

## STATUTORY INSTRUMENTS

# 2020 No. 1265

## The Greenhouse Gas Emissions Trading Scheme Order 2020

### PART 1

#### Preliminary

#### Citation

1. This Order may be cited as the Greenhouse Gas Emissions Trading Scheme Order 2020.

#### Commencement Information

- I1** Art. 1 in force at 12.11.2020, see art. 2(1)

#### Commencement

2.—(1) Except as provided by paragraph (2), this Order comes into force on the day after the day on which it is made.

(2) Article 25, Schedule 5 and paragraph 4 of Schedule 8 come into force—

- (a) on the day after the day on which this Order is made; or
- (b) immediately after IP completion day,

whichever is later.

#### Commencement Information

- I2** Art. 2 in force at 12.11.2020, see art. 2(1)

#### Extent

3. This Order extends to the whole of the United Kingdom.

#### Commencement Information

- I3** Art. 3 in force at 12.11.2020, see art. 2(1)

#### Interpretation

4.—(1) In this Order—

“2021-2025 allocation period” means the 2021, 2022, 2023, 2024 and 2025 scheme years;

“2026-2030 allocation period” means the 2026, 2027, 2028, 2029 and 2030 scheme years;

[<sup>F1</sup>“ account ” means account in the registry;

“Activity Level Changes Regulation” means Commission Implementing Regulation (EU) 2019/1842 of 31 October 2019, as it forms part of domestic law;]

“aerodrome” means a defined area (including any buildings, installations and equipment) on land or water or on a fixed, fixed offshore or floating structure to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

“aircraft operator” has the meaning given in article 6;

[<sup>F2</sup>“ aircraft operator holding account ” means an aircraft operator holding account opened under paragraph 13(3) of Schedule 5A;]

“allocation period” means—

(a) the 2021-2025 allocation period; or

(b) the 2026-2030 allocation period;

[<sup>F3</sup>“ allocation table ” means an allocation table for the 2021-2025 allocation period or the 2026-2030 allocation period referred to in article 34A;]

“allowance” means an allowance created under this Order (see article 18);

“aviation activity” means an activity set out in paragraph 1 of Schedule 1;

[<sup>F4</sup>“ aviation allocation table ” means the aviation allocation table for the 2021-2025 allocation period referred to in article 34N;]

“aviation emissions” means emissions of carbon dioxide arising from an aviation activity;

“carbon price”, in relation to a scheme year, has the meaning given in article 46;

“CCA 2008” means the Climate Change Act 2008;

[<sup>F5</sup>“ central account ” has the meaning given in paragraph 9(2) of Schedule 5A;]

“the Chicago Convention” means the Convention on International Civil Aviation which was, on 7th December 1944, signed on behalf of the Government of the United Kingdom at the International Civil Aviation Conference held at Chicago <sup>M1</sup>;

“chief inspector” means the chief inspector constituted under regulation 8(3) of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 <sup>M2</sup>;

“commercial air transport operator” means a person that, for remuneration, provides scheduled or non-scheduled air transport services to the public for the carriage of passengers, freight or mail and holds an air operator certificate (AOC) or equivalent document as required by Part I of Annex 6 to the Chicago Convention;

“Directive” means Directive [2003/87/EC](#) of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive [96/61/EC](#) <sup>M3</sup>;

“emission factor” has the same meaning as in the Monitoring and Reporting Regulation 2018;

“emissions monitoring plan” has the meaning given in article 28(1);

“EU ETS” means the system for greenhouse gas emission allowance trading established by the Directive;

“Eurocontrol” has the meaning given in section 24 of the Civil Aviation Act 1982 <sup>M4</sup>;

“excluded flights” means flights set out in paragraph 2 of Schedule 1;

[<sup>F6</sup>“ FA installation”, “FA installation for the 2021-2025 allocation period” and “FA installation for the 2026-2030 allocation period” must be construed in accordance with article 4A;]

“flight” means one flight sector that is a flight or one of a series of flights which commences at a parking place of the aircraft and terminates at a parking place of the aircraft;

[<sup>F7</sup>“free allocation” means the allocation of allowances free of charge under Part 4A;

“free allocation conditions” means the conditions referred to in paragraph 4(6) of Schedule 6;

“Free Allocation Regulation” means Commission Delegated Regulation (EU) 2019/331 of 19 December 2018, as it forms part of domestic law;]

“full-scope flights” means flights departing from, or arriving in, an aerodrome situated in the United Kingdom, Gibraltar [<sup>F8</sup>, Switzerland] or an EEA state, other than excluded flights;

“GGETSR 2012” means the Greenhouse Gas Emissions Trading Scheme Regulations 2012 <sup>M5</sup>;

“GGETSR emissions plan” means an emissions plan as defined in regulation 20 of the GGETSR 2012;

“greenhouse gas emissions permit” means a greenhouse gas emissions permit—

(a) issued under paragraph 3 or 9 of Schedule 6; or

(b) converted under paragraph 24 or 26 of Schedule 7 or paragraph 1(4) of Schedule 11;

“hospital and small emitter list for 2021-2025” has the meaning given in paragraph 3(2) of Schedule 7;

“hospital and small emitter list for 2026-2030” has the meaning given in paragraph 5(4)(b) of Schedule 7;

“hospital or small emitter” must be construed in accordance with paragraphs 3 and 4 of Schedule 7;

“hospital or small emitter permit” means a hospital or small emitter permit—

(a) issued under paragraph 9 of Schedule 7; or

(b) converted under paragraph 10 of Schedule 7 or paragraph 1(3) of Schedule 11;

“installation” must be construed in accordance with Schedule 2;

“monitoring and reporting conditions” means—

(a) in relation to a greenhouse gas emissions permit, the conditions referred to in paragraph 4(2) of Schedule 6;

(b) in relation to a hospital or small emitter permit, the conditions referred to in paragraph 11(2) of Schedule 7;

“Monitoring and Reporting Regulation 2012” means Commission Regulation (EU) No. 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council <sup>M6</sup>;

“Monitoring and Reporting Regulation 2018” means Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council [<sup>F9</sup>(disregarding any amendments adopted after 11th November 2020) and, except in article 24 and Schedule 4, it means that Regulation]<sup>M7</sup> as given effect subject to modifications by article 24;

“non-commercial air transport operator” means a person who operates flights and is not a commercial air transport operator;

“NRW” means the Natural Resources Body for Wales <sup>M8</sup>;

“operator”, in relation to an installation, has the meaning given in article 5;

[<sup>F10</sup>“operator holding account” means an operator holding account for an installation opened under paragraph 11(4) or 12(3) of Schedule 5A;]

“outermost region” means—

- (a) the Canary Islands;
- (b) French Guiana;
- (c) Guadeloupe;
- (d) Mayotte;
- (e) Martinique;
- (f) Réunion;
- (g) Saint-Martin;
- (h) the Azores; or
- (i) Madeira;

“permit” means—

- (a) a greenhouse gas emissions permit; or
- (b) a hospital or small emitter permit,

and a reference to a permit includes the monitoring plan (see paragraph 4(1)(f) of Schedule 6 and paragraph 11(1)(g) of Schedule 7) [<sup>F11</sup>and, in the case of a greenhouse gas emissions permit, any monitoring methodology plan (see paragraph 4(1)(hb) and (7) of Schedule 6)];

[<sup>F12</sup>“registry ” has the meaning given in paragraph 5(1) of Schedule 5A;

“registry administrator” has the meaning given in article 8A;]

“regulated activity” has the meaning given in paragraph 3(1) of Schedule 2;

“regulator” must be construed in accordance with articles 9 to 13;

“relevant Northern Ireland electricity generator” means an installation within the meaning of GGETSR 2012 to which those Regulations continue to apply to regulate the carrying out of regulated activities at the installation on or after 1st January 2021;

“reportable emissions”, in relation to an installation, means the total specified emissions (in tonnes of carbon dioxide equivalent <sup>M9</sup>) from the regulated activities carried out at the installation;

“scheme year” means the calendar year beginning on 1st January 2021 or any of the 9 subsequent calendar years; and a reference to a scheme year described by a calendar year (for example, the “2021 scheme year”) is a reference to the scheme year beginning on 1st January of that year;

“SEPA” means the Scottish Environment Protection Agency <sup>M10</sup>;

“specified emissions” has the meaning given in paragraph 3(7) of Schedule 2;

“surrender”, in relation to an allowance, means use the allowance to account for reportable emissions or aviation emissions in a particular scheme year [<sup>F13</sup>in accordance with article 27 or 34];

“surrender condition” has the meaning given in paragraph 4(3) of Schedule 6;

“trading period” means the period beginning on 1st January 2021 and ending on 31st December 2030;

“UK coastal waters” has the meaning given in section 89(2) of CCA 2008;

“UK ETS” has the meaning given in article 16(1);

“UK ETS authority” has the meaning given in article 14;  
“UK sector of the continental shelf” has the meaning given in section 89(2) of CCA 2008;  
“ultra-small emitter” must be construed in accordance with paragraph 2 of Schedule 8;  
“ultra-small emitter list for 2021-2025” has the meaning given in paragraph 2(2) of Schedule 8;  
“ultra-small emitter list for 2026-2030” has the meaning given in paragraph 3(5) of Schedule 8;  
“Verification Regulation 2012” means Commission Regulation (EU) No 600/2012 of 21 June 2012 on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council <sup>M11</sup>;  
“Verification Regulation 2018” means Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council [<sup>F14</sup>(disregarding any amendments adopted after 11th November 2020) and, except in article 25 and Schedule 5, it means that Regulation as given effect subject to modifications by article 25]<sup>M12</sup>.

[<sup>F15</sup>“ verification report ” has the same meaning as in the Verification Regulation 2018.]

(2) For the purposes of this Order, the amount of an installation's reportable emissions (including reportable emissions within the meaning of GGETSR 2012) from biomass must be treated as zero where the emission factor of the biomass under the Monitoring and Reporting Regulation 2012 or the Monitoring and Reporting Regulation 2018 is zero.

[<sup>F16</sup>(2A) For the purposes of this Order, the amount of an aircraft operator's aviation emissions from biofuel must be treated as zero where the emission factor of the biofuel under the Monitoring and Reporting Regulation 2018 is zero.]

(3) For the purposes of this Order, an installation has ceased operation if—

- (a) a regulated activity is no longer being carried out at the installation; and
- (b) it is technically impossible to resume operation.

(4) For the purposes of this Order, the question of whether any waters are adjacent to Northern Ireland, Scotland or Wales must be determined in accordance with—

- (a) any Order in Council made under section 98(8) of the Northern Ireland Act 1998 <sup>M13</sup>;
- (b) any Order in Council made under section 126(2) of the Scotland Act 1998 <sup>M14</sup>;
- (c) any Order in Council made under sections 58 and 158(4), or order made under section 158(3), of the Government of Wales Act 2006 <sup>M15</sup>.

**F1** Words in art. 4(1) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **5(2)(a)**

**F2** Words in art. 4(1) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **5(2)(b)**

**F3** Words in art. 4(1) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **5(2)(c)**

**F4** Words in art. 4(1) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **5(2)(d)**

**F5** Words in art. 4(1) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **5(2)(e)**

**F6** Words in art. 4(1) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **5(2)(f)**

**F7** Words in art. 4(1) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **5(2)(g)**

- F8** Word in art. 4(1) inserted (E.W.S.) (1.1.2023) by The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 3) Order 2022 (S.I. 2022/1336), arts. 1(2)(a), **3**
- F9** Words in art. 4(1) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), arts. 2(1), **5(2)(h)**
- F10** Words in art. 4(1) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), arts. 2(1), **5(2)(i)**
- F11** Words in art. 4(1) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), arts. 2(1), **5(2)(j)**
- F12** Words in art. 4(1) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), arts. 2(1), **5(2)(k)**
- F13** Words in art. 4(1) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), arts. 2(1), **5(2)(l)**
- F14** Words in art. 4(1) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), arts. 2(1), **5(2)(m)**
- F15** Words in art. 4(1) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), arts. 2(1), **5(2)(n)**
- F16** Art. 4(2A) inserted (7.2.2022) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2021 (S.I. 2021/1455), arts. 2, **5(2)**

#### Commencement Information

- I4** Art. 4 in force at 12.11.2020, see art. 2(1)

#### Marginal Citations

- M1** Treaty Series No. 8 (1953); Cmd 8742.
- M2** S.R. 2013 No. 160.
- M3** OJ No. L 275, 25.10.2003, p. 32.
- M4** 1982 c. 16. Section 24 was amended by section 3(1) of the Civil Aviation (Eurocontrol) Act 1983 (c. 11).
- M5** S.I. 2012/3038, to which there are amendments not relevant to this Order.
- M6** OJ No. L 181, 12.7.2012, p. 30.
- M7** OJ No. L 334, 31.12.2018, p. 1.
- M8** The Natural Resources Body for Wales was established by article 3 of S.I. 2012/1903 (W.230).
- M9** Section 93(2) of the Climate Change Act 2008 defines “tonne of carbon dioxide equivalent”.
- M10** The Scottish Environment Protection Agency was established by section 20 of the Environment Act 1995 (c. 25).
- M11** OJ No. L 181, 12.7.2012, p. 1.
- M12** Commission Implementing Regulation (EU) 2018/2067 is amended prospectively by S.I. 2019/916 with effect from IP completion day and is further amended by this Order.
- M13** 1998 c. 47.
- M14** 1998 c. 46.
- M15** 2006 c. 32. Section 58 was amended by paragraph 6(3) of Schedule 4 to the Marine and Coastal Access Act 2009 (c. 23) and sections 21(1) and 49 of the Wales Act 2017 (c. 4). Section 158(3) was substituted by section 43(3) of the Marine and Coastal Access Act 2009.

#### [<sup>F17</sup>Meaning of FA installation, etc.

**4A.**—(1) For the purposes of this Order, an installation is an “FA installation” if the installation is—

- (a) an FA installation for the 2021-2025 allocation period; or
- (b) an FA installation for the 2026-2030 allocation period.

(2) For the purposes of this Order, an installation is an FA installation for the 2021-2025 allocation period from—

- (a) the date of publication of the allocation table for the 2021-2025 allocation period (including an updated allocation table) that first includes an entry for the installation; or
- (b) if earlier, the date on which the regulator gives notice of the final annual amount of allowances to be allocated in respect of the installation for any scheme year in the 2021-2025 allocation period under—
  - (i) article 34H(7) (installations: errors in applications for free allocation, etc.);
  - [ paragraph 4(7) of Schedule 8A (former hospital or small emitters or ultra-small<sup>F18</sup>(ia) emitters);]
  - (ii) Article 18a(9) of the Free Allocation Regulation (new entrants);
  - (iii) Article 25(9) of that Regulation (mergers and splits).

(3) An installation ceases to be an FA installation for the 2021-2025 allocation period at the earliest of—

- (a) the end of the 2025 scheme year;
- (b) if the operator of the installation gives a renunciation notice under Article 24 of the Free Allocation Regulation in respect of the installation as a whole, the end of the scheme year in which the renunciation notice is given;
- (c) the date on which, following the partial transfer under paragraph 9 of Schedule 6 of the greenhouse gas emissions permit of an installation that is an FA installation, the regulator gives notice to the transferring operator (within the meaning of that paragraph) under Article 25(9)(b) of the Free Allocation Regulation that the installation is not an FA installation for the 2021-2025 allocation period;
- (d) if the installation's permit is surrendered under paragraph 11(1) of Schedule 6 or revoked under paragraph 12(1) of that Schedule, the end of the scheme year in which the installation ceases operation;
- (e) if the installation's permit is surrendered under paragraph 11(2) of Schedule 6 or revoked under paragraph 12(3) of that Schedule, the end of the scheme year in which the surrender or revocation takes effect;
- (f) the date on which, following the inclusion of an entry for the installation in the allocation table for the 2021-2025 allocation period in error, the regulator gives notice to the operator under article 34H(7)(c) that the installation is not an FA installation for the 2021-2025 allocation period.

(4) For the purposes of this Order, an installation is an FA installation for the 2026-2030 allocation period from—

- (a) the date of publication of the allocation table for the 2026-2030 allocation period (including an updated allocation table) that first includes an entry for the installation; or
- (b) if earlier, the date on which the regulator gives notice of the final annual amount of allowances to be allocated in respect of the installation for any scheme year in the 2026-2030 allocation period under—
  - (i) article 34H(7) (installations: errors in applications for free allocation, etc.);
  - [ paragraph 4(7) of Schedule 8A (former hospital or small emitters or ultra-small<sup>F19</sup>(ia) emitters);]
  - (ii) Article 18a(9) of the Free Allocation Regulation (new entrants);
  - (iii) Article 25(9) of that Regulation (mergers and splits).

- (5) An installation ceases to be an FA installation for the 2026-2030 allocation period at the earliest of—
- (a) the end of the 2030 scheme year;
  - (b) if the operator of the installation gives a renunciation notice under Article 24 of the Free Allocation Regulation on or after 1st January 2025 in respect of the installation as a whole, the end of the scheme year in which the renunciation notice is given;
  - (c) the date on which, following the partial transfer under paragraph 9 of Schedule 6 of the greenhouse gas emissions permit of an installation that is a FA installation, the regulator gives notice to the transferring operator (within the meaning of that paragraph) under Article 25(9)(b) of the Free Allocation Regulation that the installation is not an FA installation for the 2026-2030 allocation period;
  - (d) if the installation's permit is surrendered under paragraph 11(1) of Schedule 6 or revoked under paragraph 12(1) of that Schedule, the end of the scheme year in which the installation ceases operation;
  - (e) if the installation's permit is surrendered under paragraph 11(2) of Schedule 6 or revoked under paragraph 12(3) of that Schedule, the end of the scheme year in which the surrender or revocation takes effect;
  - (f) the date on which, following the inclusion of an entry for the installation in the allocation table for the 2026-2030 allocation period in error, the regulator gives notice to the operator under article 34H(7)(c) that the installation is not an FA installation for the 2026-2030 allocation period.]

- F17** Art. 4A inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **6**
- F18** Art. 4A(2)(b)(ia) inserted (7.2.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, **6(2)**
- F19** Art. 4A(4)(b)(ia) inserted (7.2.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, **6(3)**

### Meaning of operator

5.—(1) In this Order, the “operator” of an installation is the person who has control over its operation.

- (2) But where—
- (a) a regulated activity has not begun to be carried out at an installation, the operator of the installation is the person who will have control over its operation when a regulated activity is carried out at the installation;
  - (b) a regulated activity is no longer carried out at an installation, the operator of the installation is the person who holds the permit for the installation or, if no permit authorises a regulated activity to be carried out at the installation, the person who had control over its operation immediately before regulated activities ceased to be carried out at the installation;
  - (c) the holder of a permit for an installation ceases to have control over its operation, the operator of the installation is the permit holder.

### Commencement Information

- I5** Art. 5 in force at 12.11.2020, see art. 2(1)



### Meaning of aircraft operator

6.—(1) In this Order, a person is an aircraft operator in relation to a scheme year, where in respect of that year that person—

- (a) performs an aviation activity; and
- (b) is not exempt under article 7 or 8.

(2) For the purposes of paragraph (1)(a), an aviation activity is performed by the person who operates the aircraft at the time of the flight, or where that person is not known, the owner of that aircraft is deemed to be the person that performed the aviation activity.

#### Commencement Information

**I6** Art. 6 in force at 12.11.2020, see art. 2(1)

### Exempt commercial air transport operators

7.—(1) A commercial air transport operator is not an aircraft operator for the purposes of this Order in relation to a scheme year, where in respect of that year it operates—

- (a) less than 243 full-scope flights per period for 3 consecutive 4-month periods; or
- (b) full-scope flights with total annual emissions of less than 10,000 tonnes of carbon dioxide.

(2) In this article, “4-month period” means any of the following periods—

- (a) January to April;
- (b) May to August;
- (c) September to December.

(3) For the purposes of this article, a full-scope flight is taken to have occurred in the 4-month period that included its local time of departure.

#### Commencement Information

**I7** Art. 7 in force at 12.11.2020, see art. 2(1)

### Exempt non-commercial air transport operators

8. A non-commercial air transport operator is not an aircraft operator for the purposes of this Order in relation to a scheme year, where in respect of that year it operates full-scope flights with total annual emissions of less than 1,000 tonnes of carbon dioxide.

#### Commencement Information

**I8** Art. 8 in force at 12.11.2020, see art. 2(1)

### [<sup>F20</sup>Meaning of registry administrator

8A.—(1) A reference in this Order to the “registry administrator” is a reference to—

- (a) the chief inspector;
- (b) the Environment Agency;
- (c) NRW;

- (d) the Secretary of State; and
- (e) SEPA.

(2) Functions conferred or imposed by this Order on the “registry administrator” may be exercised—

- (a) by all of the persons referred to in paragraph (1) jointly; or
- (b) by one of the persons referred to in paragraph (1) (or by more than one of the persons referred to in paragraph (1) jointly) on behalf of the other persons referred to in paragraph (1) with their agreement.]

**F20** Art. 8A inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), 7

### Meaning of regulator

9.—(1) Each of the following is a “regulator” for the purposes of this Order—

- (a) the chief inspector;
- (b) the Environment Agency <sup>M16</sup>;
- (c) NRW;
- (d) the Secretary of State;
- (e) SEPA.

(2) In this Order, “regulator” means—

- (a) in relation to an installation, the regulator determined in accordance with article 10;
- (b) in relation to an aircraft operator, the regulator determined in accordance with articles 11 to 13.

[<sup>F21</sup>(2A) Articles 11 to 13 apply for the purpose of determining the regulator of a person other than an aircraft operator in relation to—

- (a) monitoring and reporting of the person's aviation emissions;
- (b) free allocation to the person under Chapter 2 of Part 4A (aviation free allocation);
- (c) the opening, operation or closure of the person's aircraft operator holding account,

as if references to “aircraft operator” were to the person.]

(3) Each regulator is an administrator of the UK ETS for the purposes of paragraph 21 of Schedule 2 to CCA 2008.

**F21** Art. 9(2A) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), 8(2)

### Commencement Information

**I9** Art. 9 in force at 12.11.2020, see art. 2(1)

### Marginal Citations

**M16** The Environment Agency was established by section 1 of the [Environment Act 1995 \(c. 25\)](#).

### Meaning of regulator: installations

10.—(1) This article applies for the purposes of article 9.

(2) The regulator, in relation to an installation set out in column 1 of table A, is the regulator set out in the corresponding entry in column 2.

**Table A**

<b>Column 1</b> <b>Installation</b>	<b>Column 2</b> <b>Regulator</b>
Installation in—	Environment Agency
(a) England;	
(b) the territorial sea adjacent to England, except where the installation is used for a purpose referred to in paragraph (3)	
Installation in—	Chief inspector
(a) Northern Ireland;	
(b) controlled waters adjacent to Northern Ireland;	
(c) the territorial sea (other than controlled waters) adjacent to Northern Ireland, except where the installation is used for a purpose referred to in paragraph (3)(a)	
Installation in—	SEPA
(a) Scotland;	
(b) controlled waters adjacent to Scotland;	
(c) the territorial sea (other than controlled waters) adjacent to Scotland, except where the installation is used for a purpose referred to in paragraph (3)(a)	
Installation in—	NRW
(a) Wales;	
(b) the territorial sea adjacent to Wales	
Installation in—	Secretary of State
(a) the territorial sea adjacent to England, where the installation is used for a purpose referred to in paragraph (3);	
(b) the territorial sea (other than controlled waters) adjacent to Northern Ireland and Scotland, where the installation is used for a purpose referred to in paragraph (3)(a);	
(c) the UK sector of the continental shelf	

(3) The purposes are—

- (a) a purpose connected with the exploration for, or exploitation of, petroleum (within the meaning of section 1 of the Petroleum Act 1998 <sup>M17</sup>);
- (b) a purpose connected with an activity referred to in section 2(3) of the Energy Act 2008 <sup>M18</sup> (unloading and storage of combustible gas);
- (c) a purpose connected with an activity referred to in section 17(2) of that Act (storage of carbon dioxide).

(4) In this article—

“controlled waters” means the part of the territorial sea that is between the landward limit of the territorial sea and the line that is 3 nautical miles seaward of the landward limit of the territorial sea;

“territorial sea” means the territorial sea of the United Kingdom;

“territorial sea adjacent to England” means the part of the territorial sea that is not adjacent to Northern Ireland, Scotland or Wales.

(5) In this article, a reference to England, Northern Ireland, Scotland or Wales includes a reference to waters adjacent to England or, as the case may be, Northern Ireland, Scotland or Wales that are landward of the landward limit of the territorial sea.

#### Commencement Information

**I10** Art. 10 in force at 12.11.2020, see art. 2(1)

#### Marginal Citations

**M17** 1998 c. 17.

**M18** 2008 c. 32.

### Meaning of regulator: aircraft operators

**11.**—(1) This article applies for the purposes of article 9.

(2) Subject to articles 12 and 13 the regulator of an aircraft operator is—

- (a) the Environment Agency, where the aircraft operator —
  - (i) has its registered office or place of residence in England; or
  - (ii) does not have a registered office or a place of residence in the United Kingdom;
- (b) NRW, where the aircraft operator has its registered office or place of residence in Wales;
- (c) SEPA, where the aircraft operator has its registered office or place of residence in Scotland;
- (d) the chief inspector, where the aircraft operator has its registered office or place of residence in Northern Ireland.

#### Commencement Information

**I11** Art. 11 in force at 12.11.2020, see art. 2(1)

### Aircraft operator: change in regulator

**12.**—(1) This paragraph applies where—

- (a) an aircraft operator (“A”) does not have a registered office or a place of residence in the United Kingdom;
- (b) “B” is the regulator of A; and
- (c) a different regulator (“C”) is satisfied that the highest percentage of aviation emissions of A in the 2023 and 2024 scheme years is attributable to flights departing from aerodromes situated in the area of C.

(2) Where paragraph (1) applies, on or before 30th June 2025, C must give notice to—

- (a) A;

- (b) B; and
- (c) the UK ETS authority,

that C is the regulator of A from the beginning of the 2026-2030 allocation period.

(3) A notice under paragraph (2) must be accompanied by evidence demonstrating that the highest percentage of aviation emissions of A in the 2023 and 2024 scheme years is attributable to flights departing from aerodromes situated in the area of C.

- (4) In this article, “area” in relation to a regulator, means—
  - (a) in respect of the Environment Agency, England;
  - (b) in respect of the NRW, Wales;
  - (c) in respect of the SEPA, Scotland;
  - (d) in respect of the chief inspector, Northern Ireland.

**Commencement Information**

**I12** Art. 12 in force at 12.11.2020, see art. 2(1)

**Aircraft operator: change in registered office**

13.—(1) Where—

- (a) an aircraft operator (“A”) with a registered office or a place of residence in the area of a regulator, in the course of the 2021-2025 allocation period, changes the address of its registered office or place of residence to the area of a different regulator (“R”); and
- (b) A's registered office or place of residence is in the area of R at the end of the 2021-2025 allocation period,

R is the regulator of A from the beginning of the 2026-2030 allocation period.

(2) Where—

- (a) an aircraft operator (“B”) which did not have a registered office or a place of residence in the United Kingdom at the beginning of the 2021-2025 allocation period acquires a registered office or a place of residence in the United Kingdom in the course of that period; and
- (b) at the end of the 2021-2025 allocation period that registered office or place of residence is in the area of a regulator (“S”) who is not the regulator of B in that allocation period,

S is the regulator of B from the beginning of the 2026-2030 allocation period.

(3) In this article “area” has the same meaning as in article 12.

**Commencement Information**

**I13** Art. 13 in force at 12.11.2020, see art. 2(1)

**Meaning of UK ETS authority, etc.**

14.—(1) A reference in this Order to the “UK ETS authority” is a reference to all of the national authorities<sup>M19</sup>.

(2) Functions conferred or imposed by this Order on the “UK ETS authority” may be exercised—

- (a) by all of the national authorities jointly; or

(b) by one of the national authorities (or by more than one of the national authorities jointly) on behalf of the other national authorities with their agreement.

(3) Where this Order provides for a person to do anything in relation to the “UK ETS authority” (for example, to give a notice to the UK ETS authority), it is sufficient for the person to do it in relation to any of the national authorities.

(4) Each national authority is an administrator of the UK ETS for the purposes of paragraph 21 of Schedule 2 to CCA 2008.

[<sup>F22</sup>(5) In this article, a reference to this Order includes a reference to the Monitoring and Reporting Regulation 2018, the Verification Regulation 2018, the Free Allocation Regulation and the Activity Level Changes Regulation.]

**F22** Art. 14(5) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **9(2)**

**Commencement Information**

**I14** Art. 14 in force at 12.11.2020, see art. 2(1)

**Marginal Citations**

**M19** Section 95(1) of the Climate Change Act 2008 defines “national authority”.

**Applications, notices, etc.**

**15.**—(1) Part 1 of Schedule 3 (which makes provision in relation to applications, notices and reports submitted to a regulator) has effect.

(2) Part 2 of Schedule 3 (which makes provision in relation to notices given by a regulator, a national authority or the UK ETS authority) has effect.

**Commencement Information**

**I15** Art. 15 in force at 12.11.2020, see art. 2(1)

**Changes to legislation:**

There are currently no known outstanding effects for the The Greenhouse Gas Emissions Trading Scheme Order 2020, PART 1.