

STATUTORY INSTRUMENTS

2020 No. 1265

The Greenhouse Gas Emissions Trading Scheme Order 2020

PART 9

Miscellaneous

Information notices

75.—(1) The UK ETS authority, a national authority [^{F1}, a regulator or the registry administrator] may, by giving a notice (an “information notice”) to a person, require the person to provide information for purposes connected with the exercise of functions under—

- (a) this Order;
 - (b) the Monitoring and Reporting Regulation 2018;
 - (c) the Verification Regulation 2018.
 - [^{F2}(d) the Free Allocation Regulation;
 - (e) the Activity Level Changes Regulation.]
- (2) The information notice must set out—
- (a) the information to be provided;
 - (b) the form in which the information must be provided;
 - (c) the period within which or the time when the information must be provided;
 - (d) the place where the information must be provided.

(3) The information that a person may be required to provide includes information that, although it is not in the person's possession or it would not otherwise come into the person's possession, is information that it is reasonable to require the person to obtain or compile for the purpose of complying with the information notice.

Textual Amendments

- F1** Words in art. 75(1) substituted (14.4.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2022 \(S.I. 2022/454\)](#), arts. 2, **12(2)(a)**, 14
- F2** Art. 75(1)(d)(e) inserted (14.4.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2022 \(S.I. 2022/454\)](#), arts. 2, **12(2)(b)**, 14

Commencement Information

- I1** Art. 75 in force at 12.11.2020, see [art. 2\(1\)](#)

[^{F3}National authority may require regulator, etc. to provide information

75A.—(1) The UK ETS authority or the relevant national authority may, by notice to a regulator or the registry administrator, require the regulator or registry administrator to provide

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

any information that the UK ETS authority or relevant national authority considers necessary or expedient for the exercise of the authority's functions.

(2) The regulator or the registry administrator must comply with a notice under paragraph (1) so far as reasonably practicable.

Textual Amendments

F3 Arts. 75A-75C inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **32**

Restriction on disclosing information

75B.—(1) This article applies to the following persons—

- (a) the UK ETS authority;
- (b) a national authority;
- (c) a regulator;
- (d) the registry administrator.

(2) A person to whom this article applies must not disclose information held or obtained under UK ETS legislation to another person.

(3) But paragraph (2) does not apply to the disclosure of information by the person in any of the following circumstances—

- (a) if the disclosure is required by law;
- (b) if the disclosure is necessary or expedient—
 - (i) for the exercise of the person's functions under UK ETS legislation;
 - (ii) for the purpose of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties;
 - (iii) in the case of a disclosure by a national authority—
 - (aa) for the purpose of monitoring and evaluating the effectiveness of the UK ETS;
 - (bb) for the purpose of preparing and publishing national energy and emissions statistics or the national inventory referred to in Article 4(1)(a) of the United Nations Framework Convention on Climate Change;
 - (iv) in the case of a disclosure by the Environment Agency, for the exercise of the Environment Agency's functions under the Emissions Performance Standard Regulations 2015;
 - (v) in the case of a disclosure by the chief inspector, for the exercise of the chief inspector's functions under the Emissions Performance Standard Monitoring and Enforcement Regulations (Northern Ireland) 2016;
 - (vi) in the case of a disclosure by NRW, for the exercise of NRW's functions under the Emissions Performance Standard (Enforcement) (Wales) Regulations 2015;
- (c) if the disclosure is made with the consent of the person from or on behalf of whom the information was obtained;
- (d) if the disclosure is to another person to whom this article applies;
 - [in the case of a disclosure by the UK ETS authority, if the disclosure is permitted under ^{F4}(e) article 75BA (power to publish UK ETS information).]

(4) In this article, “UK ETS legislation” means any of the following—

- (a) this Order;
- (b) the Monitoring and Reporting Regulation 2018;
- (c) the Verification Regulation 2018;
- (d) the Free Allocation Regulation;
- (e) the Activity Level Changes Regulation.

Textual Amendments

- F3** Arts. 75A-75C inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **32**
- F4** Art. 75B(3)(e) inserted (1.1.2023) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **10(2)**

[^{F5}Power to publish UK ETS information

75BA.—(1) The UK ETS authority may publish information held or obtained under UK ETS legislation—

- (a) to ensure the effective operation of the UK ETS;
- (b) to inform the public about the operation of the UK ETS.

(2) But the UK ETS authority may not publish information under paragraph (1) that the UK ETS authority considers may be commercially sensitive unless the UK ETS authority considers that the publication of the information is proportionate to what is sought to be achieved by it.

(3) In this article, “UK ETS legislation” has the meaning given in article 75B(4).]

Textual Amendments

- F5** Art. 75BA inserted (1.1.2023) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **11**

National security

75C.—(1) The UK ETS authority may not publish any information under article 34D (allocation tables: publication, etc.) or 34N (aviation allocation table) [^{F6}, paragraph 31 of Schedule 5A (information about accounts) or paragraph 22A of Schedule 7 (publication of emissions targets and reportable emissions)] if the publication of the information would be contrary to the interests of national security.

(2) The regulator may not publish any information under article 49 (publication of names of persons subject to civil penalty under article 52) if the publication of the information would be contrary to the interests of national security.

(3) The UK ETS authority and the regulator must exercise functions under this article, and the registry administrator must exercise functions under a relevant provision, in accordance with a direction given by the Secretary of State under section 52 of CCA 2008 as to what is or is not contrary to the interests of national security.

(4) Except where the regulator is the Secretary of State, the regulator must notify the Secretary of State of any information excluded from publication under paragraph (2).

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

(5) The registry administrator must notify the Secretary of State of any matter excluded from a notice under a relevant provision on the grounds that its inclusion in the notice would be contrary to the interests of national security.

(6) In this article, “relevant provision” means any of the following provisions of Schedule 5A—

- (a) paragraph 11(6) (operator holding accounts);
- (b) paragraph 12(5) (transfer of operator holding accounts);
- (c) paragraph 13(5) (aircraft operator holding accounts);
- (d) paragraph 14(5) (trading accounts);
- (e) paragraph 16(8) (appointment of authorised representatives);
- (f) paragraph 17(5) (change in account permission of authorised representatives);
- (g) paragraph 18(3) (suspension of access to registry of authorised representatives);
- (h) paragraph 19(3) (removal of authorised representatives);
- (i) paragraph 25(4) (suspension of accounts);
- (j) paragraph 29(5) (closure of trading accounts).]

Textual Amendments

- F3** Arts. 75A-75C inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **32**
- F6** Words in art. 75C(1) inserted (1.1.2023) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **12(2)**

Crown application

76.—(1) This Order applies to the Crown.

(2) Articles 39 and 40 and Part 2 of Schedule 3 make specific provision relevant to their application to the Crown.

Commencement Information

- I2** Art. 76 in force at 12.11.2020, see art. 2(1)

Transitional provisions

77.—(1) Schedule 11 (which makes transitional provision for installations) has effect.

(2) An application for a GGETSR emissions plan under regulation 32A of GGETSR 2012 that has not been determined under GGETSR 2012 may be treated by the regulator as an application made under article 28.

(3) An application for the variation of a GGETSR emissions plan that has not been determined under GGETSR 2012 may be treated by the regulator as an application made under article 31.

[^{F7}(4) The Monitoring and Reporting Regulation 2018 and the Verification Regulation 2018 are to be read as if references, however expressed, to a report submitted or information obtained under Commission Implementing Regulation 2018/2067 in relation to a year or other period before 2021 were to a report submitted or other information obtained under that Regulation as it had effect in EU law or under the Verification Regulation 2012.

(5) A person referred to in paragraph (6) may—

- (a) use information held or obtained for the purposes of the EU ETS in the exercise of the person's functions under UK ETS legislation;
- (b) disclose such information in the exercise of the person's functions under UK ETS legislation—
 - (i) to another person referred to in paragraph (6);
 - (ii) to any other person, if the disclosure is necessary or expedient for the exercise of the person's functions under UK ETS legislation.
- (6) The persons are—
 - (a) the Secretary of State;
 - (b) the Environment Agency;
 - (c) the chief inspector;
 - (d) SEPA;
 - (e) NRW.
- (7) In this article, “UK ETS legislation” means any of the following—
 - (a) this Order;
 - (b) the Monitoring and Reporting Regulation 2018;
 - (c) the Verification Regulation 2018;
 - (d) the Free Allocation Regulation;
 - (e) the Activity Level Changes Regulation.]

Textual Amendments

F7 Art. 77(4)-(7) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **33(2)**

Commencement Information

I3 Art. 77 in force at 12.11.2020, see art. 2(1)

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.

[View outstanding changes](#)

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\(3\)](#)