
STATUTORY INSTRUMENTS

2023 No. 1387

The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023

PART 2

Greenhouse Gas Emissions Trading Scheme Order 2020 amended

Greenhouse Gas Emissions Trading Scheme Order 2020 amended

4. The Greenhouse Gas Emissions Trading Scheme Order 2020⁽¹⁾ is amended in accordance with this Part.

Article 34C amended (allocation tables: updates)

5.—(1) Article 34C is amended as follows.

(2) After paragraph (1)(i) insert—

“(j) Article 2b(6) of the Free Allocation Regulation⁽²⁾ (electricity generators that state they will not produce electricity for sale for consumption outside the installation but subsequently do so).”

Article 34K amended (aviation: entitlement to free allocation in 2021-2025 allocation period)

6.—(1) Article 34K is amended as follows.

(2) In paragraph (a) omit the “and” at the end of the paragraph.

(3) In paragraph (b) for “operator,” substitute “operator; and”.

(4) After paragraph (b) insert—

“(c) in relation to allowances allocated for the 2024 or 2025 scheme year, to the extent that the number of allowances does not exceed the person’s aviation emissions for the scheme year.”

Article 34S amended (return of allowances: installations)

7.—(1) Article 34S is amended as follows.

(2) In paragraph (1)(b) after “article 34C(1)(b) to (f)” insert “or (j)”.

Article 34T amended (return of allowances: aviation)

8.—(1) Article 34T is amended as follows.

(1) [S.I. 2020/1265](#), amended by [S.I. 2020/1557](#), [2021/1455](#), [2022/454](#), [2022/1173](#), [2022/1336](#) and [2023/850](#).

(2) [EUR 2019/331](#), amended by [S.I. 2020/1557](#), [2021/1455](#), [2022/1173](#), [2023/850](#) and this Order. Article 4(1) of [S.I. 2020/1265](#) defines “Free Allocation Regulation” as Commission Delegated [Regulation \(EU\) 2019/331](#) of 19 December 2018, as it forms part of domestic law. Article 2b is inserted by article 14 of this Order.

- (2) In paragraph (1)(b)—
 - (a) in the opening words for “either” substitute “any of the following applies”;
 - (b) in paragraph (i) omit the “or” at the end of the paragraph;
 - (c) after paragraph (ii) insert—
 - “(iii) in relation to allowances allocated for the 2024 or 2025 scheme year, the number of allowances allocated to the person for the scheme year exceeds the person’s aviation emissions for the scheme year.”.
- (3) In paragraph (3)—
 - (a) in sub-paragraph (a) omit the “or” at the end of the sub-paragraph;
 - (b) in sub-paragraph (b) after “aircraft operator” insert “; or”;
 - (c) after sub-paragraph (b) insert—
 - “(c) in relation to allowances allocated for the 2024 or 2025 scheme year, exceed the person’s aviation emissions for the scheme year for which the allowances are allocated.”.

Article 34W amended (notice to withhold allowances)

- 9.—(1) Article 34W is amended as follows.
- (2) After paragraph (1)(ga) insert—
 - “(gb) if the regulator is investigating for the purposes of Article 2b(4)(b) of the Free Allocation Regulation whether the installation has produced electricity for sale for consumption outside the installation;”.
- (3) In paragraph (2) for “paragraph (1)(a) to (ga)” substitute “paragraph (1)(a) to (gb)”.

Schedule 2 amended (meaning of installation and regulated activity)

- 10.—(1) Schedule 2 is amended as follows.

Paragraph 3 amended (meaning of regulated activity, etc.)

- (2) In paragraph 3 in table C in the 26th row in column 1 (which begins “Capture of greenhouse gases...”) for “other installations” substitute “a regulated activity”.