

[^{F1}SCHEDULE 8A

Article 34HA

Free allocation for former hospital or small emitters and ultra-small emitters

Textual Amendments

- F1** Sch. 8A inserted (7.2.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, 27

Interpretation

1. In this Schedule—

[^{F2}“baseline period” has the meaning given in point (14) of Article 2(1) of the Free Allocation Regulation;]

“eligible scheme year” means—

- (a) the first eligible scheme year;
- (b) any subsequent scheme year in the relevant allocation period;

“first eligible scheme year” means—

- (a) if the relevant notice is a conversion notice under paragraph 23 [^{F3}or 23A] of Schedule 7, the scheme year following the year in which the conversion notice is given;
- (b) if the relevant notice is a notice under paragraph 7 of Schedule 8—
 - (i) where the notice is given in the scheme year following the excess year (as defined in sub-paragraph (1) of that paragraph), the scheme year following the year in which the notice is given;
 - (ii) where the notice is given after the scheme year following the excess year, the scheme year in which the relevant date (as defined in sub-paragraph (3)(c)(ii) of that paragraph) falls;

“relevant allocation period” means the allocation period that the first eligible scheme year is in;

“relevant notice” has the meaning given in paragraph 2(a);

[^{F4}“start of normal operation” has the meaning given in point (12) of Article 2(1) of the Free Allocation Regulation;]

“sub-installation” has the same meaning as in the Free Allocation Regulation.

Textual Amendments

- F2** Words in Sch. 8A para. 1 inserted (1.1.2024) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2023 \(S.I. 2023/850\)](#), arts. 2, **10(2)(a)**
- F3** Words in Sch. 8A para. 1 inserted (1.1.2023) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **18(2)**
- F4** Words in Sch. 8A para. 1 inserted (1.1.2024) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2023 \(S.I. 2023/850\)](#), arts. 2, **10(2)(b)**

Application

2. This Schedule applies to an installation if—

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- (a) the regulator gives to the operator of the installation either of the following notices (in either case, the “relevant notice”)—
 - (i) a conversion notice under paragraph 23 [^{F5}or 23A] of Schedule 7;
 - (ii) except where paragraph 7(5) of Schedule 8 applies, a notice under paragraph 7 of that Schedule; and
- (b) the UK ETS authority informed the regulator under Article 15a(4) of the Free Allocation Regulation that an application for free allocation in the relevant allocation period in respect of the installation was valid.

Textual Amendments

F5 Words in Sch. 8A para. 2(a)(i) inserted (1.1.2023) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **18(3)**

Monitoring methodology plan to be submitted for approval [^{F6}, etc.]

3.—^{F7}(1) If the operator of the installation wants free allocation in respect of the installation for eligible scheme years, the operator must submit to the regulator—

- (a) within 2 months after the date on which the relevant notice is given, the monitoring methodology plan previously submitted under the Free Allocation Regulation together with either—
 - (i) any modifications necessary to ensure that the plan complies with Article 8 of, and Annex 6 to, that Regulation; or
 - (ii) a statement that no such modifications are necessary;
- (b) where relevant, within 6 months after the date on which the relevant notice is given, a report on any sub-installation at the installation that did not operate for a full calendar year after the start of normal operation during the baseline period but has operated for a full calendar year after the start of normal operation at the date on which the relevant notice is given containing—
 - (i) the information referred to in Article 3(2) of the Activity Level Changes Regulation for the first full calendar year of operation that is verified as satisfactory in accordance with the Verification Regulation 2018 as if the report were an activity level report submitted under Article 3(3) of the Activity Level Changes Regulation; and
 - (ii) the verifier’s confirmation that the monitoring methodology plan, so far as it is used as a basis for the report, is compliant with the Free Allocation Regulation.]

(2) Where the monitoring methodology plan and any modifications or a statement are submitted under sub-paragraph (1), the plan (with any modifications) must be treated as if it had been submitted to the regulator for approval under Article 8 of the Free Allocation Regulation.

^{F8}(3) Article 3(4) to (8) of the Activity Level Changes Regulation apply to a report under sub-paragraph (1)(b) as they apply to an activity level report required by that Article, with the following modifications—

- (a) references to the time limit for submitting the activity level report are to be read as references to the period of 6 months referred to in sub-paragraph (1)(b);
- (b) Article 3(8)(a) is to be read as if the reference to Article 3a were a reference to paragraph 4(2)(za) of this Schedule.]

Textual Amendments

- F6** Word in Sch. 8A para. 3 heading inserted (1.1.2024) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2023 \(S.I. 2023/850\)](#), arts. 2, **10(3)(a)**
- F7** Sch. 8A para. 3(1) substituted (1.1.2024) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2023 \(S.I. 2023/850\)](#), arts. 2, **10(3)(b)**
- F8** Sch. 8A para. 3(3) inserted (1.1.2024) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2023 \(S.I. 2023/850\)](#), arts. 2, **10(3)(c)**

Calculation and approval of final allocation

4.—(1) This paragraph applies where—

(a) either—

(i) the installation's hospital or small emitter permit is converted into a greenhouse gas emissions permit; or

(ii) a greenhouse gas emissions permit is issued for the installation; ^{F9}...

(b) a monitoring methodology plan is approved in relation to the installation under Article 8 of the Free Allocation Regulation [^{F10}; and]

[the operator submits to the regulator either—

- ^{F11}(c) (i) a report on every sub-installation referred to in paragraph 3(1)(b) in accordance with that paragraph; or
- (ii) a statement that no such report is required.]

(2) The regulator must as soon as reasonably practicable—

[where relevant, determine the historical activity level of every sub-installation referred to ^{F12}(za) in paragraph 3(1)(b) in accordance with Article 17(1) of the Free Allocation Regulation;]

(a) calculate the final annual number of allowances to be allocated in respect of the installation and of each sub-installation of the installation for each eligible scheme year;

(b) send the [^{F13}determination (if any) and] calculation to the UK ETS authority.

^{F14}(3) The final annual number of allowances to be allocated in respect of a sub-installation for an eligible scheme year is the preliminary annual number of allowances to be allocated for the scheme year multiplied by the reduction factor for the scheme year (as defined in Article 18a(11) of the Free Allocation Regulation), where—

(a) for sub-installations referred to in paragraph 3(1)(b), the preliminary annual number of allowances must be calculated in accordance with Article 18(1) of the Free Allocation Regulation;

(b) for all other sub-installations, the preliminary annual number of allowances is the number previously calculated under Article 16 of the Free Allocation Regulation (including any corrections required under Article 16(11)).]

(4) But where the relevant notice is a notice under paragraph 7 of Schedule 8 and the first eligible scheme year is the scheme year referred to in paragraph (b)(ii) of the definition of that term in paragraph 1 of this Schedule, the final annual number of allowances to be allocated in respect of a sub-installation for the first eligible scheme year is the number calculated under sub-paragraph (3) of this paragraph multiplied by D/Y, where—

D is the number of days in the first eligible scheme year after the date on which the installation's greenhouse gas emissions permit comes into force;

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Y is the number of days in the first eligible scheme year.

(5) The final annual number of allowances to be allocated in respect of an installation for an eligible scheme year is the sum of the final annual number of allowances to be allocated in respect of all sub-installations of the installation for the scheme year.

(6) On receipt of the [^{F15}determination (if any) and] calculation, the UK ETS authority must as soon as reasonably practicable—

(a) approve the final annual number of allowances to be allocated in respect of the installation, making any corrections to the calculation [^{F16}(including, in the case of a sub-installation referred to in paragraph 3(1)(b), to the historical activity level and preliminary annual number of allowances)] that the UK ETS authority considers appropriate;

(b) inform the regulator accordingly.

(7) The regulator must give notice to the operator of the final annual number of allowances approved under sub-paragraph (6).

(8) For the purpose of the calculations referred to in sub-paragraphs (3) to (5), the number of allowances to be allocated in respect of sub-installations and installations must be expressed as the nearest integer, taking 0.5 as nearest to the previous integer.

Textual Amendments

F9 Word in Sch. 8A para. 4(1)(a)(ii) omitted (1.1.2024) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **10(4)(a)(i)**

F10 Word in Sch. 8A para. 4(1)(b) inserted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **10(4)(a)(ii)**

F11 Sch. 8A para. 4(1)(c) inserted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **10(4)(a)(iii)**

F12 Sch. 8A para. 4(2)(za) inserted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **10(4)(b)(i)**

F13 Words in Sch. 8A para. 4(2)(b) inserted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **10(4)(b)(ii)**

F14 Sch. 8A para. 4(3) substituted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **10(4)(c)**

F15 Words in Sch. 8A para. 4(6) inserted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **10(4)(d)(i)**

F16 Words in Sch. 8A para. 4(6)(a) inserted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **10(4)(d)(ii)**

Modifications to Activity Level Changes Regulation

5.—(1) Where an installation to which this Schedule applies becomes an FA installation, the Activity Level Changes Regulation has effect with the following modifications.

(2) Article 3 is to be read as if—

(a) in paragraph 1 for “In 2021, this report” there were substituted “In the first eligible scheme year (within the meaning of Schedule 8A to the UK ETS Order), this report”;

(b) in paragraph 3 for “on or before 30 June in the 2021 scheme year” there were substituted “on or before 31 March in the first eligible scheme year (or, if later, within 3 months after the date on which the final annual number of allowances to be allocated in respect of the installation is approved under paragraph 4(6) of Schedule 8A to the UK ETS Order)”.]

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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\(3\)](#)