
STATUTORY INSTRUMENTS

2020 No. 1265

The Greenhouse Gas Emissions Trading Scheme Order 2020

[^{F1}PART 4A

Free Allocation

CHAPTER 2

Aviation

[^{F1}Meaning of historical aviation activity level and attributable

34J.—(1) A person's historical aviation activity level is—

- (a) the number of tonne-kilometres of aviation activity performed by the person in 2010;
- (b) in the case of a person who fell within Article 3f(1)(a) of the Directive and made a successful special reserve application, the number of tonne-kilometres of aviation activity performed by the person in 2014; or
- (c) in the case of a person who fell within Article 3f(1)(b) of the Directive and made a successful special reserve application, the sum of—
 - (i) the number of tonne-kilometres of aviation activity performed by the person in 2010; and
 - (ii) the person's aviation activity ratio multiplied by the difference between [^{F2}the number of tonne-kilometres of Annex 1 activities performed by the person in 2014] and the person's threshold figure.

(2) In this article, a person's—

^{F3}
...

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...

[^{F4}“aviation activity ratio” means the number of tonne-kilometres of aviation activity performed by the person in 2014 divided by the number of tonne-kilometres of Annex 1 activities performed by the person in 2014;]

“threshold figure” means the number of tonne-kilometres of Annex 1 activities performed by the person in 2010 multiplied by 1.93877776.

(3) A tonne-kilometre of aviation activity or Annex 1 activities performed by a person in 2014 is not to be counted in a total for the purposes of this article if it would have been excluded by the words following point (b) in Article 3f(1) of the Directive (exclusion where activity a continuation of activity performed by another) from forming the basis of an application for free allocation of allowances under the EU ETS.

(4) A person's historical aviation activity level is “attributable” to a person (“A”) for the purposes of this Chapter if and to the extent that—

Changes to legislation: The Greenhouse Gas Emissions Trading Scheme Order 2020, Section 34J is up to date with all changes known to be in force on or before 21 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) there has been no business reorganisation affecting aviation activity relevant to the historical aviation activity level and A is the person who performed that aviation activity; or
- (b) there has been a business reorganisation affecting aviation activity relevant to the historical aviation activity level and in relation to that aviation activity A is the relevant transferee.]

- F1** Pt. 4A inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **18**
- F2** Words in art. 34J(1)(c)(ii) substituted (7.2.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, **15(2)**
- F3** Words in art. 34J(2) omitted (7.2.2022) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, **15(3)(a)**
- F4** Words in art. 34J(2) substituted (7.2.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, **15(3)(b)**

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- art. 4A(4)(aa) inserted by [S.I. 2024/192 art. 5\(2\)\(c\)](#)
- art. 4A(5)(g) inserted by [S.I. 2024/192 art. 5\(3\)](#)