumer prices.

(4) Payment of the excess emissions penalty specified in this Regulation shall not release the aircraft operator from the obligation to surrender an amount of allowances equal to those excess emissions when surrendering allowances in relation to the following calendar year.

(5) If the Agency determines that an aircraft operator has contravened the obligation to surrender allowances in accordance with Regulation 12(3) and that an excess emissions penalty should be imposed pursuant to paragraph (2) of this Regulation, the Agency shall notify the aircraft operator that:

- (a) that the Agency has concluded that the aircraft operator has contravened its obligations under Regulation 12(3);
- (b) the reasons for its conclusions;
- (c) the amount of the penalty imposed on the aircraft operator;
- (d) the date on which the penalty is due;
- (e) the actions the aircraft operator is to take to pay the penalty;
- (f) the right of the aircraft operator to appeal, and the procedures for making such an appeal.

(6) Where the excess emissions penalty has not been paid by the date referred to in paragraph (5)(d) penalty may be recovered by the Agency, as a simple contract debt in a court of competent jurisdiction.

(7) In the event that an aircraft operator contravenes the requirements of these Regulations and where other enforcement measures have failed to ensure compliance, the Agency may, with the approval of the Minister, request the Commission to decide on the imposition of an operating ban on an aircraft operator and shall submit a report to the Commission in accordance with paragraph (8).

(8) The report referred to in paragraph (7) shall include—

- (a) evidence that the aircraft operator has not complied with its obligations under these Regulations;
- (b) details of the enforcement action which has been taken by the Agency;
- (c) a justification for the imposition of an operating ban at Union level; and
- (d) a recommendation for the scope of an operating ban at Union level and any conditions that should be applied.

(9) The Agency shall enforce, within its territory, any decisions adopted by the Commission pursuant to Article 16(10) of the Directive.

Appeal against a Penalty

21. Where an aircraft operator is the subject of a decision to impose an excess emissions penalty pursuant to Regulation 20, they may, within 28 days from the date on which a decision given under Regulation 20 (5) was confirmed by the Agency, appeal to the High Court on a point of law against the decision.

(2) The court, on hearing an appeal under paragraph (1), may consider any evidence adduced or argument made by the aircraft operator, whether or not already adduced or made to the Agency.

(3) The court may, on the hearing of an appeal under paragraph (1)—

- (a) confirm the decision the subject of the appeal,
- (b) remit the matter back to the Agency for its reconsideration.

Access to information

22. The Agency shall make available to the public, decisions relating to the allocation of allowances and the reports of emissions submitted to it by aircraft operators, in accordance with the Commission's Monitoring and Reporting Guidelines and the provisions of the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007).

Registry

23. The Agency shall, in accordance with any detailed provisions for a standardised and secured system of registries adopted by the Commission pursuant to Article 19 of the Directive, manage its own accounts and the accounts in the Union Registry under the jurisdiction of the State.

Third Country measures to reduce the climate change impact of aviation

24. (1) In accordance with the methodology set out in the implementing act referred to in paragraph 8 of Article 12 of the Directive the Agency shall calculate the offsetting requirements each year for the preceding calendar year in respect of flights to, from and between States that are listed in the implementing act adopted pursuant to Article 25a(3) of the Directive, and in respect of flights between Switzerland or the United Kingdom and States that are listed in the implementing act adopted pursuant to Article 25a(3) of the Directive, and by 30 November each year inform the aircraft operators.

(2) In accordance with the methodology set out in the implementing act referred to in paragraph 8 of Article 12 of the Directive, the Agency shall also calculate the total final offsetting requirements for a given CORSIA compliance period and, by 30 November of the year following the last year of the relevant CORSIA compliance period, inform aircraft operators that fulfil the conditions set paragraph 6 of Article 12 of the Directive.

(3) Aircraft operators that hold an air operator certificate issued by the Irish Aviation Authority or are registered in the State, shall cancel units referred to in Article 11a of the Directive in accordance with paragraph (2) of this Regulation.

The cancellation shall take place by 31 January 2025 for emissions in the period 2021 to 2023 and by 31 January 2028 for emissions in the period 2024 to 2026.

(4) Aircraft operators shall report once a year on the non- CO₂ aviation effects occurring from 1 January 2025 in accordance with the implementing acts adopted by the Commission under Article 14 of the Directive.

(5) In respect of emissions released until 31 December 2026 from flights to or from States that are listed in the implementing act adopted pursuant to paragraph 3 of Article 25a of the Directive, aircraft operators shall not be required to surrender allowances in accordance with Regulation 16 in respect of those emissions.

(6) In respect of emissions released until 31 December 2026 from flights between the EEA and States that are not listed in the implementing act adopted pursuant to paragraph 3 of Article 25a of the Directive, other than flights to Switzerland and to the United Kingdom, aircraft operators shall not be required to surrender allowances in accordance with Regulation 16 in respect of those emissions.

(7) In respect of emissions from flights to and from least developed countries and small island developing States as defined by the United Nations, other than those listed in the implementing act adopted pursuant to paragraph 3 of Article 25a of the Directive and those States whose GDP per capita equals or exceeds the Union average, aircraft operators shall not be required to surrender allowances in accordance with Regulation 16 in respect of those emissions.

(8) Regulations 12, 16 and 22 shall not apply to aircraft operators in respect to derogations listed in Article 28a of the Directive

(9) Regulations 12, 16 and 22 shall not apply to aircraft operators in respect of emissions until 31 December 2030 in accordance with the derogation provided for in Article 3c(8) of the Directive.

Assistance to be provided by the Irish Aviation Authority

25. For the purposes of the administration and implementation of the Directive, the Agency may request the Irish Aviation Authority to furnish to it information in relation to aviation activities, either generally or in respect of a specific aircraft operator, and the Authority shall comply with such a request.

Authorised Officer

26. (1) The Agency may appoint in writing one or more of its officers, as it considers appropriate, to be an authorised officer or authorised officers for the purposes of ensuring compliance with these Regulations.

(2) Every authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment and shall if requested by any person thereby affected, produce such warrant of appointment to that person for inspection.

(3) An appointment under this Regulation shall cease—

(a) if the Agency revokes the appointment;

- (b) in the case of an appointment that is for a fixed period, on the expiry of the period; or
 - (c) if the person appointed ceases to be an officer of the Agency.
- (4) An authorised officer may, for the purposes of these Regulations—
- (a) subject to paragraph (7) enter on any premises at all reasonable times for any purpose connected with these Regulations;
 - (b) at such premises inspect and take copies of, any books, records, other documents (including documents stored in non-legible form) or extracts therefrom, which he or she finds in the course of his or her inspection;
 - (c) remove such photographs, books, records or documents from such premises and detain them for such period as he or she reasonably considers to be necessary for the purposes of his or her functions under these Regulations;
 - (d) require the aircraft operator or his or her agent or employee or any person at the premises or person in charge of the premises and any person employed there to give to him or her such assistance and information and to produce to him or her such books, documents or other records (and in the case of documents or records stored in non-legible form, produce to him or her a legible reproduction thereof) that are in that person's power or procurement, as he or she may reasonably require for the purposes of his or her functions under these Regulations;
 - (e) direct that any matter or thing not be moved from the premises without his or her consent; or
 - (f) secure for later inspection any premises or part of any premises for such period as he or she considers reasonably necessary for the purposes of his or her functions under these Regulations.

(5) When performing a function under these Regulations, an authorised officer may, subject to any warrant under paragraph (6), be accompanied by such number of authorised officers or members of the Garda Síochána as he or she considers appropriate.

(6) An authorised officer shall not enter a dwelling other than—

- (a) with the consent of the occupier, or
- (b) in accordance with a warrant issued under paragraph (7).

(7) Upon the sworn information of an authorised officer, a judge of the District Court may, if satisfied that there are reasonable grounds for believing that books, records or other documents (including documents in non-legible form referred to in paragraph (4)(d)) are being kept or stored in any dwelling, issue a warrant authorising a named authorised officer accompanied by such other authorised officers or members of the Garda Síochána as may be necessary, at any time or times, not later than one month from the date of issue of the warrant, to enter the dwelling and perform the functions of an authorised officer under subparagraphs (a) to (f) of paragraph (4).

(8) Any person who obstructs or interferes with an authorised officer or a member of the Garda Síochána in the course of exercising a power conferred on him or her by these Regulations or a warrant under paragraph (7), or impedes the exercise by the officer or member, as the case may be, of such power, or fails or refuses to comply with a request or requirement of, or to answer a question asked by, the officer or member pursuant to this Regulation, or in purported compliance with such request or requirement or in answer to such question gives information to the officer or member that he or she knows to be false or misleading in any material respect, commits an offence.

(9) Where an authorised officer believes, upon reasonable grounds, that a person has committed an offence under these Regulations he or she may require that person to provide him or her with his or her name and the address at which he or she ordinarily resides.

(10) A person who falsely represents himself or herself to be an authorised officer commits an offence.

(11) A statement or admission made by a person pursuant to a request or requirement or in answer to a question under this Regulation shall not be admissible as evidence in proceedings brought against that person for an offence (other than an offence under paragraph (8)).

(12) In this Regulation—

“premises” means as respects entry pursuant to paragraph (4), any place and shall include any building, ship or other vessel, aircraft, railway wagon and includes a lorry or container used to transport vehicles, or a lorry found on the lands,

“record” includes, in addition to a record in writing—

- (a) a disc, tape, sound-track or other device in which information, sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form;
- (b) a film, tape or other device in which visual images are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in visual form;
- (c) a photograph, and any reference to a copy of a record includes—
 - (i) in the case of a record to which paragraph (a) applies, a transcript of the sounds or signals embodied therein;
 - (ii) in the case of a record to which paragraph (b) applies, a still reproduction of the images embodied therein; and
 - (iii) in the case of a record to which paragraphs (a) and (b) apply, such a transcript together with such a still reproduction.

Reporting to the Commission

27. The Agency shall submit to the Commission an annual report on the application of these Regulations, providing information on the arrangements for the allocation of allowances, the operation of registries, the application of the implementing measures on monitoring and reporting, verification and

accreditation and issues relating to compliance with these Regulations and the Directive, and the fiscal treatment of allowances, if any.

Revocation

28. The follow are revoked-

- (i) The European Communities (Greenhouse Gas Emissions Trading) (Aviation) Regulations 2010 (S.I. No. 261 of 2010);
- (ii) The European Communities (Greenhouse Gas Emissions Trading) (Aviation) Regulations 2012 (S.I. No. 502 of 2012);
- (iii) The European Communities (Greenhouse Gas Emissions Trading) (Aviation) (Amendment) Regulations 2014 (S.I. No. 553 of 2014).



GIVEN under my Official Seal,
19 September, 2024.

EAMON RYAN,
Minister for the Environment,
Climate and Communications.

SCHEDULE 1
CATEGORIES OF ACTIVITIES

Activities	Greenhouse gases
<p>Flights which depart from or arrive in an aerodrome situated in the territory of a Member State to which the Treaty applies.</p> <p>Flights between aerodromes that are located in two different States that are listed in the implementing act adopted pursuant to Article 25a(3) and flights between Switzerland or the United Kingdom and States that are listed in the implementing act adopted pursuant to Article 25a(3) and, for the purposes of Article 12(6) and (8) and Article 28c, any other flight between aerodromes that are located in two different third countries by aircraft operators that fulfil all of the following conditions:</p> <p>a) the aircraft operators hold an air operator certificate issued by a Member State or are registered in a Member State, including in the outermost regions, dependencies and territories of that Member State; and</p> <p>b) they produce annual CO₂ emissions greater than 10 000 tonnes from the use of aeroplanes with a maximum certified take-off mass greater than 5 700 kg conducting flights covered by this schedule, other than those departing and arriving in the same Member State, including outermost regions of the same Member State, from 1 January 2021; for the purposes of this point, emissions from the following types of flights shall not be taken into account:</p> <p>(i) State flights;</p> <p>(ii) humanitarian flights;</p> <p>(iii) medical flights;</p> <p>(iv) military flights;</p> <p>(v) firefighting flights;</p> <p>(vi) flights preceding or following a humanitarian, medical or firefighting flight provided that such flights were conducted with the same aircraft and were required to accomplish the related humanitarian, medical or firefighting activities or to reposition the aircraft after those activities for its next activity.’;</p> <p>The detailed interpretation of these aviation activities, including exemptions, are set out in the Commission’s Interpretation of Aviation Activities.</p> <p>This activity shall not include:</p>	<p>Carbon Dioxide (CO₂)</p>

Activities	Greenhouse gases
<p>(a) flights performed exclusively for the transport, on official mission, of a reigning Monarch and his or her immediate family, Heads of State, Heads of Government and Government Ministers, of a country other than a Member State, where this is substantiated by an appropriate status indicator in the flight plan;</p> <p>(b) military flights performed by military aircraft and customs and police flights;</p> <p>(c) flights related to search and rescue, firefighting flights, humanitarian flights and emergency medical service flights authorised by the appropriate competent authority;</p> <p>(d) any flights performed exclusively under visual flight rules as defined in Annex 2 to the Chicago Convention;</p> <p>(e) flights terminating at the aerodrome from which the aircraft has taken off and during which no intermediate landing has been made;</p> <p>(f) training flights performed exclusively for the purpose of obtaining a licence, or a rating in the case of cockpit flight crew where this is substantiated by an appropriate remark in the flight plan provided that the flight does not serve for the transport of passengers and/or cargo or for the positioning or ferrying of the aircraft;</p> <p>(g) flights performed exclusively for the purpose of scientific research or for the purpose of checking, testing or certifying aircraft or equipment whether air borne or ground-based;</p> <p>(h) flights performed by aircraft with a certified maximum take-off mass of less than 5700 kg;</p>	

Activities	Greenhouse gases
<p>(i) flights performed in the framework of public service obligations imposed in accordance with Regulation (EEC) No. 2408/9213 on routes within outermost regions, as specified in Article 299(2) of the Treaty, or on routes where the capacity offered does not exceed 50000 seats per year; and</p> <p>(j) flights which, but for this point, would fall within this activity, performed by a commercial air transport operator operating either:</p> <ul style="list-style-type: none"> — fewer than 243 flights per period for three consecutive four-month periods; or — flights with total annual emissions lower than 10000 tonnes per year. <p>(k) from 1 January 2013 to 31 December 2030, flights which, but for this point, would fall within this activity, performed by a non-commercial aircraft operator operating flights with total annual emissions lower than 1 000 tonnes per year (including emissions from flights referred to in points (l) and (m));</p> <p>(l) flights from aerodromes situated in Switzerland to aerodromes situated in the EEA;</p> <p>(m) flights from aerodromes situated in the United Kingdom to aerodromes situated in the EEA</p>	

SCHEDULE 2
GREENHOUSE GASES

Carbon dioxide (CO₂)

Methane (CH₄)

Nitrous Oxide (N₂O)

Hydrofluorocarbons (HFCs)

Perfluorocarbons (PFCs)

Sulphur Hexafluoride (SF₆)

SCHEDULE 3
PRINCIPLES FOR MONITORING AND REPORTING
REFERRED TO IN REGULATIONS 6, 8, 9, and 10

Monitoring and reporting of emissions from aviation activities

Monitoring of carbon dioxide emissions

Emissions shall be monitored by calculation. Emissions shall be calculated using the formula:

Fuel consumption × emission factor

Fuel consumption shall include fuel consumed by the auxiliary power unit. Actual fuel consumption for each flight shall be used wherever possible and shall be calculated using the formula:

Amount of fuel contained in aircraft tanks once fuel uplift for the flight is complete — amount of fuel contained in aircraft tanks once fuel uplift for subsequent flight is complete + fuel uplift for that subsequent flight.

If actual fuel consumption data are not available, a standardised tiered method shall be used to estimate fuel consumption data based on best available information.

Default IPCC emission factors, taken from the 2006 IPCC Inventory Guidelines or subsequent updates of these Guidelines, shall be used unless activity-specific emission factors identified by independent accredited laboratories using accepted analytical methods are more accurate. The emission factor for biomass that complies with the sustainability criteria and greenhouse gas emission-saving criteria for the use of biomass established by Directive (EU) 2018/2001, with any necessary adjustments for application under the Directive, as set out in the implementing acts referred to in Article 14 of the Directive, shall be zero.

The emission factor for jet kerosene (Jet A1 or Jet A) shall be 3.16 (t CO₂/t fuel).

Emissions from renewable fuels of non-biological origin using hydrogen from renewable sources compliant with Article 25 of Directive (EU) 2018/2001 shall be rated with zero emissions for the aircraft operators using them until the implementing act referred to in Article 14(1) of the Directive is adopted.

A separate calculation shall be made for each flight and for each fuel.

Reporting of emissions

Each aircraft operator shall include the following information in its report under Regulation 9.

A. Data identifying the aircraft operator, including:

- name of the aircraft operator,
- its administering Member State,

- its address, including postcode and country and, where different, its contact address in the administering Member State,
- the aircraft registration numbers and types of aircraft used in the period covered by the report to perform the aviation activities listed in Schedule 1 for which it is the aircraft operator, the number and issuing authority of the air operator certificate and operating licence under which the aviation activities listed in Schedule 1 for which it is the aircraft operator were performed,
- address, telephone, fax and e-mail details for a contact person, and
- name of the aircraft owner.

B. For each type of fuel for which emissions are calculated:

- fuel consumption,
- emission factor,
- total aggregated emissions from all flights performed during the period covered by the report which fall within the aviation activities listed in Schedule 1 for which it is the aircraft operator,
- aggregated emissions from:
 - all flights performed during the period covered by the report which fall within the aviation activities listed in Schedule 1 for which it is the aircraft operator and which departed from an aerodrome situated in the territory of a Member State and arrived at an aerodrome situated in the territory of the same Member State,
 - all other flights performed during the period covered by the report which fall within the aviation activities listed in Schedule 1 for which it is the aircraft operator,
 - aggregated emissions from all flights performed during the period covered by the report which fall within the aviation activities listed in Schedule 1 for which it is the aircraft operator and which:
 - departed from each Member State, and
 - arrived in each Member State from a third country,
 - uncertainty.

CRITERIA FOR VERIFICATION REFERRED TO IN REGULATION 12

Verification of emissions from aviation activities

General Principles

1. Emissions from aviation activities listed in Schedule 1 shall be subject to verification.

2. The verification process shall include consideration of the report submitted pursuant to Regulation 12 and of monitoring during the preceding year. It shall address the reliability, credibility and accuracy of monitoring

systems and the reported data and information relating to emissions, in particular—

- a. the reported activity data and related measurements and calculations;
- b. the choice and the employment of emission factors;
- c. the calculations leading to the determination of the overall emissions; and
- d. of measurement is used, the appropriateness of the choice and the employment of measuring methods.

3. Reported emissions may only be validated if reliable and credible data and information allow the emissions to be determined with a high degree of certainty. A high degree of certainty requires the aircraft operator to show that—

- a. the reported data is free of inconsistencies;
- b. the collection of the data has been carried out in accordance with the applicable scientific standards; and
- c. the relevant records of the aircraft used to perform the aviation activities covered by the report are complete and consistent.

4. The verifier shall be given access to all sites and information in relation to the subject of the verification.

5. The verifier shall take into account whether the aircraft operator is registered under the Community eco-management and audit scheme (EMAS).

Methodology

Strategic analysis

6. The verification shall be based on a strategic analysis of all the aviation activities covered by the report carried out by the aircraft operator. This requires the verifier to have an overview of all the activities and their significance for emissions.

Process analysis

7. The verification of the information submitted shall, where appropriate, be carried out on the sites used by the aircraft operator to perform the aviation activities covered by the report. The verifier shall use spot-checks to determine the reliability of the reported data and information.

Risk analysis

8. The verifier shall submit all the sources of emissions of the aircraft for which the aircraft operator is responsible to an evaluation with regard to the reliability of the data of each source contributing to the overall emissions of the aircraft.

9. On the basis of this analysis the verifier shall explicitly identify those sources with a high risk of error and other aspects of the monitoring and reporting procedure which are likely to contribute to errors in the determination of the overall emissions. This especially involves the choice of the emission factors and the calculations necessary to determine the level of the emissions from individual sources. Particular attention shall be given to those sources with a high risk of error and the abovementioned aspects of the monitoring procedure.

10. The verifier shall take into consideration any effective risk control methods applied by the aircraft operator with a view to minimising the degree of uncertainty.

Report

11. The verifier shall prepare a report on the validation process stating whether the report pursuant to Regulation 12 is satisfactory. This report shall specify all issues relevant to the work carried out. A statement that the report pursuant to Regulation 12 is satisfactory may be made if, in the opinion of the verifier, the total emissions are not materially misstated.

Minimum competency requirements for the verifier

12. The verifier shall be independent of the aircraft operator, carry out his or her activities in a sound and objective professional manner, and understand—

- a. the provisions of these Regulations, the Directive, as well as relevant standards and guidance adopted by the Commission pursuant to Article 14(1) of the Directive;
- b. the legislative, regulatory, and administrative requirements relevant to the activities being verified; and
- c. the generation of all information related to each source of emissions of the aircraft for which the aircraft operator is responsible, in particular, relating to the collection, measurement, calculation and reporting of data.

13. The general principles and methodology set out in this Schedule shall apply to the verification of reports of emissions from flights falling within an aviation activity listed in Schedule 1.

Additional provisions for the verification of aviation emission reports

14. The verifier shall in particular ascertain that—
 - a. all flights falling within an aviation activity listed in Schedule 1 have been taken into account. In this task the verifier shall be assisted by timetable data and other data on the aircraft operator's traffic including data from Eurocontrol requested by that operator;
 - b. there is overall consistency between aggregated fuel consumption data and data on fuel purchased or otherwise supplied to the aircraft performing the aviation activity.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Teil: 046 942 3100
r-phost: publications@opw.ie

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
MOUNTSHANNON ROAD,
KILMAINHAM, DUBLIN 8,
D08 XAO6

Tel: 046 942 3100
E-mail: publications@opw.ie

€ 6.50

