



STATUTORY INSTRUMENTS.

S.I. No. 539 of 2024



EUROPEAN COMMUNITIES (CARBON BORDER ADJUSTMENT
MECHANISM) REGULATIONS 2024

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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) and for the purpose of giving further effect to Regulation (EU) 2023/956 of the European Parliament and of the Council of the 10 May 2023¹ establishing a carbon border adjustment mechanism hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Carbon Border Adjustment Mechanism) Regulations 2024.

Commencement

2. These Regulations shall come into operation on 25th October 2024.

Interpretation

3. In these Regulations—

“actual emissions” means the emissions calculated based on primary data from the production processes of goods and from the production of electricity consumed during those processes as determined in accordance with the methods set out in Annex IV to the CBAM Regulation;

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

“authorised CBAM declarant” means a person authorised by a competent authority in accordance with Article 17 of the CBAM Regulation;

“carbon price” means the monetary amount paid in a third country, under a carbon emissions reduction scheme, in the form of a tax, levy or fee or in the form of emission allowances under a greenhouse gas emissions trading system, calculated on greenhouse gases covered by such a measure, and released during the production of goods;

“CBAM certificate” means a certificate in electronic format corresponding to one tonne of CO₂e of embedded emissions in goods;

“CBAM Regulation” means Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023¹ establishing a carbon border adjustment mechanism;

“Commission” means the Commission of the European Communities;

¹ OJ L 130, 16.5.2023, p. 52–104

“competent authority” means the authority designated by each Member State in accordance with Article 11 of the CBAM Regulation;

“continental shelf” means a continental shelf as defined in Article 76 of the United Nations Convention on the Law of the Sea;

“customs authorities” means the customs administrations of Member States as defined in Article 5, point (1), of Regulation (EU) No 952/2013²;

“customs declarant” means a declarant as defined in Article 5, point (15), of Regulation (EU) No 952/2013² lodging a customs declaration for release for free circulation of goods in its own name or the person in whose name such a declaration is lodged;

“customs territory of the Union” means the territory defined in Article 4 of Regulation (EU) No 952/2013²;

“default value” means a value, that is calculated or drawn from secondary data, which represents the embedded emissions in goods;

“direct emissions” means emissions from the production processes of goods, including emissions from the production of heating and cooling that is consumed during the production processes, irrespective of the location of the production of the heating or cooling;

“Economic Operators Registration and Identification number (EORI number)” means the number assigned by the customs authority when the registration for customs purposes has been carried out in accordance with Article 9 of Regulation (EU) No 952/2013²;

“embedded emissions” means direct emissions released during the production of goods and indirect emissions from the production of electricity that is consumed during the production processes, calculated in accordance with the methods set out in Annex IV to the CBAM Regulation and further specified in the implementing acts adopted pursuant to Article 7(7) of the CBAM Regulation;

“emissions” means the release of greenhouse gases into the atmosphere from the production of goods;

“established in the State” means:

- (a) in the case of a natural person, any person whose place of residence is in the State;
- (b) in the case of a legal person or an association of persons, any person whose registered office, central headquarters or permanent business establishment is in the State;

“EU ETS” means the system for greenhouse gas emissions allowance trading within the Union in respect of activities listed in Annex I to Directive 2003/87/EC³ other than aviation activities;

“goods” means goods listed in Annex 1 to the CBAM Regulation;

² OJ No. L 269 10.10.2013, p1

³ OJ No. L. 275, 25.10.2003. p.32

“EU ETS allowance” means an allowance as defined in Article 3, point (a), of Directive 2003/87/EC³ in respect of activities listed in Annex I to that Directive other than aviation activities;

“exclusive economic zone” means an exclusive economic zone as defined in Article 55 of the United Nations Convention on the Law of the Sea and which has been declared as an exclusive economic zone by a Member State pursuant to that convention;

“explicit capacity allocation” means the allocation of cross-border transmission capacity separate from the trade of electricity;

“greenhouse gases” means greenhouse gases as specified in Annex I to the CBAM Regulation in relation to each of the goods listed in that Annex;

“importation” means release for free circulation as provided for in Article 201 of Regulation (EU) No 952/2013²;

“importer” means either the person lodging a customs declaration for release for free circulation of goods in its own name and on its own behalf or, where the customs declaration is lodged by an indirect customs representative in accordance with Article 18 of Regulation (EU) No 952/2013², the person on whose behalf such a declaration is lodged;

“indirect emissions” means emissions from the production of electricity which is consumed during the production processes of goods, irrespective of the location of the production of the consumed electricity.

“installation” means a stationary technical unit where a production process is carried out;

“intrinsic value” means the intrinsic value for commercial goods as defined in Article 1, point (48), of Delegated Regulation (EU) 2015/2446;

“market coupling” means the allocation of transmission capacity through a Union system which simultaneously matches orders and allocates cross-zonal capacities as set out in Regulation (EU) 2015/1222⁴;

“national accreditation body” means a national accreditation body as appointed by each Member State pursuant to Article 4(1) of Regulation (EC) No 765/2008⁵;

“operator” means any person who operates or controls an installation in a third country;

“person” means a natural person, a legal person or any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts;

“production processes” means the chemical and physical processes carried out to produce goods in an installation;

“surrender” means offsetting of CBAM certificates against the declared embedded emissions in imported goods or against the embedded emissions in imported goods that should have been declared.

⁴ OJ L 197, 25.7.2015, p. 24

⁵ OJ L 218, 13.8.2008, p. 30

“third country” means a country or territory outside the customs territory of the Union;

“tonne of CO₂e” means one metric tonne of CO₂, or an amount of any other greenhouse gas listed in Annex I to the CBAM Regulation with an equivalent global warming potential;

(2) A reference in these Regulations to an Article, unless otherwise indicated, is a reference to an Article of the CBAM Regulation.

(3) A word or expression that is used in these Regulations and is also used in the CBAM Regulation has, unless the contrary intention appears, the same meaning in these Regulations as it has in the CBAM Regulation.

Purpose

4. (1) These Regulations make provisions necessary for the implementation of the CBAM Regulation in the State.

Application

5. (1) These Regulations apply to goods listed in Annex 1 to the CBAM Regulation originating in a third country, where those goods, or processed products from those goods resulting from the inward processing procedure referred to in Article 256 of Regulation (EU) No 952/2013² are imported into the customs territory of the Union.

(2) These Regulations also apply to goods listed in Annex 1 to the CBAM Regulation originating in a third country, where those goods, or processed products from those goods resulting from the inward processing procedure referred to in Article 256 of Regulation (EU) No 952/2013², are brought to an artificial island, a fixed or floating structure, or any other structure on the continental shelf or in the exclusive economic zone of a Member State that is adjacent to the customs territory of the Union.

(3) By way of derogation from paragraphs (1) and (2), these Regulations shall not apply to:

- (a) goods listed in Annex I to the CBAM Regulation which are imported into the customs territory of the Union provided that the intrinsic value of such goods does not exceed, per consignment, the value specified for goods of negligible value as referred to in Article 23 of Council Regulation (EC) No 1186/2009⁶;
- (b) goods contained in the personal luggage of travellers coming from a third country provided that the intrinsic value of such goods does not exceed the value specified for goods of negligible value as referred to in Article 23 of Regulation (EC) No 1186/2009⁶;

⁶ OJ L 324, 10.12.2009, p. 23

- (c) goods to be moved or used in the context of military activities pursuant to Article 1, point (49), of Commission Delegated Regulation (EU) 2015/2446

(4) By way of derogation from paragraphs (1) and (2), these Regulations shall not apply to goods originating in the third countries and territories listed in point 1 of Annex III to the CBAM Regulation.

(5) Imported goods shall be considered as originating in third countries in accordance with the rules for non-preferential origin as referred to in Article 59 of Regulation (EU) No 952/2013².

Importation of goods

6. (1) No person shall import goods for which these Regulations apply unless authorised to do so by the Agency pursuant to these Regulations.

(2) A person who fails to comply with paragraph (1) is guilty of an offence.

Applications for Authorisation

7. (1) Any importer established in the State shall, from the 31 December 2024, prior to importing goods into the customs territory of the Union, apply for the status of authorised CBAM declarant ('application for an authorisation'). Where such an importer appoints an indirect customs representative in accordance with Article 18 of Regulation (EU) No 952/2013² and the indirect customs representative agrees to act as an authorised CBAM declarant, the indirect customs representative shall submit the application for an authorisation.

(2) Where an importer is not established in the State, the indirect customs representative shall submit the application for an authorisation

(3) The application for an authorisation shall be submitted through the CBAM registry established in accordance with Article 14 of the CBAM Regulation.

(4) By way of derogation from paragraph (1), where transmission capacity for the import of electricity is allocated through explicit capacity allocation, the person to whom capacity has been allocated for import and who nominates that capacity for import shall, for the purposes of these Regulations, be regarded as an authorised CBAM declarant in the Member State where the person has declared the importation of electricity in the customs declaration. Imports are to be measured per border for time periods no longer than one hour and no deduction of export or transit in the same hour shall be possible.

(5) The Agency shall register the person in the CBAM registry where the customs declaration has been lodged in the State and process the application for authorisation, taking into account the provisions of any implementing acts adopted by the Commission under Article 5(8) of the CBAM Regulation.

(6) The application for an authorisation shall include the following information about the applicant:

- (a) name, address and contact information;
- (b) EORI number;
- (c) main economic activity carried out in the Union;
- (d) certification by the tax authority in the Member State where the applicant is established that the applicant is not subject to an outstanding recovery order for national tax debts;
- (e) declaration of honour that the applicant was not involved in any serious infringements or repeated infringements of customs legislation, taxation rules or market abuse rules during the five years preceding the year of the application, including that it has no record of serious criminal offences relating to its economic activity;
- (f) information necessary to demonstrate the applicant's financial and operational capacity to fulfil its obligations under this Regulation and, if decided by the competent authority on the basis of a risk assessment, supporting documents confirming that information, such as the profit and loss account and the balance sheet for up to the last three financial years for which the accounts were closed;
- (g) estimated monetary value and volume of imports of goods into the customs territory of the Union by type of goods, for the calendar year during which the application is submitted, and for the following calendar year;
- (h) names and contact information of the persons on behalf of whom the applicant is acting, if applicable; and
- (i) any other information required by the implementing act under Article 5(8) of the CBAM Regulation or any appropriate information deemed necessary by the Agency.

(7) The applicant may withdraw its application at any time.

(8) The authorised CBAM declarant shall inform, without delay, the competent authority, via the CBAM registry, of any changes to the information provided under paragraph (6) of this Regulation that have occurred after the decision granting the status of the authorised CBAM declarant has been adopted pursuant to Article 17 of the CBAM Regulation that may influence that decision, or the content of the authorisation granted thereunder.

(9) A person who knowingly or recklessly submits information to the Agency under paragraph (6) that is false or misleading in a material respect or withholds information under paragraph (8) shall be guilty of an offence.

CBAM declaration

8. (1) By 31 May of each year, commencing in 2027 for the year 2026, each authorised CBAM declarant shall use the CBAM registry referred to in Article 14 of the CBAM Regulation to submit a CBAM declaration for the preceding calendar year.

- (2) The CBAM declaration shall contain the following information:
- (a) the total quantity of each type of goods imported during the preceding calendar year, expressed in megawatt-hours for electricity and in tonnes for other goods;
 - (b) the total embedded emissions in the goods referred to in point (a) of this paragraph, expressed in tonnes of CO₂e emissions per megawatt-hour of electricity or, for other goods, in tonnes of CO₂e emissions per tonne of each type of goods, calculated in accordance with article 9 of the CBAM Regulation and verified in accordance with Article 10 of the CBAM Regulation;
 - (c) the total number of CBAM certificates to be surrendered, corresponding to the total embedded emissions referred to in point (b) of this paragraph after the reduction that is due on the account of the carbon price paid in a country of origin in accordance with Article 9 of the CBAM Regulation and the adjustment necessary to reflect the extent to which EU ETS allowances are allocated free of charge in accordance with Article 31 of the CBAM Regulation;
 - (d) copies of verification reports, issued by accredited verifiers, under Article 10 of the CBAM Regulation and Annex VI to the CBAM Regulation.

(3) Where processed products resulting from an inward processing procedure as referred to in Article 256 of Regulation (EU) No 952/2013² are imported, the authorised CBAM declarant shall report in the CBAM declaration the emissions embedded in the goods that were placed under the inward processing procedure and resulted in the imported processed products, even where the processed products are not goods listed in Annex I to the CBAM Regulation. This paragraph shall also apply where the processed products resulting from the inward processing procedure are returned goods as referred to in Article 205 of Regulation (EU) No 952/2013².

(4) Where the imported goods listed in Annex I to the CBAM Regulation are processed products resulting from an outward processing procedure as referred to in Article 259 of Regulation (EU) No 952/2013², the authorised CBAM declarant shall report in the CBAM declaration only the emissions of the processing operation undertaken outside the customs territory of the Union.

(5) Where the imported goods are returned goods as referred to in Article 203 of Regulation (EU) No 952/2013², the authorised CBAM declarant shall report separately, in the CBAM declaration, 'zero' for the total embedded emissions corresponding to those goods.

Verification of embedded emissions

9. (1) The authorised CBAM declarant shall ensure that the total embedded emissions declared in the CBAM declaration submitted pursuant to Regulation 8 are verified by a verifier accredited pursuant to Article 18 of the CBAM Regulation, based on the verification principles set out in Annex VI to the CBAM Regulation.

(2) For embedded emissions in goods produced in installations in a third country registered in accordance with Article 10 of the CBAM Regulation, the authorised CBAM declarant may choose to use verified information disclosed to it in accordance with Article 10(7) of the CBAM Regulation to fulfil the obligation referred to in paragraph (1) of this Regulation.

Competent authority

10. (1) The Agency is designated as the competent authority in the State for the purposes of these Regulations, the CBAM Regulation and any Commission implementing acts thereunder.

(2) The Agency shall exchange with the Commission any information that is essential or relevant to the exercise of their functions and duties under these Regulations.

(3) The Agency, in consultation with the Minister and the Minister for Public Expenditure and Reform, shall recoup costs from the administration of the carbon border adjustment mechanism.

Authorised Officers

11. (1) The Agency may, under these Regulations, appoint persons to be authorised officers for the purpose of ensuring compliance with these regulations, the CBAM Regulation (EU) or a Commission implementing act adopted thereunder.

(2) An authorised officer shall be furnished with a warrant of his or her appointment as an authorised officer and when exercising a power conferred on him or her under these Regulations, shall, if requested by a person thereby affected, produce the warrant of his or her appointment, or a copy of it, to that person and a form of personal identification.

(3) An authorised officer may, for the purpose of ensuring that these Regulations are being complied with in respect of goods in Annex I to the CBAM Regulation, do any of the following:

- (a) enter at any reasonable time any premises or place, at which there are reasonable grounds to believe that any goods, product or equipment relating thereto is or is likely to be found, and search and inspect the premises or place or goods or product or equipment found there and any certificates, books, documents or records relating to such product or equipment or the placing of it on the market;
- (b) secure for later inspection any premises or place or part of it or any goods, product or equipment relating thereto or certificates, books, documents or records relating to such are kept or there are reasonable grounds for believing that such are contained or kept;
- (c) require any person in charge of the premises or place or goods or product or equipment relating thereto to produce to him or her any books, documents or records relating to such which are in the

person's power or control (and in the case of such information in a non- legible form to reproduce it in a legible form) and to give to him or her such information as the authorised officer may reasonably require in relation to any entries in such books, documents or records;

- (d) inspect and take extracts from or make copies of any such books, documents or records (including, in the case of information in a non-legible form, a copy of or extract from such information in a legible form);
- (e) remove and retain such books, documents or records for such period as may be reasonable for further examination;
- (f) require any person in charge of the premises or place to maintain such books, documents or records for such period of time, as may be reasonable, as he or she directs;
- (g) require any person in charge of the premises or place or such product or equipment to give him or her any information which he or she may reasonably require relating to any goods or product found there;
- (h) take without payment of compensation any necessary samples of any such goods or product or equipment;
- (i) carry out or have carried out on the sample so taken such analyses, examinations, tests and inspections as he or she considers necessary or expedient;
- (j) take photographic or video evidence of the goods, product or equipment found there.

(4) Where an authorised officer in exercise of his or her powers under this Regulation is prevented from entering any premises or place, an application may be made under paragraph (6) for a warrant to authorise such entry.

(5) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling, unless he or she has obtained a warrant under paragraph (6) authorising such entry.

(6) If, on the sworn information of an authorised officer, a judge of the District Court is satisfied that there are reasonable grounds for suspecting that information or any item required by an authorised officer for the purposes of these regulations is held at any premises or any place, the judge may issue a warrant authorising an authorised officer, accompanied, if appropriate, by other authorised officers and members of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production of the warrant, if so requested, to enter those premises or that place, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer by these Regulations.

(7) A person who –

- (a) without reasonable excuse, fails or refuses to comply with any request or requirement made by an authorised officer under this Regulation;

- (b) obstructs, impedes or interferes with an authorised officer in the exercise by that officer of a power under this Regulation;
- (c) gives to an authorised officer information that is false or misleading in a material respect; or
- (d) alters, suppresses or destroys any certificate, book, document or record which the person concerned has been required to produce, or reasonably expected to be required to produce,

commits an offence under these Regulations.

Professional secrecy and disclosure of information

12. (1) All information acquired by the Agency in the course of performing its duties which is by its nature confidential, or which is provided on a confidential basis shall be covered by the obligation of professional secrecy. Such information shall not be disclosed by the Agency without the express prior permission of the person or authority that provided it or by virtue of Union or national law.

(2) By way of derogation from paragraph (1), the Agency and the Commission may share such information with each other, the customs authorities, the authorities in charge of administrative or criminal penalties, and the European Public Prosecutor's Office, for the purposes of ensuring compliance of persons with their obligations under these Regulations, the CBAM Regulation and the application of customs legislation. Such shared information shall be covered by professional secrecy and shall not be disclosed to any other person or authority except by virtue of Union or national law.

Authorisation

13. (1) Where an application for an authorisation is submitted in accordance with Regulation 7, the Agency shall grant the status of authorised CBAM declarant provided that the criteria set out in paragraph (3) of this Regulation, and the requirements of any implementing act introduced pursuant to Article 5(8) of the CBAM Regulation, are complied with.

(2) Before granting the status of authorised CBAM declarant, the Agency shall conduct a consultation procedure on the application for an authorisation via the CBAM registry. The consultation procedure shall involve the competent authorities in the other Member States and the Commission and shall not exceed 15 working days.

(3) The criteria for granting the status of authorised CBAM declarant shall be the following:

- (a) the applicant has not been involved in a serious infringement or in repeated infringements of customs legislation, taxation rules, market abuse rules, these Regulations or the CBAM Regulation or delegated and implementing acts adopted thereunder and in particular the applicant has no record of serious criminal offences

relating to its economic activity during the five years preceding the application;

- (b) the applicant demonstrates its financial and operational capacity to fulfil its obligations under these Regulations and the CBAM Regulation;
- (c) the applicant is established in the State; and
- (d) the applicant has been assigned an EORI number in accordance with Article 9 of Regulation (EU) No 952/2013².

(4) Where the Agency finds that the criteria set out in paragraph (3) of this Regulation are not fulfilled, or where the applicant has failed to provide information listed in Regulation 7(6), the granting of the status of authorised CBAM declarant shall be refused. Such decision to refuse the status of authorised CBAM declarant shall provide the reasons for the refusal and include information on the possibility to appeal.

(5) A decision of the Agency granting the status of authorised CBAM declarant shall be registered in the CBAM registry and shall contain the following information:

- (a) the name, address and contact information of the authorised CBAM declarant;
- (b) the EORI number of the authorised CBAM declarant;
- (c) the CBAM account number assigned to the authorised CBAM declarant in accordance with Article 16(1) of the CBAM Regulation;
- (d) the guarantee required in accordance with paragraph (6).

(6) For the purpose of complying with the criteria set out in paragraph 3, point (b), of this Regulation, the Agency shall require the provision of a guarantee if the applicant was not established throughout the two financial years preceding the year when the application in accordance with Regulation 7(1) was submitted.

(7) The Agency shall fix the amount of such guarantee at the amount, calculated as the aggregate value of the number of CBAM certificates that the authorised CBAM declarant would have to surrender in accordance with Regulation 16 in respect of the imports of goods reported in accordance with Regulation 7(6)(g). The guarantee provided shall be a bank guarantee, payable at first demand, by a financial institution operating in the Union or another form of guarantee which provides equivalent assurance.

(8) Where the Agency establishes that the guarantee provided does not ensure, or is no longer sufficient to ensure, the financial and operational capacity of the authorised CBAM declarant to fulfil its obligations under this Regulation, it shall require the authorised CBAM declarant to choose between providing an additional guarantee or replacing the initial guarantee with a new guarantee in accordance with paragraph 5.

(9) The Agency shall release the guarantee immediately after 31 May of the second year in which the authorised CBAM declarant has surrendered CBAM certificates in accordance with Regulation 16.

(10) The Agency shall revoke the status of authorised CBAM declarant where:

- (a) the authorised CBAM declarant requests a revocation, or
- (b) the authorised CBAM declarant no longer meets the criteria set out in paragraph 3 or 8 of this Regulation or has been involved in a serious or repeated infringement of the obligation to surrender CBAM certificates referred to in Regulation 16 (1) or of the obligation to ensure a sufficient number of CBAM certificates on its account in the CBAM registry at the end of each quarter referred to in Regulation 16(2).

(11) Before revoking the status of authorised CBAM declarant, the Agency shall give the authorised CBAM declarant the possibility to be heard and shall conduct a consultation procedure on the possible revocation of such status. The consultation procedure shall involve the competent authorities in the other Member States and the Commission and shall not exceed 15 working days.

(12) Any decision of revocation shall contain the reasons for the decision as well as information about the right to appeal.

(13) The Agency shall register in the CBAM registry information on:

- (a) the applicants whose application for an authorisation has been refused pursuant to paragraph 4; and
- (b) the persons whose status of authorised CBAM declarant has been revoked pursuant to paragraph 10.

Review of CBAM declarations

14. (1) The Agency may review a CBAM declaration within the period ending with the fourth year after the year during which the CBAM declarations should have been submitted. The Agency shall communicate the initiation and the results of a review to the Commission, via the CBAM registry.

(2) Where the Agency concludes that the declared number of CBAM certificates to be surrendered is incorrect, or that no CBAM declaration has been submitted in accordance with Regulation 8, it shall determine the number of CBAM certificates which should have been surrendered by the authorised CBAM declarant, taking into account any information submitted by the Commission.

(3) The Agency shall notify the authorised CBAM declarant of its decision on the number of CBAM certificates determined and shall request that the authorised CBAM declarant surrender the additional CBAM certificates within one month.

(4) The Agency's decision shall contain the reasons for the decision as well as information about the right to appeal. The decision shall also be notified via the CBAM registry.

(5) Where the Agency, after receiving the preliminary calculation from the Commission in accordance with paragraphs (2) and (4) of Article 19 of the CBAM Regulation, decides not to take any action, the Agency shall inform the Commission accordingly, via the CBAM registry.

(6) Where the Agency concludes that the number of CBAM certificates surrendered exceeds the number which should have been surrendered, it shall inform the Commission without delay. The CBAM certificates surrendered in excess shall be repurchased in accordance with Regulation 17.

Sale and price of CBAM certificates

15. (1) The Agency shall, from the 1st of January 2026, sell CBAM certificates on a common central platform, established by the Commission pursuant to Article 20(2) of the CBAM Regulation, to authorised CBAM declarants.

(2) The information on the sale, repurchase and cancellation of CBAM certificates in the common central platform shall be transferred to the CBAM registry at the end of each working day.

(3) CBAM certificates shall be sold to authorised CBAM declarants at the price calculated in accordance with Article 21 of the CBAM Regulation.

Surrender of CBAM certificates

16 (1) By the 31 May each year, commencing in 2027 for the year 2026, the authorised CBAM declarant shall surrender via the CBAM registry a number of CBAM certificates that corresponds to the embedded emissions declared in accordance with Regulation 8(2)(c) and verified in accordance with Regulation 9, for the calendar year preceding the surrender. The authorised CBAM declarant shall ensure the required number of CBAM certificates is available on its account in the CBAM registry.

(2) The authorised CBAM declarant shall ensure that the number of CBAM certificates on its account in the CBAM registry at the end of each quarter corresponds to at least 80% of the embedded emissions, determined by reference to default values in accordance with the methods set out in Annex IV of the CBAM Regulation, in all goods it has imported since the beginning of the calendar year.

(3) Where the Agency has been informed by the Commission, that the number of CBAM certificates in the account of an authorised CBAM declarant does not comply with the obligations pursuant to paragraph (2) of this Regulation, the Agency shall notify the authorised CBAM declarant of the need to ensure a sufficient number of CBAM certificates in its account within one month of such notification.

(4) The Agency shall register the notification to, and the response from, the authorised CBAM declarant in the CBAM registry.

Repurchase of CBAM certificates

17. (1) Where an authorised CBAM declarant so requests, the State shall repurchase the excess CBAM certificates remaining on the account of the declarant in the CBAM registry after the certificates have been surrendered in accordance with Regulation 16.

(2) The number of CBAM certificates subject to repurchase as referred to in paragraph (1) shall be limited to one third of the total number of CBAM certificates purchased by the authorised CBAM declarant during the previous calendar year.

(3) The repurchase price for each CBAM certificate shall be the price paid by the authorised CBAM declarant for that certificate at the time of purchase.

Rules applicable to the importation of goods

18. (1) The Revenue Commissioners shall, from the 1st of January 2026, not allow the importation of goods by any person other than an authorised CBAM declarant.

(2) The Revenue Commissioners shall periodically and automatically, in particular by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013², communicate to the Commission specific information on the goods declared for importation. That information shall include the EORI number and the CBAM account number of the authorised CBAM declarant, the eight-digit CN code of the goods, the quantity, the country of origin, the date of the customs declaration and the customs procedure.

(3) The Revenue Commissioners may communicate, in accordance with Article 12(1) of Regulation (EU) No 952/2013², confidential information acquired by them in the course of performing their duties or provided to the Revenue Commissioners on a confidential basis, to the Commission and the Agency.

(4) Regulation (EC) No 515/97⁷ shall apply *mutatis mutandis* to this Regulation.

Issue of Direction

19. (1) The Agency may issue a direction to a person to comply with these Regulations.

(2) A person who fails to comply with a direction issued to him or her is guilty of an offence.

Direction

20. A direction issued by the Agency shall—

⁷OJ L 82, 22.3.1997, p. 1

- (a) be in writing;
- (b) be served in accordance with Regulation 22;
- (c) contain reasons for the direction; and
- (d) advise the recipient of his or her right of appeal pursuant to Regulation 23.

Service of Direction

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

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the operator carries on business;
- (c) by sending it by post in a pre-paid registered letter addressed to the operator at the address at which the operator carries on his or her business;
- (d) if an address for the service of a direction has been furnished by the operator, by leaving it at, or sending it by pre-paid registered post addressed to the 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 operator carries on business or, if an address for the service of a direction has been furnished by the operator, that address: provided that—
 - (i) the sender's 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.

(2) 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 by the Agency

22. (1) A direction issued by the Agency 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 Direction 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 Direction.

(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

23. (1) Where, on application by the Agency to the High Court, the Court is satisfied that a person has failed to comply with 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

24. (1) A person guilty of an offence under these Regulations 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 be guilty of 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 of 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 shall also be guilty of 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 these Regulations 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 persons 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.

Penalties

25. (1) An authorised CBAM Declarant who fails to surrender by 31 May of each year, the number of CBAM certificates that corresponds to the emissions embedded in goods imported during the preceding calendar year shall be liable for payment to the Agency of a penalty in the amount of €100 for each tonne of carbon dioxide equivalent emissions embedded in goods imported during the preceding calendar year for which the authorised CBAM declarant has not surrendered certificates, and increased pursuant to Article 16(4) of Directive 2003/87/EC³. Such a penalty shall apply for each CBAM certificate that the authorised CBAM declarant has not surrendered.

(2) Where a person other than an authorised CBAM declarant introduces goods into the State without complying with the obligations under these Regulations, that person shall be held liable for the payment of a penalty. The penalty shall, depending in particular on the duration, gravity, scope, intentional nature and repetition of such non-compliance and the level of cooperation of the person with the Agency, be an amount from three to five times the penalty referred to in paragraph (1), applicable in the year of introduction of the goods, for each CBAM certificate that the person has not surrendered, as determined by the Agency

(3) Payment of the penalty specified in this Regulation shall not release the authorised CBAM Declarant from the obligation to surrender a number of CBAM Certificates equal to those excess emissions when surrendering Certificates in the following calendar year.

(4) If the Agency determines, including in light of the preliminary calculations made by the Commission in accordance with Regulation 16 that an authorised CBAM declarant has failed to comply with the obligation to surrender

CBAM certificates as set out in paragraph 1 of this Regulation, or that a person has introduced goods into the customs territory of the Union without complying with the obligations under this Regulation as set out in paragraph (2) of this Regulation, the Agency shall impose the penalty pursuant to paragraph (1) or (2) of this Regulation, as applicable. To that end, the Agency shall notify the authorised CBAM declarant or, where paragraph (2) of this Regulation applies, the person referenced therein:

- (a) that the Agency has concluded that the authorised CBAM declarant or the person referred to in paragraph 2 of this Regulation failed to comply with the obligations under this Regulation;
- (b) of the reasons for its conclusion;
- (c) of the amount of the penalty imposed on the authorised CBAM declarant or on the person referred to in paragraph 2 of this Regulation;
- (d) of the date from which the penalty is due;
- (e) of the action that the authorised CBAM declarant or the person referred to in paragraph (2) of this Regulation is to take to pay the penalty; and
- (f) of the right of the authorised CBAM declarant or of the person referred to in paragraph (2) of this Regulation to appeal, and the procedures for making such an appeal.

(5) Where the penalty has not been paid by the due date referred to in paragraph 4, point (d), the penalty may be recovered by the Agency as a simple contract debt in a court of competent jurisdiction.

(6) The Agency shall communicate the decisions on penalties referred to in this Regulation to the Commission and shall register the final payment of such penalties in the CBAM registry.

Appeal against a Penalty

26. (1) Where an authorised CBAM declarant or a person referred to in Regulation 25(2) is the subject of a decision to impose a penalty pursuant to Regulation 25 they may, within 28 days from the date on which notice of the decision concerned was given to it under Regulation 25(4) 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 authorised CBAM declarant, or the person referred to in Regulation 25(2), 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.

Scope of the transitional period

27. (1) During the transitional period from 1 October 2023 until 31 December 2025, the obligations of the importer under these Regulations shall be limited to the reporting obligations set out in Regulations 28, 29 and 30. Where the importer is established in the State and appoints an indirect customs representative in accordance with Article 18 of Regulation (EU) No 952/2013², and where the indirect customs representative so agrees, the reporting obligations shall apply to such indirect customs representative. Where the importer is not established in the State, the reporting obligations shall apply to the indirect customs representative.

Importation of goods during the transitional period

28. (1) The Revenue Commissioners shall inform the importer, or, in the situations covered by Regulation 27, the indirect customs representative of the reporting obligation referred to in Regulation 31 no later than at the moment of the release of goods for free circulation.

(2) The Revenue Commissioners shall periodically and automatically, in particular by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013² or by electronic means of data transmission, communicate to the Commission information on imported goods, including processed products resulting from the outward processing procedure. Such information shall include the EORI number of the customs declarant and of the importer, the eight-digit CN code, the quantity, the country of origin, the date of the customs declaration and the customs procedure.

Reporting obligation for certain customs procedures

29. (1) Where processed products resulting from the inward processing procedure as referred to in Article 256 of Regulation (EU) No 952/2013² are imported, the reporting obligation referred to in Regulation 30 shall include the information on the goods that were placed under the inward processing procedure and resulted in the imported processed products, even if the processed products are not listed in Annex I to the CBAM Regulation. This paragraph shall also apply where the processed products resulting from the inward processing procedure are returned goods as referred to in Article 205 of Regulation (EU) No 952/2013².

(2) The reporting obligation referred to in Regulation 31 shall not apply to the import of:

- (a) processed products resulting from the outward processing procedure as referred to in Article 259 of Regulation (EU) No 952/2013²;
- (b) goods qualifying as returned goods in accordance with Article 203 of Regulation (EU) No 952/2013².

Reporting obligation

30. (1) Each importer or, in the situations covered by Regulation 28, the indirect customs representative, having imported goods during a given quarter of a calendar year shall, for that quarter, submit a report ('CBAM report') containing information on the goods imported during that quarter, to the Commission, no later than one month after the end of that quarter.

(2) The CBAM report shall include the following information:

- (a) the total quantity of each type of goods, expressed in megawatt-hours for electricity and in tonnes for other goods, specified for each installation producing the goods in the country of origin;
- (b) the actual total embedded emissions, expressed in tonnes of CO₂e emissions per megawatt-hour of electricity or for other goods in tonnes of CO₂e emissions per tonne of each type of goods, calculated in accordance with the method set out in Annex IV to the CBAM Regulation;
- (c) the total indirect emissions calculated in accordance with the implementing act referred to in Article 35(7) of the CBAM Regulation;
- (d) the carbon price due in a country of origin for the embedded emissions in the imported goods, taking into account any rebate or other form of compensation available.

(3) Where the Commission has communicated to the Agency that it considers that a CBAM report is incomplete or incorrect along with the additional information it considers necessary to complete or correct that report, the Agency shall initiate the correction procedure and notify the importer or, in the situations covered Regulation 27, the indirect customs representative of the additional information necessary to correct that report. Where appropriate, that importer or that indirect customs representative shall submit a corrected report to the Agency and to the Commission.

(4) Where the Agency initiates a correction procedure, including in consideration of information received in accordance with paragraph (3) of this Regulation, and determines that the importer or, where applicable in accordance with Regulation 27, the indirect customs representative has not taken the necessary steps to correct the CBAM report, or where the Agency determines, including in consideration of information received in accordance with paragraph (3) of this Regulation, that the importer or, where applicable in accordance with Regulation 27, the indirect customs representative has failed to comply with the obligation to submit a CBAM report in accordance with paragraph (1) of this Regulation the Agency shall impose an effective, proportionate and dissuasive penalty, in accordance with any implementing acts introduced pursuant to Article 35(7) of the CBAM Regulation, on the importer or, where applicable in accordance with Regulation 27, the indirect customs representative. To that end, the Agency shall issue a Direction to the importer or, where applicable in accordance with Regulation 26, the indirect customs representative and inform the Commission of the following:

- (a) the conclusion, and reasons for that conclusion, that the importer or, where applicable in accordance with Regulation 27, the indirect customs representative has failed to comply with the obligation of submitting a report for a given quarter or to take the necessary steps to correct the report;
 - (b) the amount of the penalty imposed on the importer or, where applicable in accordance with Regulation 27, the indirect customs representative;
 - (c) the date from which the penalty is due;
 - (d) the action that the importer or, where applicable in accordance with Regulation 27, the indirect customs representative is to take to pay the penalty; and
 - (e) the right of the importer or, where applicable in accordance with Regulation 27 the indirect customs representative to appeal pursuant to Regulation 22.
- (6) Where the Agency, after receiving the information from the Commission under this Regulation, decides not to take any action, the Agency shall inform the Commission accordingly.



GIVEN under my Official Seal,
16 October, 2024.

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

BAILE ÁTHA CLIATH
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