



Llywodraeth Cymru  
Welsh Government

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**WRITTEN STATEMENT  
BY  
THE WELSH GOVERNMENT**

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**TITLE**        **The Greenhouse Gas Emissions Trading Scheme (Amendment)  
(EU Exit) Regulations 2018**

**DATE**        **12 December 2018**

**BY**            **Julie James AM, Leader of the House and Chief Whip**

**The Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) Regulations  
2018**

The 2018 Regulations make amendments to the following:

EU Directly Applicable Legislation

Commission Decision 2009/450/EC  
Commission Regulation (EU) 606/2010  
Commission Regulation (EU) 600/2012  
Commission Regulation (EU) 601/2012

Revocation

Commission Decision (EC) 2005/381  
Commission Regulation (EC) 748/2009  
Commission Decision 2010/670/EU  
Commission Regulation (EU) 1031/2010  
Commission Decision 2011/278/EU  
Commission Regulation (EU) 550/2011  
Commission Regulation (EU) 1123/2013

EU Other

EEA Agreement

Domestic Legislation

Greenhouse Gas Emissions Trading Scheme Regulations 2012

## **Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence**

The SI is part of a package of measures to address the deficiencies within the EU Emissions Trading Scheme regime. This SI amends a domestic piece of legislation, which largely falls within devolved competence of the National Assembly for Wales and Welsh Ministers' powers in relation to carbon trading.

Within this SI, there are however some elements, which fall outside competence and therefore not all the provisions within this SI could be made on a Wales only basis for example the aviation provisions within the domestic legislation, as well as the revocations and amendment of the directly applicable EU law.

Other elements of the package include the inclusion of a carbon tax within the UK Finance Bill. It is the UK Government's intention that regulations made pursuant to the proposed Finance (No.3) Bill will introduce a new carbon emissions tax. The purpose of this new tax is to replace the elements of the EU Scheme that will be revoked by the Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) Regulations 2018.

## **The purpose of the amendments**

The purpose of the SI is address specific deficiencies within retained EU legislation as a result of the UK exiting the EU, it also revokes directly applicable legislation relating to the cap and trade elements of the scheme.

The SI enables the existing Monitoring, Reporting and Verification (MRV) of emissions from installations to continue to function post exit day. It makes the necessary amendments to ensure:

- continued implementation and enforcement in relation to scheme years up to and including the 2018 scheme year;
- continued operation of the MRV obligations post exit day; and
- Disapplication of the requirements relating to the EU cap and trade scheme post exit day

The SI does not replace the elements, which it revokes. The UK Government has determined to replace these elements with a new Carbon Emissions Tax through the proposed Finance (No.3) Bill.

The SI and accompanying Explanatory Memorandums, setting out the effect of each amendment is available here:

<https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments>

## **Why consent was given**

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency and expediency but also as elements of the legislation corrected by this SI fall outwith competence. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU, by amending or revoking provisions that would otherwise be inoperable.

