
STATUTORY INSTRUMENTS

2020 No. 1265

The Greenhouse Gas Emissions Trading Scheme Order 2020

PART 5

Charging

Charges

35.—(1) The regulator [^{F1}or the registry administrator] may charge an applicant, operator, aircraft operator or any other person an amount as a means of recovering costs incurred by the regulator [^{F1}or the registry administrator] in performing activities in accordance with or by virtue of this Order.

(2) The activities referred to in paragraph (1) include—

- (a) giving advice in relation to an application under or by virtue of this Order or any other advice in relation to the operation of the UK ETS;
- (b) considering an application under or by virtue of this Order;
- (c) issuing, varying, transferring, cancelling, surrendering or revoking a permit;
- (d) issuing or varying an emissions monitoring plan;
- (e) giving any notice or other document provided for by or under this Order;
- (f) receiving any notice or other document provided for by or under this Order;
- (g) monitoring compliance with this Order;
- (h) making a determination of emissions or aviation emissions under article 45.

[^{F2}(i) estimating the value of a parameter under article 34H(4) of this Order or Article 3(4) of the Activity Level Changes Regulation;

(j) administering an account in the registry.]

(3) A charge under paragraph (1) may include an annual or other periodic charge to an operator or aircraft operator that does not relate to any specific activity.

(4) The regulator [^{F3}or the registry administrator] may apply different charges for different categories of person in relation to the same activity.

(5) Payment of a charge is not received until the regulator [^{F4}or, as the case may be, the registry administrator] has cleared funds for the full amount due and a charge, if unpaid, may be recovered by the regulator [^{F4}or, as the case may be, the registry administrator] as a civil debt.

(6) The regulator [^{F5}or the registry administrator] may require a charge to be paid before it carries out the activity to which the charge relates.

(7) If the regulator [^{F6}or the registry administrator] does not require a charge to be paid in accordance with paragraph (6), it is payable on demand.

(8) [^{F7}Neither the regulator nor the registry administrator is] required to reimburse a charge where—

- (a) an activity is not completed; or

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- (b) the person liable to pay the charge does not remain within the scheme for all of the period in relation to which the charge is payable or has been calculated.

[^{F8}(9) 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.]

Textual Amendments

- F1** Words in art. 35(1) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **19(2)**
- F2** Art. 35(2)(i)(j) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **19(3)**
- F3** Words in art. 35(4) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **19(4)**
- F4** Words in art. 35(5) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **19(5)**
- F5** Words in art. 35(6) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **19(6)**
- F6** Words in art. 35(7) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **19(7)**
- F7** Words in art. 35(8) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **19(8)**
- F8** Art. 35(9) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **19(9)**

Commencement Information

- I1** Art. 35 in force at 12.11.2020, see art. 2(1)

[^{F9}Charging scheme: regulators

36.—(1) The regulator must publish a document (a “charging scheme”) setting out the charges payable in accordance with article 35(1) or how they will be calculated.

(2) Before publishing a charging scheme, the regulator must—

- (a) bring the proposals to the attention of persons likely to be affected by them;
- (b) specify the period within which representations or objections to the proposals may be made.

(3) A charging scheme may not be published unless it has been approved by the appropriate national authority.

(4) Where a proposed charging scheme is submitted for approval under paragraph (3), the appropriate national authority—

- (a) must consider any representations or objections made under paragraph (2)(b);
- (b) may make such modifications to the proposals as the appropriate national authority considers appropriate.

(5) If the regulator proposes to revise a charging scheme in a material way, paragraphs (2) to (4) apply to the revised charging scheme.

(6) Paragraphs (2) to (5) do not apply in relation to a charging scheme published by the Secretary of State.

(7) In this article, “appropriate national authority” means—

- (a) where the regulator is the Environment Agency, the Secretary of State;
- (b) where the regulator is the chief inspector, the Department of Agriculture, Environment and Rural Affairs.
- (c) where the regulator is SEPA, the Scottish Ministers;
- (d) where the regulator is NRW, the Welsh Ministers.]

Textual Amendments

F9 Arts. 36, 36A substituted for art. 36 (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **20**

Commencement Information

I2 Art. 36 in force at 12.11.2020, see art. 2(1)

[^{F9}Charging scheme: registry administrator

36A.—(1) The registry administrator must publish a document (a “charging scheme”) setting out the charges payable in accordance with article 35(1) or how they will be calculated.

(2) Before publishing a charging scheme, the registry administrator must—

- (a) bring the proposals to the attention of persons likely to be affected by them;
- (b) specify the period within which representations or objections to the proposals may be made.

(3) A charging scheme may not be published unless it has been approved by the UK ETS authority.

(4) Where a proposed charging scheme is submitted for approval under paragraph (3), the UK ETS authority—

- (a) must consider any representations or objections made under paragraph (2)(b);
- (b) may make such modifications to the proposals as the UK ETS authority considers appropriate.

(5) If the registry administrator proposes to revise a charging scheme in a material way, paragraphs (2) to (4) apply to the revised charging scheme.]

Textual Amendments

F9 Arts. 36, 36A substituted for art. 36 (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **20**

Remittance of charges

[^{F10}**37.**—(1) The regulator must pay any charge received in accordance with a charging scheme under article 36 to the appropriate national authority (as defined in paragraph (7) of that article).

(2) Paragraph (1) does not apply to a charge received by the Secretary of State.

(3) The registry administrator must pay any charge received in accordance with a charging scheme under article 36A to the UK ETS authority.]

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Textual Amendments

F10 Art. 37 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **21**

Commencement Information

I3 Art. 37 in force at 12.11.2020, see art. 2(1)

Changes to legislation:

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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\(3\)](#)