
STATUTORY INSTRUMENTS

2020 No. 1265

The Greenhouse Gas Emissions Trading Scheme Order 2020

PART 6

Monitoring compliance

Powers of entry, etc.

- 40.**—(1) The regulator or an authorised person may—
- (a) enter any premises with a warrant issued in accordance with article 41, together with any equipment or material as may be required;
 - (b) when entering premises by virtue of sub-paragraph (a)—
 - (i) be accompanied by an authorised person and, if considered appropriate, a constable;
 - (ii) direct that any part of the premises be left undisturbed for so long as may be necessary;
 - (c) require any person believed to be able to give information relevant to an examination or investigation—
 - (i) to attend at a place and time specified by the regulator or authorised person;
 - (ii) to answer questions (in the absence of any person other than those whom the regulator or authorised person allows to be present and a person nominated by the person being asked questions);
 - (iii) to sign a declaration of truth of the answers given by that person;
 - (d) require the production of—
 - (i) records required to be kept under this Order [^{F1} the Monitoring and Reporting Regulation 2018, the Verification Regulation 2018, the Free Allocation Regulation or the Activity Level Changes Regulation];
 - (ii) other records which the regulator or authorised person considers it necessary to see for the purpose of an examination or investigation;
 - (iii) entries in a record referred to in this sub-paragraph;
 - (e) inspect and take copies of the records and entries referred to in sub-paragraph (d).
- (2) The powers in paragraph (1) may only be exercised where the regulator or an authorised person reasonably believes there has been a failure to comply with the requirements of this Order [^{F2} the Monitoring and Reporting Regulation 2018, the Verification Regulation 2018, the Free Allocation Regulation or the Activity Level Changes Regulation].
- (3) Except to the extent agreed by the person in control of a place or premises, the powers referred to in paragraph (1) do not apply in relation to—
- (a) a prohibited place [^{F3} within the meaning of Part 1 of the National Security Act 2023]; or
 - (b) any other premises to which the Crown restricts access on the ground of national security.

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- (4) It is an offence for a person—
- (a) to fail to comply with a requirement imposed pursuant to this article; ^{F4}...
 - (b) to prevent any other person from—
 - (i) appearing before the regulator or an authorised person; or
 - (ii) answering a question to which the regulator or authorised person requires an ^{F5}answer; or]
 - ^{F6}(c) intentionally to obstruct the regulator, or an authorised person, in the exercise of a power referred to in paragraph (1).]
- (5) A person guilty of an offence under paragraph (4) is liable—
- (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or in Northern Ireland, to a fine not exceeding the statutory maximum;
 - (c) on conviction on indictment, to a fine.

Textual Amendments

- F1** Words in art. 40(1)(d)(i) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **23(2)**
- F2** Words in art. 40(2) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **23(3)**
- F3** Words in art. 40(3)(a) substituted (20.12.2023) by [The National Security Act 2023 \(Consequential Amendments of Subordinate Legislation\) Regulations 2023 \(S.I. 2023/1267\)](#), reg. 1(2), **Sch. para. 59**
- F4** Word in art. 40(4)(a) omitted (14.4.2022) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2022 \(S.I. 2022/454\)](#), arts. 2, **6(2)(a)**
- F5** Words in art. 40(4)(b)(ii) substituted (14.4.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2022 \(S.I. 2022/454\)](#), arts. 2, **6(2)(b)**
- F6** Art. 40(4)(c) inserted (14.4.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2022 \(S.I. 2022/454\)](#), arts. 2, **6(2)(c)**
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Commencement Information

- I1** Art. 40 in force at 12.11.2020, see [art. 2\(1\)](#)

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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\(3\)](#)