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STATUTORY INSTRUMENTS

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**2020 No. 1265**

**The Greenhouse Gas Emissions Trading Scheme Order 2020**

**[<sup>F1</sup>PART 4A**

Free Allocation

CHAPTER 2

Aviation

**[<sup>F1</sup>Processing of applications and calculation of aviation free allocation entitlement**

**34M.**—(1) Where an application is made in accordance with article 34L, the regulator must submit to the UK ETS authority—

(a) the application and any related information the regulator holds; and

[ a calculation of the applicant's aviation free allocation—

<sup>F2</sup>(b) (i) for each scheme year in the 2021-2025 allocation period, or

(ii) where the application is made in accordance with article 34L(7), for the 2023, 2024 and 2025 scheme years in that allocation period,

applying paragraphs (2) to (6);]

(2) The number of allowances that make up an applicant's aviation free allocation entitlement for each scheme year in the 2021-2025 allocation period is 0.000642186914222035 multiplied by the applicant's historical aviation activity figure multiplied by the reduction factor for the scheme year.

(3) The applicant's "historical aviation activity figure" is the sum of all persons' historical aviation activity levels that are—

(a) attributable to the applicant immediately before 1st January 2021 [<sup>F3</sup>in relation to flights departing from Great Britain and arriving in an aerodrome in Switzerland before that date]; and

(b) relied on for the purposes of the application.

(4) In determining whether and to what extent a person's historical aviation activity level is attributable to the applicant, it is permissible to have regard to whether the person's historical aviation activity level is relied on for the purposes of any other application under article 34L and, if so, to the information included in that application.

(5) For the purpose of this article, the reduction factor for a scheme year set out in column 1 of table B1 is the value set out in the corresponding entry in column 2.

**Table B1**

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| <i>Column 1 Scheme year</i> | <i>Column 2 Reduction factor</i> |
|-----------------------------|----------------------------------|
| 2021                        | 0.978                            |

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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Greenhouse Gas Emissions Trading Scheme Order 2020. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

|      |       |
|------|-------|
| 2022 | 0.956 |
| 2023 | 0.934 |
| 2024 | 0.912 |
| 2025 | 0.89  |

(6) The result of each calculation referred to in paragraph (2) must be expressed as the nearest integer, taking 0.5 as nearest to the previous integer.

[  
<sup>F4</sup>(6A) The regulator must recalculate the aviation free allocation entitlement for the 2023, 2024 and 2025 scheme years in relation to each person who had made an application under article 34L (“A”) before article 34L(7) came into force, to take into account any historical aviation activity level attributable to A due to aviation activity within paragraph 1(1)(c) of Schedule 1 immediately before 1st January 2021.

(6B) The regulator may, by notice submitted to A, request A to produce such information specified in the notice, within the reasonable period so specified, as may be necessary to enable the regulator to make the recalculation required under paragraph (6A).

(6C) The regulator must, as soon as reasonably practicable and in any event before 30th June 2023, submit the recalculation made under paragraph (6A) to the UK ETS authority, with—

- (a) sufficient information to identify A; and
- (b) any other information related to the recalculation which the regulator holds.

(6D) Paragraph (6C) does not apply if A fails, without reasonable excuse, to provide any information requested under paragraph (6B) within the period specified in the notice, or such later period as may be agreed with the regulator.]

(7) The UK ETS authority must—

- (a) approve the applicant's aviation free allocation entitlement [<sup>F5</sup>or an increase in that entitlement following recalculation under paragraph (6A)], making any corrections to the calculation referred to in paragraph (1)(b) [<sup>F6</sup>or the recalculation referred to in paragraph (6A)] that the UK ETS authority considers appropriate;
- (b) inform the regulator accordingly.]

#### Textual Amendments

- 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** Art. 34M(1)(b) substituted (E.W.S.) (15.12.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 3\) Order 2022 \(S.I. 2022/1336\)](#), arts. 1(2)(b), **4(2)(a)**
- F3** Words in art. 34M(3)(a) inserted (E.W.S.) (15.12.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 3\) Order 2022 \(S.I. 2022/1336\)](#), arts. 1(2)(b), **4(2)(b)**
- F4** Art. 34M(6A)-(6D) inserted (E.W.S.) (15.12.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 3\) Order 2022 \(S.I. 2022/1336\)](#), arts. 1(2)(b), **4(2)(c)**
- F5** Words in art. 34M(7)(a) inserted (E.W.S.) (15.12.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 3\) Order 2022 \(S.I. 2022/1336\)](#), arts. 1(2)(b), **4(2)(d)(i)**
- F6** Words in art. 34M(7)(a) inserted (E.W.S.) (15.12.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 3\) Order 2022 \(S.I. 2022/1336\)](#), arts. 1(2)(b), **4(2)(d)(ii)**

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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\(3\)](#)