

L.N. 114 of 2015**ENVIRONMENT AND DEVELOPMENT PLANNING ACT
(CAP. 504)****MALTA RESOURCES AUTHORITY ACT
(CAP. 423)****European Union Greenhouse Gas Emissions Trading
Scheme for Aviation (Amendment) Regulations, 2015**

IN exercise of the powers conferred by article 61 of the Environment and Development Planning Act and by article 28 of the Malta Resources Authority Act, the Minister for Sustainable Development, the Environment and Climate Change and the Minister for Energy and Health in consultation with the Minister for Tourism, the Malta Resources Authority and the Malta Environment and Planning Authority, have made the following regulations:

Citation.

1. The title of these regulations is the European Union Greenhouse Gas Emissions Trading Scheme for Aviation (Amendment) Regulations, 2015 and these regulations shall be read and construed as one with the European Union Greenhouse Gas Emissions Trading Scheme Regulations, hereinafter referred to as "the principal regulations".

S.L. 504.115.

Amends
regulation 1 of
the principal
regulations.

2. Sub-regulation (2) of regulation 1 of the principal regulations shall be substituted by the following:

"(2) These regulations provide for the implementation in Malta of the European Union scheme for greenhouse gas emission allowance trading for the aviation activities listed in Schedule 1. These regulations transpose Directive 2008/101/EC amending Directive 2003/87/EC and Directive 2009/29/EC amending Directive 2003/87/EC in so far as it relates to aircraft operators, and Regulation (EU) No 421/2014."

Amends
regulation 2 of
the principal
regulations.

3. Regulation 2 of the principal regulations shall be amended as follows:

(a) the definition "greenhouse gases" shall be substituted with the following new definition:

" "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;";

(b) immediately after the definition "other accounting units", there shall be added the following new definition:

" "other relevant legal bodies" means any other entities, public or private which, by virtue of the provisions found in these regulations are obliged to act, provide information, direct or re-direct any action or actions, or inform or report to any other indicated body. This shall also include any other specified bodies or persons to which these regulations may apply;";

(c) immediately after the definition "Regulation (EC) No. 748/2009", there shall be added the following new definition:

" "Regulation (EU) No. 421/2014" means Regulation (EU) No 421/2014 of the European Parliament and of the Council of 16 April 2014 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in view of the implementation by 2020 of an international agreement applying a single global market-based measure to international aviation emissions;".

4. Regulation 3 of the principal regulations shall be substituted by the following:

Substitutes regulation 3 of the principal regulations.

"3. These regulations shall apply to:

(a) aircraft operators performing aviation activities listed in Schedule 1, resulting in emissions of greenhouse gases specified in respect of those activities, and:

(i) who have a valid operating licence granted by Malta in accordance with the provisions of Regulation (EC) No. 1008/2008; or

(ii) for whom Malta, being the Member State with the greatest estimated attributed aviation emissions from aviation activities as listed in Schedule 1 performed in the base year by those aircraft operators, has been designated as the administering Member State either in Regulation (EC) No 748/2009, or by means of any measure taken by the Commission pursuant to Directive 2003/

87/EC or by the Authority in terms of these regulations; and

(b) to any other relevant legal bodies on which these regulations put any obligation."

Amends
regulation 20 of
the principal
regulations.

5. Immediately after sub-regulation (3) of regulation 20, there shall be added the following new sub-regulation:

"(4) The Authority for Transport in Malta shall ensure that a decision adopted by the Commission pursuant to Directive 2003/87/EC to impose an operating ban on an aircraft operator is enforced within the territory of Malta. The Minister responsible for aviation shall inform the Commission of any measures taken to enforce such a decision."

Adds new
regulation to the
principal
regulation.

6. Immediately after regulation 24 of the principal regulations, there shall be added the following new regulation:

"Derogations.

24A. (1) Without prejudice to the generality of these regulations and by way of derogation from regulations 12, 13, 14, 15 and 16, the Authority shall consider the requirements set out in those regulations to be satisfied and shall not take action against aircraft operators in respect of:

(a) all emissions from flights to and from aerodromes located in countries outside the European Economic Area in each calendar year from 1st January, 2013 to 31st December, 2016;

(b) all emissions from flights between an aerodrome located in an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union and an aerodrome located in another region of the European Economic Area in each calendar year from 1st January, 2013 to 31st December, 2016;

(c) the surrender of allowances, corresponding to verified 2013 emissions from flights between aerodromes located in Member States, taking place by the 30th April, 2015 instead of 30th April, 2014, and verified 2013 emissions for those flights being reported by 31st March, 2015 instead of 31st March, 2014.

(2) For the purposes of regulations 12, 13, 14, 15, 16 and 17, the verified emissions from flights other than those referred to in sub-regulation (1) shall be considered to be the verified emissions of the aircraft operator.

(3) By way of derogation from regulation 5 and sub-regulation (1) of regulation 11, an aircraft operator benefitting from the derogations provided for in paragraphs (a) and (b) of sub-regulation (1), shall be issued a number of free allowances reduced in proportion to the reduction of the surrender obligation provided for in those paragraphs.

(4) For aviation activities performed in the period 1st January, 2013 to 31st December 2016, the Authority shall publish the number of free Chapter II allowances allocated to each aircraft operator by 1st September, 2014.

(5) By way of derogation from sub-regulation (1) of regulation 12, an aircraft operator shall not be required to submit a monitoring plan in respect of flights which are subject to the derogations provided for in paragraphs (a) and (b) of sub-regulation (1).".

7. Schedule 1 to the principal regulations shall be amended as follows:

Amends
Schedule 1 to
the principal
regulations.

(a) in item (j) thereof, the words "10,000 tonnes per year." shall be substituted by the words "10,000 tonnes per year;"

(b) immediately after item (j) thereof as amended, there shall be added the following new item:

"(k) from 1st January 2013 to 31st December, 2020, flights which, but for this item, 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.".

