

L.N. 73 of 2006

**ENVIRONMENT PROTECTION ACT
(CAP. 435)**

**European Community Greenhouse Gas Emissions Trading
Scheme (Amendment) Regulations, 2006**

BY VIRTUE of the powers conferred by article 9 of the Environment Protection Act, the Minister for Rural Affairs and the Environment has made the following regulations:-

Citation and scope.

L.N. 140 of 2005.

1. (1) The title of these regulations is the European Community Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations, 2006 and they shall be read and construed as one with the European Community Greenhouse Gas Emissions Trading Scheme Regulations, 2005 hereinafter referred to as “the principal regulations”.

(2) These regulations provide for the transposition of Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol’s project mechanisms.

Amends regulation 2 of the principal regulations.

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

(a) immediately after the definition “allowance” there shall be inserted the following new definition:-

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

(b) immediately after the new definition “Annex I party” there shall be inserted the following new definition:-

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

(c) immediately after the definition “emissions” there shall be inserted the following new definitions:-

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

(d) immediately after the definition “operator” there shall be inserted the following new definition :-

“ “ project activity” means a project activity approved by one or more Annex I parties in accordance with Article 6 or Article 12 of the Kyoto Protocol and the decisions adopted pursuant to the UNFCCC or the Kyoto Protocol; ”.

3. Immediately after regulation 10 of the principal regulations, there shall be added the following new regulation:

Adds new regulation 10A to the principal regulations.

“Approval of and authorization of participation in project activities.

10A. (1) A person intending to participate in a project activity in Malta pursuant to Article 12 of the Kyoto Protocol, shall apply to the competent authority for approval of the proposed project activity.

(2) The competent authority may only approve the proposed project activity if the baseline used for determining the emissions reductions from the project activity fully complies with all legislation of the European Community, including the temporary derogations set out in the Treaty of Accession.

(3) The competent authority shall ensure that no CERs are issued for reductions or limitations of emissions of greenhouse gases from installations falling within the scope of these regulations except as provided for in sub-regulations (4) and (5) hereof.

(4) Until 31 December 2012, in the case of a project activity which reduces or limits directly emissions of an installation falling within the scope of these regulations, CERs may only be issued if an equal number of allowances is cancelled by the operator of that installation.

(5) Until 31 December 2012, in the case of a project activity which reduces or limits indirectly emissions of an installation falling within the scope of these regulations, CERs may be issued only if an equal number of allowances is cancelled from the national registry of the Member State of the CERs’ origin.

(6) When approving project activities related to hydroelectric power production with a generating capacity exceeding 20MW, the competent authority shall ensure that relevant international criteria and guidelines, including those contained in the World Commission on Dams November 2000 Report “Dams and Development – A New Framework for Decision-Making” will be respected during the development of such project activities.”.

Amends regulation 16 of the principal regulations.

4. For regulation 16 of the principal regulations there shall be substituted the following:

“Access to information.

L.N. 116 of 2005.

16. Decisions relating to the allocation of allowances, information on project activities in which the State participates or authorizes private or public entities to participate, and the reports of emissions required under the greenhouse gas emissions permit and held by the competent authority shall be made available to the public by the competent authority in accordance with the Freedom of Access to Information on the Environment Regulations, 2005, on public access to environmental information.”.

Amends Annex III to the principal regulations.

5. Immediately at the end of Annex III to the principal regulations there shall be added the following new item:

“12. The plan shall specify the maximum amount of CERs and ERUs which may be used by operators in the Community scheme as a percentage of the allocation of the allowances to each installation. The percentage shall be consistent with the State’s supplementarity obligations under the Kyoto Protocol and decisions adopted pursuant to the UNFCCC or the Kyoto Protocol.”.