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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>Transfers of aviation free allocation entitlement**

**34Q.**—(1) This article applies where a person with an aviation free allocation entitlement has been subject to a business reorganisation affecting aviation activity that was relevant to the approval of the UK ETS authority under article 34M.

(2) The relevant transferee in relation to the aviation activity may apply to the regulator for a transfer of some or all the transferor's aviation free allocation entitlement.

(3) An application under paragraph (2) must—

- (a) include evidence of the business reorganisation;
- (b) identify what part of the aviation free allocation entitlement (expressed as a whole number of allowances) should be transferred to the applicant, justified by reference to the business reorganisation;
- (c) include confirmation that each person who is a transferor or transferee in relation to aviation activity affected by the business reorganisation is aware of the application.

(4) Where an application is made in accordance with paragraph (3), the regulator must submit to the UK ETS authority—

- (a) the application and any related information the regulator holds; and
- (b) a calculation as to what part of the entitlement to free allocation (expressed as a whole number of allowances) should be transferred to the applicant, applying paragraphs (5) and (6).

(5) The aviation free allocation entitlement to be transferred is what would have been the transferee's aviation free allocation entitlement under article 34M in respect of aviation activity affected by the business reorganisation had the business reorganisation taken place before 1st January 2021, except that—

- (a) for each complete scheme year before the business reorganisation took place, the aviation free allocation entitlement to be transferred is zero;
- (b) for the scheme year in which the business reorganisation took place, what would have been the transferee's aviation free allocation entitlement is to be calculated as if article 34M(6) did not apply, then adjusted on a pro rata basis according to when the business reorganisation took place, with the result expressed as the nearest integer, taking 0.5 as nearest to the previous integer.

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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*

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(6) In determining what part of the entitlement to free allocation should be transferred to the applicant, it is permissible to have regard to any application under this article and any representations made by a person who, in relation to aviation activity affected by the business reorganisation, is a transferor or transferee.

(7) The UK ETS authority must—

- (a) approve the transfer of some or all of the transferor's free allocation entitlement to the transferee with effect from a specified date, making any corrections to the calculation referred to in paragraph (4)(b) that the UK ETS authority considers appropriate; and
- (b) inform the regulator accordingly.

(8) The regulator must give notice to the applicant, and any person who has made representations for the purposes of paragraph (6), of the outcome of the application.]

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**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**

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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\(3\)](#)