

SCHEDULE 1

Article 4(1)

Aviation activity

Aviation activity

1.—(1) An aviation activity consists of any of the following activities other than excluded flights—

- (a) a flight departing from an aerodrome situated in the United Kingdom and arriving in an aerodrome situated—
 - (i) in the United Kingdom;
 - (ii) in an EEA State;
 - (iii) in Gibraltar;
 - (iv) on an offshore structure in the UK sector of the continental shelf or an offshore structure in the continental shelf of an EEA state;
- (b) a flight arriving in an aerodrome situated in the United Kingdom from an aerodrome situated in Gibraltar.

(2) In this paragraph a reference to a flight departing from an aerodrome situated in the United Kingdom and arriving in an aerodrome situated in an EEA state does not include a reference to a flight departing from an aerodrome situated in the United Kingdom and arriving in an aerodrome situated in an outermost region.

(3) In this paragraph, “continental shelf of an EEA state” means an area beyond the territorial sea of an EEA state, within which rights with respect to the seabed and subsoil and their natural resources are exercisable by that EEA state.

Excluded flights

2.—(1) For the purposes of this Order, subject to sub-paragraph (2), all of the following are excluded flights—

- (a) flights performed exclusively for the transport, on official mission, of a reigning Monarch and their immediate family, Heads of State, Heads of Government and Government Ministers, of a country other than the United Kingdom;
- (b) military flights;
- (c) customs and police flights performed by both civil registered and military aircraft;
- (d) search and rescue flights;
- (e) firefighting flights;
- (f) humanitarian flights;
- (g) emergency medical service flights;
- (h) flights performed exclusively under the visual flight rules set out in Annex 2 to the Chicago Convention;
- (i) flights terminating at the aerodrome from which the aircraft has taken off and during which no intermediate landing has been made;
- (j) training flights performed exclusively for the purpose of obtaining a licence, or a rating in the case of cockpit flight crew, provided that the flights do not serve for the transport of passengers or cargo;
- (k) flights performed exclusively for the purpose of scientific research partially or totally performed in-flight;

- (l) flights performed exclusively for the purpose of checking, testing or certifying aircraft or equipment whether airborne or ground-based;
 - (m) flights performed by aircraft with a certified maximum take-off mass of less than 5,700 kilograms.
- (2) Excluded flights referred to in sub-paragraph (1)(a), (j), (k) and (l) do not include flights for the positioning or ferrying of the aircraft.
- (3) In this paragraph—
- “emergency medical service flights” means flights for the exclusive purpose of facilitating emergency medical assistance, where immediate and rapid transportation is essential, by carrying medical personnel, medical supplies, including equipment, blood, organs, drugs, or ill and injured persons and other persons directly involved;
 - “firefighting flights” means flights performed exclusively to combat wildfires;
 - “Government Ministers” are the members of the government as listed in the national official journal of the country concerned, excluding members of regional or local governments of a country;
 - “humanitarian flights” means flights operated exclusively for humanitarian purposes which carry relief personnel and relief supplies such as food, clothing, shelter, medical and other items during or after an emergency or disaster, or are used to evacuate persons from a place where their life or health is threatened by such emergency or disaster to a safe haven in the same State or another State willing to receive such persons;
 - “immediate family” comprises exclusively the spouse, any partner considered as equivalent to the spouse, the children and the parents;
 - “military flights” means flights directly related to the conduct of military activities and performed by military aircraft;
 - “official mission” means a mission in which the person concerned is acting in an official capacity;
 - “search and rescue flights” means flights offering search and rescue services, including the performance of distress monitoring, communication, coordination and search and rescue functions, initial medical assistance or medical evacuation, through the use of public and private resources, including cooperating aircraft, vessels and other craft and installations.

SCHEDULE 2

Article 4(1)

Meaning of installation and regulated activity

Interpretation

1.—(1) In this Schedule—

“combustion unit” means a stationary technical unit in which fuels are combusted (and includes all types of boiler, burner, turbine, heater, furnace, incinerator, calciner, kiln, oven, dryer, engine, fuel cell, chemical looping combustion unit, flare and thermal or catalytic post-combustion unit);

“hazardous waste” means—

- (a) in relation to an installation in Northern Ireland or UK coastal waters adjacent to Northern Ireland, hazardous waste for the purposes of regulation 6 of the Hazardous Waste Regulations (Northern Ireland) 2005(1);
 - (b) in relation to an installation in Scotland or UK coastal waters adjacent to Scotland, special waste within the meaning of regulation 2 of the Special Waste Regulations 1996(2);
 - (c) in relation to an installation in Wales or UK coastal waters adjacent to Wales, hazardous waste for the purposes of regulation 6 of the Hazardous Waste (Wales) Regulations 2005(3);
 - (d) in any other case, hazardous waste for the purposes of regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005(4);
- “municipal waste” has the meaning given in section 21(3) of the Waste and Emissions Trading Act 2003(5).

(2) For the purposes of this Schedule, a combustion unit or installation that uses only biomass as a fuel includes a combustion unit or installation that uses fossil fuels only during start-up or shut-down of operations.

Meaning of installation

2.—(1) Subject to sub-paragraph (2), in this Order, “installation” means a stationary technical unit or units where one or more regulated activities are carried out.

(2) “Installation” does not include any of the following (which are outside the scope of the UK ETS)—

- (a) an installation that uses only biomass as a fuel;
- (b) an installation, or part of an installation, the primary purpose of which is research and development (including the testing of new products and processes);
- (c) an installation, the primary purpose of which is the incineration of hazardous or municipal waste;
- (d) a relevant Northern Ireland electricity generator.

(3) In sub-paragraph (2), a reference to an installation is a reference to what would be an installation, but for that sub-paragraph.

(4) References in this Order to an installation include references to part of an installation.

Meaning of regulated activity, etc.

3.—(1) In this Order, “regulated activity” means—

- (a) an activity set out in an entry in column 1 of table C that results in emissions of the gases set out in the corresponding entry in column 2; and
- (b) where such an activity is carried out on a site, the combustion of fuels in any combustion unit (including a combustion unit referred to in sub-paragraph (5)(a) or (b)) operated on the site that results in emissions of such gases, except for a combustion unit to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a combustion unit if—

(1) [S.R. 2005/300](#), to which there are amendments not relevant to this Order.

(2) [S.I. 1996/972](#). The definition of “special waste” was substituted by regulation 2(3) of [S.S.I. 2004/112](#) and is substituted prospectively by regulation 7(4) of [S.S.I. 2019/26](#) with effect from IP completion day.

(3) [S.I. 2005/1806](#). Regulation 6 was amended by regulation 3(5) of [S.I. 2015/1417](#).

(4) [S.I. 2005/894](#), to which there are amendments not relevant to this Order.

(5) [2003 c. 33](#). Section 21(3) was amended by regulation 6(2)(b) of [S.I. 2011/2499](#).

- (a) the primary purpose of the unit is the incineration of hazardous or municipal waste; and
 (b) the unit does not exclusively serve the stationary technical unit or units where the activity referred to in sub-paragraph (1)(a) is carried out.
- (3) But sub-paragraph (2) does not apply to a combustion unit that is a flare.

Table C

<i>Column 1</i>	<i>Column 2</i>
<i>Activities</i>	<i>Greenhouse gases</i>
Combustion of fuels on a site where combustion units with a total rated thermal input exceeding 20 megawatts are operated	Carbon dioxide
Refining of mineral oil	Carbon dioxide
Production of coke	Carbon dioxide
Metal ore (including sulphide ore) roasting or sintering, including palletisation	Carbon dioxide
Production of pig iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2.5 tonnes per hour	Carbon dioxide
Production or processing of ferrous metals (including ferro-alloys) on a site where combustion units with a total rated thermal input exceeding 20 megawatts are operated (and “processing” includes processing in rolling mills, re-heaters, annealing furnaces, smitheries, foundries, coating and pickling)	Carbon dioxide
Production of primary aluminium	Carbon dioxide Perfluorocarbons
Production of secondary aluminium on a site where combustion units with a total rated thermal input exceeding 20 megawatts are operated	Carbon dioxide
Production or processing of non-ferrous metals (including production of alloys, refining and foundry casting) on a site where combustion units with a total rated thermal input (including fuels used as reducing agents) exceeding 20 megawatts are operated	Carbon dioxide
Production of cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or in other furnaces with a production capacity exceeding 50 tonnes per day	Carbon dioxide
Production of lime or calcination of dolomite or magnesite in rotary kilns or in other furnaces with a production capacity exceeding 50 tonnes per day	Carbon dioxide
Manufacture of glass including glass fibre with a melting capacity exceeding 20 tonnes per day	Carbon dioxide
Manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tonnes per day	Carbon dioxide
Manufacture of mineral wool insulation material using glass, rock or slag with a melting capacity exceeding 20 tonnes per day	Carbon dioxide

<i>Column 1</i>	<i>Column 2</i>
<i>Activities</i>	<i>Greenhouse gases</i>
Drying or calcination of gypsum or production of plaster boards and other gypsum products on a site where combustion units with a total rated thermal input exceeding 20 megawatts are operated	Carbon dioxide
Production of pulp from timber or other fibrous materials	Carbon dioxide
Production of paper or cardboard with a production capacity exceeding 20 tonnes per day	Carbon dioxide
Production of carbon black involving the carbonisation of organic substances such as oils, tars, cracker and distillation residues on a site where combustion units with a total rated thermal input exceeding 20 megawatts are operated	Carbon dioxide
Production of nitric acid	Carbon dioxide Nitrous oxide
Production of adipic acid	Carbon dioxide Nitrous oxide
Production of glyoxal and glyoxylic acid	Carbon dioxide Nitrous oxide
Production of ammonia	Carbon dioxide
Production of bulk organic chemicals by cracking, reforming, partial or full oxidation or by similar processes, with a production capacity exceeding 100 tonnes per day	Carbon dioxide
Production of hydrogen (H ₂) and synthesis gas by reforming or partial oxidation with a production capacity exceeding 25 tonnes per day	Carbon dioxide
Production of soda ash (Na ₂ CO ₃) and sodium bicarbonate (NaHCO ₃)	Carbon dioxide
Capture of greenhouse gases from other installations for the purpose of transport and geological storage in a storage site	Carbon dioxide
Transport of greenhouse gases by pipelines for geological storage in a storage site	Carbon dioxide
Geological storage of greenhouse gases in a storage site	Carbon dioxide

(4) For the purpose of calculating the production or other capacity set out in an entry in column 1 of table C, where more than one activity referred to in the entry is carried out on a site, the capacities of all such activities must be added together.

(5) For the purpose of calculating the total rated thermal input of combustion units operated on a site, the rated thermal input of all combustion units on the site must be added together, except for—

- (a) combustion units with a rated thermal input below 3 megawatts;
- (b) combustion units that use only biomass as a fuel.

(6) Where the carrying out of an activity referred to in paragraph (a) of sub-paragraph (1) (that is to say, an activity set out in an entry in column 1 of table C) falls within both—

- (a) an entry that does not refer to a threshold expressed as total rated thermal input; and
- (b) an entry that refers to such a threshold,

for the purpose of this Order, the reference to the activity in that paragraph must be treated as a reference to the activity falling within the entry referred to in paragraph (a) of this sub-paragraph.

(7) In this Order, “specified emissions” means, in relation to a regulated activity referred to in sub-paragraph (1), the emissions of the gases referred to in that sub-paragraph.

SCHEDULE 3

Article 15

Applications, notices, etc.

PART 1

Applications, notices, etc. submitted to regulators

Submission of applications, notices, etc. to regulators

- 1.—(1) This paragraph applies to an application, notice or report submitted to a regulator under—
- (a) this Order;
 - (b) a permit;
 - (c) an emissions monitoring plan.
- (2) An application, notice or report—
- (a) must be in writing; and
 - (b) unless the regulator agrees otherwise in writing, must be made on a form provided by the regulator for that purpose.
- (3) The regulator must set out in the form—
- (a) the information required by the regulator to determine the application; or
 - (b) the matters required to be included in the notice or report.
- (4) Unless the regulator agrees otherwise in writing—
- (a) the form must be submitted to the regulator electronically and, if the form specifies an email address for submission, to that address;
 - (b) if the form is provided by the regulator for submission through a website, the form must be submitted through the website and in accordance with any instructions given for completion and submission.
- (5) Unless the information has been provided in a previous application made to the regulator, an application must set out—
- (a) the name, postal address (including postcode) and telephone number of the applicant;
 - (b) either—
 - (i) an email address for service; or
 - (ii) a postal address (including postcode) in the United Kingdom for service.
- (6) In the case of an application under paragraph 7 of Schedule 6 (transfer of permits), sub-paragraph (5) applies to both the transferring operator and the new operator referred to in that paragraph.

(7) Subject to sub-paragraphs (8) and (9), an application must be accompanied by the charge for the application set out in the charging scheme published under article 36.

(8) Where an application is submitted electronically, the charge may be sent to the regulator separately from the application; and in that case, for the purposes of this Order, the application must be treated as not being received by the regulator until the charge is also received.

(9) Where an application is made to the Secretary of State (including an application submitted electronically), the charge need not be paid until the end of the period of 28 days beginning with the date on which the Secretary of State gives notice to the applicant requesting payment of the charge.

(10) An application may be withdrawn at any time before it is determined.

(11) The regulator may, by notice to a person submitting an application, require the applicant to provide such further information specified in the notice, within the period so specified, as the regulator may require to determine the application.

(12) For the purposes of this Order, the application must be treated as being withdrawn if—

- (a) the applicant fails to provide that information before the end of that period (or on or before such later date as may be agreed with the regulator); and
- (b) the regulator gives notice to the applicant that the application is treated as having been withdrawn.

(13) For the purposes of this paragraph, “application” includes any proposed plan required to be submitted with the application.

Determination of applications by regulators

2.—(1) Where an application under this Order is made to a regulator in accordance with the requirements of this Order, the application must be determined by the regulator within—

- (a) the period of 2 months beginning with the date on which the application is received; or
- (b) such longer period as may be agreed in writing with the applicant.

(2) For the purposes of sub-paragraph (1)—

- (a) an application is determined when notice of the determination is given to the applicant by the regulator;
- (b) in calculating the period of 2 months, no account must be taken of any period beginning with the date on which a notice under paragraph 1(11) is given to the applicant and ending with the date on which the applicant provides the information specified in the notice.

(3) Where the regulator fails to determine an application before the end of the period referred to in sub-paragraph (1)—

- (a) the applicant may give to the regulator notice that the applicant treats the application as having been refused; and
- (b) if such notice is given, for the purposes of this Order, the application must be treated as having been refused at the end of that period.

(4) Where the application is an application for a permit or for the transfer of a permit, any permit that is issued or transferred as a result of the application must be attached to the notice under sub-paragraph (2)(a).

(5) This paragraph does not apply to an application under—

- (a) paragraph 5 of Schedule 7 (obtaining hospital or small emitter status for 2026-2030 allocation period);
- (b) paragraph 3 of Schedule 8 (obtaining ultra-small emitter status for 2026-2030 allocation period).

PART 2

Notices, etc. given by regulators, national authorities or UK ETS authority

Service of notices, etc.

3.—(1) This paragraph applies to a notice or direction that must or may be given under this Order by—

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

(2) A notice or direction must be in writing.

(3) A notice or direction may be given to a person in any of the following ways—

- (a) by delivering it to the person;
- (b) by sending it to a postal or email address provided by the person for the purpose of the service of notices or directions;
- (c) by leaving it at the person's proper address;
- (d) by sending it by post or electronic means to the person's proper address;
- (e) if the person is a body corporate, by giving it to the secretary or clerk of the body in accordance with any of sub-paragraphs (a) to (d);
- (f) if the person is a partnership, by giving it to a partner or a person having the control or management of the partnership business in accordance with any of sub-paragraphs (a) to (d).

(4) In this paragraph, "proper address" means—

- (a) in the case of a body corporate—
 - (i) the registered or principal office of the body; or
 - (ii) the email address of the secretary or clerk of the body;
- (b) in the case of a partnership—
 - (i) the principal office of the partnership; or
 - (ii) the email address of the partner or person having control or management of the partnership business;
- (c) in any other case, the person's last known address (including an email address).

(5) For the purposes of sub-paragraph (4), where a body corporate registered outside the United Kingdom or a partnership established outside the United Kingdom has an office in the United Kingdom, the principal office of the body corporate or partnership is its principal office in the United Kingdom.

(6) For the purposes of sub-paragraph (4)(c), where the person is an aircraft operator, the proper address includes an address derived from information supplied by Eurocontrol.

Service on certain Crown operators

4.—(1) This paragraph applies in relation to an installation operated by a person acting on behalf of—

- (a) the Royal Household;
- (b) the Duchy of Lancaster; or

- (c) the Duke of Cornwall or other possessor of the Duchy of Cornwall.
- (2) In relation to the giving of notices or directions under this Order, the following person must be treated as the operator—
- (a) in relation to sub-paragraph (1)(a), the Keeper of the Privy Purse;
 - (b) in relation to sub-paragraph (1)(b), the person appointed by the Chancellor of the Duchy of Lancaster for that purpose;
 - (c) in relation to sub-paragraph (1)(c), the person appointed by the Duke of Cornwall or other possessor of the Duchy of Cornwall for that purpose.

SCHEDULE 4

Article 24

Modifications to Commission Regulation (EU) 2018/2066

1. Commission Implementing Regulation (EU) 2018/2066 is to be read as if—
 - (a) for “competent authority” in each place it occurs there were substituted “regulator”;
 - (b) Articles 10, 52, 57, 70, 74, 75, 76 and 77 were omitted; and
 - (c) the words “This Regulation shall be binding in its entirety and directly applicable in all Member States”, immediately following Article 78, were omitted,and subject to the following additional modifications.
2. Article 1 is to be read as if for the words from “pursuant to” to the end there were substituted “for the purposes of the 2020 Order”.
3. Article 2 is to be read as if for the words from “greenhouse gas emissions” to the end of the first subparagraph there were substituted “specified emissions (as defined in the 2020 Order) from regulated activities, activity data from installations, CO₂ emissions from aviation activity and tonne-kilometre data from aviation activity”.
4. Article 3 is to be read as if—
 - (a) in the words before point (1), for “the following definitions” there were substituted “except where the context otherwise requires, terms defined in the Greenhouse Gas Emissions Trading Scheme Order 2020 have the meanings given by that Order and the following additional definitions”;
 - (b) before point (1), there were inserted—

“(A1) ‘greenhouse gas emissions’ and ‘emissions’ mean specified emissions (as defined in the 2020 Order) from regulated activities or CO₂ emissions from aviation activity;”;
 - (c) for point (2), there were substituted—

“(2) ‘trading period’, in references to the trading period immediately preceding the first trading period of the UK ETS, means the period beginning with 1st January 2013 and ending with 31st December 2020;”;
 - (d) after point (2), there were inserted—

“(2a) ‘the 2020 Order’ means the Greenhouse Gas Emissions Trading Scheme Order 2020;”;
 - (e) after point (5), there were inserted—

“(5a) ‘monitoring plan’ in relation to an aircraft operator, except in Articles 11 to 13 of this Regulation, means the aircraft operator’s emissions monitoring plan as defined in article 4 of the 2020 Order.”;

- (f) in point (12), the words from “or, for tonne-kilometre data” to the end were omitted;
- (g) point (18) were omitted;
- (h) in point (28), for “Annex II to [Directive 2003/87/EC](#)” substitute “column 2 of table C in Schedule 2 to the 2020 Order”;
- (i) in point (44) “, or equivalent applicable international rules” were omitted;
- (j) in each of points (46) and (47), “listed in Annex I to [Directive 2003/87/EC](#)” were omitted;
- (k) point (50) were omitted;
- (l) in each of points (54) and (55), for “under [Directive 2009/31/EC](#)” there were substituted “in accordance with the CCS licensing regime”;
- (m) after point (55), there were inserted—

“(55a) ‘the CCS licensing regime’ means Chapter 3 of Part 1 of the Energy Act 2008⁽⁶⁾ and other domestic legislation which immediately before IP completion day implemented [Directive 2009/31/EC](#)⁽⁷⁾.”.

5. Article 4 is to be read as if for “under [Directive 2003/87/EC](#)” there were substituted “for the purposes of the Greenhouse Gas Emissions Trading Scheme Order 2020”.

6. Article 5 is to be read as if for the words from “activities listed” to “that Directive” there were substituted “regulated activities and aviation activity”.

7. Article 9 is to be read as if for “Article 15 of [Directive 2003/87/EC](#)” there were substituted “Commission Implementing Regulation (EU) No 2018/2067”.

8. Article 12 is to be read as if paragraph 3 were omitted.

9. Article 13 is to be read as if—

- (a) for paragraph 1 there were substituted—

“**1.** Subject in each case to the approval of the regulator, operators and aircraft operators may use standardised or simplified monitoring plans that conform to templates published by the regulator.”;

- (b) in paragraph 2, for “Member States” there were substituted “The regulator”.

10. Article 14(1) is to be read as if “in accordance with Article 7 of [Directive 2003/87/EC](#)” were omitted.

11. Article 15 is to be read as if—

- (a) in paragraph 3—

- (i) in point (g), for “or *de minimis*” there were substituted “, *de minimis* or marginal”;
- (ii) point (h) were omitted.

- (b) in paragraph 4—

- (i) in point (a)(ii), for “calculation methods as laid down in Annex III” there were substituted “the calculation methods referred to in Article 53(2)”;
- (ii) in point (a)(iv), for “Article 28a(6) of [Directive 2003/87/EC](#)” there were substituted “article 33(2) of the 2020 Order”.

⁽⁶⁾ 2008 c. 32.

⁽⁷⁾ OJ No. L 140, 5.6.2009, p. 114.

12. Article 16(1) is to be read as if for the words from “shall carry out” to the end there were substituted “must use, in parallel, both the modified and the original monitoring plan to carry out all monitoring and reporting, according to both plans, and must keep the results of both monitoring approaches in their records”.

13. Article 18 is to be read as if—

- (a) in paragraph 1, for “EUR 20” there were substituted “£20”;
- (b) in paragraph 3(c)—
 - (i) for “Member State” there were substituted “United Kingdom”;
 - (ii) after “adopted”, there were inserted “before IP completion day”;
- (c) in paragraph 4—
 - (i) for “EUR 2000” there were substituted “£2000”;
 - (ii) for “EUR 500” there were substituted “£500”.

14. Article 19(3) is to be read as if—

- (a) after point (b) there were inserted—
 - “(ba) marginal source streams, where the source streams selected by the operator jointly account for less than 10 tonnes of fossil CO₂ per year.”;
- (b) in the final subparagraph, for “or a *de minimis* source stream” there were substituted “, a *de minimis* source stream or a marginal source stream”.

15. Article 20 is to be read as if—

- (a) in paragraph 1, in the second subparagraph—
 - (i) after “belonging to” there were inserted “regulated”;
 - (ii) the words from “and listed in” to the end were omitted;
- (b) in paragraph 3—
 - (i) in the first subparagraph, for “within the meaning of [Directive 2009/31/EC](#)” there were substituted “containing a storage site permitted in accordance with the CCS licensing regime”;
 - (ii) in the second subparagraph, for “pursuant to Article 16 of [Directive 2009/31/EC](#) have been taken”, there were substituted “have been taken in accordance with the CCS licensing regime”.

16. Article 26(3) is to be read as if after “source streams” there were inserted “and marginal source streams”.

17. Article 31(1)(b) is to be read as if for “Member State” there were substituted “United Kingdom”.

18. Article 38 is to be read as if—

- (a) in paragraph 2, after “zero” there were inserted “, but the emission factor for bioliquids shall be zero only if the sustainability criteria set out in Article 17(2) to (5) of [Directive 2009/28/EC](#) have been fulfilled”;
- (b) in paragraph 4, after “*de minimis*” there were inserted “or marginal”.

19. Article 39 is to be read as if—

- (a) in paragraph 2, the third subparagraph were omitted;
- (b) in paragraph 3, for “Articles 2(j) and 15 of [Directive 2009/28/EC](#)” there were substituted “the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy

Sources) Regulations 2003(8) or the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations (Northern Ireland) 2003(9)

20. Article 42(1) is to be read as if, in the second subparagraph, “, standards published by the Commission” were omitted.

21. Article 47(1) is to be read as if for “Annex I to Directive 2003/87/EC” there were substituted “paragraph 3 of Schedule 2 to the 2020 Order”.

22. Article 48(2) is to be read as if—

- (a) for “activities covered by Annex I to Directive 2003/87/EC or included pursuant to Article 24 of that Directive” there were substituted “regulated activities”;
- (b) for “activity covered by that Directive” there were substituted “regulated activity”;
- (c) for “not covered by that Directive” there were substituted “not covered by the 2020 Order”.

23. Article 49 is to be read as if—

- (a) in paragraph 1—
 - (i) in the words before point (a), for “activities covered by Annex I to Directive 2003/87/EC” there were substituted “regulated activities”;
 - (ii) in point (a), for “under Directive 2009/31/EC” in each place it occurs there were substituted “in accordance with the CCS licensing regime”;
- (b) in paragraph 2—
 - (i) in the first subparagraph, the words from “the operator” in the first place it occurs to “other cases,” were omitted;
 - (ii) for the second subparagraph there were substituted—

“In its annual emissions report, the operator of the receiving installation shall provide the name, address and contact information of a contact person for the transferring installation.”

24. Article 50 is to be read as if—

- (a) in paragraph 1—
 - (i) in the first subparagraph, for “activities covered by Annex I to Directive 2003/87/EC for which that Annex specifies N₂O as relevant” there were substituted “regulated activities in respect of which N₂O emissions are specified emissions (as defined in the 2020 Order)”;
 - (ii) in the third subparagraph, for “not covered by Directive 2003/87/EC” there were substituted “not covered by the 2020 Order”;
- (b) for paragraph 2 there were substituted—

“2. In its annual emissions report, the operator of the transferring installation shall provide the name, address and contact information of a contact person for the receiving installation.

In its annual emissions report, the operator of the receiving installation shall provide the name, address and contact information of a contact person for the transferring installation.”

25. Article 51 is to be read as if—

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- (8) S.I. 2003/2562, amended by S.I. 2010/2715 and 2011/1043 and amended prospectively by S.I. 2018/1093 with effect from IP completion day.
 - (9) S.R. 2003 No. 470, amended by S.R. 2010 No. 374 and S.I. 2011/1043; there are other amending instruments, but none is relevant.

- (a) in paragraph 1, for “activities for all flights included in Annex I to Directive 2003/87/EC that are” there were substituted “activity that is”;
 - (b) paragraphs 2 to 4 were omitted.
- 26.** Article 53 is to be read as if—
- (a) in paragraph 2, for “section 1 of Annex III” there were substituted “Appendix 2 to Annex 16, Volume IV to the Chicago Convention”(10);
 - (b) in paragraph 3, for “section 1 of Annex III” there were substituted “Appendix 2 to Annex 16, Volume IV to the Chicago Convention”.
- 27.** Article 54 is to be read as if—
- (a) the second, third and fourth subparagraphs were omitted;
 - (b) in the fifth subparagraph, for “Article 18 of Directive 2009/28/EC” there were substituted “Articles 12 and 13A of the Renewable Transport Fuel Obligations Order 2007(11)”.
- 28.** Article 55(2) is to be read as if for “Commission” there were substituted “UK ETS authority”.
- 29.** Article 58(1) is to be read as if the second subparagraph were omitted.
- 30.** Article 68 is to be read as if for the whole Article there were substituted—

“Article 68

Obligations for reporting

Annex X (minimum content of annual reports) has effect for the purposes of article 33 of and paragraph 4(2)(b) of Schedule 6 and paragraph 11(2)(b) of Schedule 7 to the 2020 Order.”.

- 31.** Article 71 is to be read as if—
- (a) the first sentence were omitted;
 - (b) for “With regard to the application of the exception, as specified in Article 4(2)(d) of Directive 2003/4/EC”, there were substituted “With regard to the potential application in relation to emission reports of the exemption in section 43 of the Freedom of Information Act 2000(12), the exception in regulation 12(5)(e) of the Environmental Information Regulations 2004(13) or the exception in regulation 10(5)(e) of the Environmental Information (Scotland) Regulations 2004(14)”.
- 32.** Article 72(3) is to be read as if “calculating the distance and payload pursuant to Article 57 and” were omitted.
- 33.** Article 73 is to be read as if—
- (a) in the words before point (a), for the words from “Each activity” to “aircraft operator” there were substituted “Each regulated activity carried out by an operator and each aviation activity carried out by an aircraft operator”;
 - (b) points (b) and (c) were omitted;
 - (c) for point (d) there were substituted—

(10) 1st Edition, October 2018, available electronically at <https://www.icao.int/environmental-protection/CORSIA/Pages/SARPs-Annex-16-Volume-IV.aspx> or in paper form from the International Civil Aviation Organisation, 999 Robert-Bourassa Boulevard, Montreal, Quebec, Canada H3C 5H7.

(11) S.I. 2007/3072; relevant amending instruments are S.I. 2011/2937 and 2018/374.

(12) 2000 c. 36.

(13) S.I. 2004/3391, to which there are amendments not relevant to this Order.

(14) S.S.I. 2004/520, to which there are amendments not relevant to this Order.

“(d) the UK Standard Industrial Classification (SIC) of Economic Activities, issued under section 9 of the Statistics and Registration Service Act 2007(15), and as updated from time to time.”.

34. Article 78 is to be read as if the words from “However” to the end were omitted.

35. Annex 1 is to be read as if—

- (a) in section 1, in point (2)(b), for “and *de minimis*” in both places it occurs there were substituted “, *de minimis* and marginal”;
- (b) in section 2, in point 1—
 - (i) in point (a), “the administering Member State,” were omitted;
 - (ii) in point (d), for “covered by Annex I to [Directive 2003/87/EC](#)” there were substituted “an aviation activity”;
 - (iii) in point (k), for “Article 28a(6) of [Directive 2003/87/EC](#)” there were substituted “article [33\(2\)](#) of the 2020 Order”;
- (c) in section 2, in point 2(b)(i), the words “(Method A or Method B)” were omitted.

36. Annex 2 is to be read as if, before section 2.1, in the first subparagraph, for “all activities as listed in Annex I to [Directive 2003/87/EC](#) or included in the Union system under Article 24 of that Directive” there were substituted “all regulated activities”.

37. Annex 3 is to be read as if section 1 were omitted.

38. Annex 4 is to be read as if—

- (a) in section 1, in subsection A, for “all activities as listed in Annex I to [Directive 2003/87/EC](#) or included in the Union system under Article 24 of that Directive” there were substituted “all regulated activities”;
- (b) in each of the headings of sections 21, 22 and 23, for “[Directive 2009/31/EC](#)” there were substituted “the CCS licensing regime”;
- (c) in section 21, in subsection A, for “other activities covered by [Directive 2003/87/EC](#)” there were substituted “other regulated activities”;
- (d) in section 22, in subsection B, for “[Directive 2003/87/EC](#)” in both places it occurs there were substituted “the 2020 Order”;
- (e) in section 23—
 - (i) in subsection A, in the first subparagraph, for “[Directive 2009/31/EC](#)” there were substituted “the CCS licensing regime”;
 - (ii) in subsection A, in the second subparagraph, after “with”, there were inserted “domestic legislation which immediately before IP completion day implemented”;
 - (iii) in subsection B.3, in the definition of “T_{end}”, after “with”, there were inserted “domestic legislation which immediately before IP completion day implemented”.

39. Section 2(7) of Annex 9 is to be read as if—

- (a) in point (c)—
 - (i) after “storage permit”, there were inserted “for the storage site”;
 - (ii) for “Article 9 of [Directive 2009/31/EC](#)” there were substituted “the CCS licensing regime”;

(15) 2007 c. 18.

- (b) in each of points (d), (e) and (f), after “with”, there were inserted “domestic legislation which immediately before IP completion day implemented”.
- 40.** Annex 10 is to be read as if—
- (a) in the heading, for “68(3)” there were substituted “68”;
- (b) in section 1—
- (i) in point (6), for “Information” there were substituted “Subject to the subparagraph after point (13), information”;
- (ii) in the subparagraph after point (13), at the end there were inserted “Emissions occurring from marginal source streams may be reported in an aggregate manner.”;
- (iii) in the final subparagraph, after “with”, there were inserted “domestic legislation which immediately before IP completion day implemented”;
- (c) in section 2—
- (i) in point (1), after “[Directive 2003/87/EC](#)”, there were inserted “(read as if references in that Annex to “its administering Member State” and “in the administering Member State” were omitted and as if references to “aviation activities listed in Annex I” were references to “aviation activity”)”;
- (ii) in point (6), for “aviation activities covered by Annex I to [Directive 2003/87/EC](#)” there were substituted “aviation activity”;
- (iii) in point (9), for “Member State” there were substituted “state”;
- (iv) in point (13), for “operator” in both places it occurs there were substituted “aircraft operator”;
- (d) in section 3—
- (i) in point (1), after “[Directive 2003/87/EC](#)”, there were inserted “(read as if references in that Annex to “its administering Member State” and “in the administering Member State” were omitted and as if references to “aviation activities listed in Annex I” were references to “aviation activity”)”;
- (ii) in point (6), for “aviation activities covered by Annex I to [Directive 2003/87/EC](#)” there were substituted “aviation activity”;
- (iii) in point (8), for “aviation activities listed in Annex I of [Directive 2003/87/EC](#)” there were substituted “aviation activity”.

SCHEDULE 5

Article 25

Amendments to the Verification Regulation 2018

1. The Verification Regulation 2018 is amended as follows.
2. For “competent authority” in each place it occurs substitute “regulator”.
3. In Article 1, for “2012 Regulations” substitute “2020 Order”.
4. In Article 2, for the words from “2019” to the end substitute “2021, reported pursuant to Implementing Regulation (EU) 2018/2066”.
5. In Article 3—
 - (a) for the words before point (A1), substitute—

“In this Regulation, references to Implementing Regulation (EU) 2018/2066 are to that Regulation as modified by the Greenhouse Gas Emissions Trading Scheme Order 2020 and expressions used in that Regulation have the same meaning as in that Regulation; in addition.”;

- (b) omit point (A1);
- (c) in point (2), for “a” in the first place it occurs substitute “the”;
- (d) in point (3), for “a national” substitute “the national”;
- (e) after point (3), insert—
 - “(3a) ‘national accreditation body’ means the national accreditation body of the United Kingdom appointed in accordance with Article 4(1) of Regulation (EC) 765/2008(16);”;
- (f) omit point (4a);
- (g) omit point (4b);
- (h) in point (7), for “regulation 35(4) and paragraph 2(1)(e)(ii) of Schedule 4 to the 2012 Regulations” substitute “a permit issued in accordance with Schedule 6 or 7 to the 2020 Order or pursuant to article 33 of the 2020 Order”;
- (i) omit point (7a);
- (j) omit point (7b);
- (k) omit point (12a);
- (l) in point (13)(a), omit “greenhouse gas emissions”;
- (m) in points (22) and (23), for “EU” in each place it occurs substitute “UK”;
- (n) in point (22), for “an” in the first place it occurs substitute “a”;
- (o) in point (26), for “a” in the second place it occurs substitute “the”.

6. Omit Article 3a.

7. In Article 5, for “bodies” substitute “body”.

8. In Article 7—

- (a) in paragraph 3, for “competent authorities” substitute “regulator”;
- (b) in paragraph 4(b), omit “greenhouse gas emissions”.

9. In Article 10(1)(a), omit “greenhouse gas emissions”.

10. In Article 17(4) for “and the CO₂” substitute “or transferred N₂O is not counted in accordance with Article 50 of that Regulation and the CO₂ or N₂O transferred”.

11. In Article 27(3)(g), for “activity, other than aviation, listed in Annex 1 to Directive 2003/87/EC” substitute “regulated activity”.

12. In Article 31—

- (a) in paragraph 1, for “a” in the first place it occurs substitute “the”;
- (b) in paragraph 3(b), at the beginning insert “in the case of installations which are not within Article 32(5),”;
- (c) after paragraph 3, insert—

“3A. The verifier must carry out site visits to installations within Article 32(5) at least twice in the trading period.”.

(16) Regulation (EC) 765/2008 is amended prospectively by S.I. 2019/696 with effect from IP completion day.

13. In Article 36—
 - (a) in paragraphs 2(b) and 6, for “EU” in each place it occurs substitute “UK”;
 - (b) in paragraph 6, for “an” substitute “a”.
14. In Article 37—
 - (a) in paragraph 2, for “an” substitute “a”;
 - (b) in paragraphs 2 and 6, for “EU” in each place it occurs substitute “UK”;
 - (c) in paragraph 5, in the first subparagraph, omit the second sentence.
15. In Article 38—
 - (a) for “EU ETS” in each place it occurs (including the heading) substitute “UK ETS”;
 - (b) in paragraph 1, in the words before point (a), for “An” substitute “A”;
 - (c) in paragraph 1(a)—
 - (i) for “[Directive 2003/87/EC](#)” substitute “the 2020 Order”;
 - (ii) for “Secretary of State” substitute “the national authorities”.
 - (d) in paragraph 2—
 - (i) for “An” substitute “A”;
 - (ii) for “an” substitute “a”.
16. In Article 39(2), for “an EU” substitute “a UK”.
17. In Article 40, for “EU” in each place it occurs substitute “UK”.
18. In Article 43(1), at the end insert “or under the trading scheme established by the 2020 Order”.
19. In Article 45, in the words before point (a), for “each” substitute “the”.
20. In Article 47(1), for “each” substitute “the”.
21. In Article 59(1)(b), for “[Directive 2003/87/EC](#)” substitute “the 2020 Order”.
22. In Article 60(2)(a), for “[Directive 2003/87/EC](#)” substitute “the 2020 Order”.
23. In Article 69—
 - (a) in paragraph 1, omit “in accordance with Article 74(1) of Implementing Regulation (EU) 2018/2066”;
 - (b) in paragraph 2, omit “in accordance with Article 74(2) of Implementing Regulation (EU) 2018/2066”.
24. In Article 70—
 - (a) in paragraph 1—
 - (i) for “the Secretary of State” substitute “UK ETS authority”;
 - (ii) for “their” substitute “the”;
 - (b) in paragraph 2—
 - (i) for the words from “Where” to “competent authorities” substitute “The Environment Agency or such other regulator as may be designated by the national authorities from time to time is”;
 - (ii) after “information” insert “for the purposes of this Chapter”.
25. In Article 71—

- (a) in paragraph 1, in the words before point (a), for “that” in the first place it occurs substitute “the”;
 - (b) in paragraph 3—
 - (i) in the words before point (a), for “that” in the second place it occurs substitute “the”;
 - (ii) in point (a), for “that” in the second place it occurs substitute “the”.
- 26.** In Article 76(1)—
- (a) for “National accreditation bodies, or where applicable national authorities referred to in Article 55(2),” substitute “The national accreditation body”;
 - (b) for “competent authorities” substitute “regulators”.

SCHEDULE 6

Article 26(3)

Permits

PART 1

Application for greenhouse gas emissions permits

Greenhouse gas emissions permits: application

1.—(1) The operator of an installation may apply to the regulator for a greenhouse gas emissions permit for the installation⁽¹⁷⁾.

(2) But an application may not be made if a permit for the installation is already in force.

(3) In sub-paragraph (2), “permit” includes a permit within the meaning of GGETSR 2012 to which paragraph 1 of Schedule 11 applies (permits to be converted).

Greenhouse gas emissions permits: content of application

2.—(1) An application for a greenhouse gas emissions permit must contain—

(a) an address to which correspondence relating to the application should be sent (in addition to the addresses required by paragraph 1⁽⁵⁾ of Schedule 3);

(b) if the operator of the installation is a body corporate—

(i) its registered number and the postal address of its registered or principal office; and

(ii) where the operator is a subsidiary of a holding company, the name of the holding company (other than a holding company which is itself a subsidiary) and the postal address of the holding company’s registered or principal office,

and in this paragraph “subsidiary” and “holding company” have the meanings given in section 1159 of the Companies Act 2006⁽¹⁸⁾;

(c) in relation to the site of the installation—

⁽¹⁷⁾ Paragraphs 24 and 26 of Schedule 7 and paragraph 1 of Schedule 11 provide for the conversion of permits into greenhouse gas emissions permits.

⁽¹⁸⁾ 2006 c. 46. In section 1159 of the Companies Act 2006, “company” includes any body corporate.

- (i) the postal address and national grid reference of the site (or in the case of an installation in UK coastal waters or the UK sector of the continental shelf equivalent information identifying the installation and its location);
 - (ii) a description of the site and the location of the installation on it; and
 - (iii) the name of any local authority where the site is situated;
- (d) a description of the installation, the regulated activities to be carried out at the installation and the specified emissions from those activities;
- (e) a description of the raw and auxiliary materials used in carrying out regulated activities at the installation, the use of which is likely to lead to specified emissions;
- (f) a description of the sources of specified emissions from the regulated activities carried out at the installation;
- (g) a monitoring plan in accordance with Article 12 of the Monitoring and Reporting Regulation 2018, together with—
- (i) the supporting documents referred to in Article 12(1) of that Regulation;
 - (ii) except where the installation is an installation with low emissions within the meaning of Article 47(2) of that Regulation, the uncertainty assessment carried out under Article 28(1)(a) of that Regulation;
- (h) a description, including the reference number, of any environmental licence issued in relation to the installation;
- (i) any additional information that the operator wishes the regulator to take into account in considering the application;
- (j) a non-technical summary of the information referred to in paragraphs (d) to (i); and
- (k) the date on which the operator wishes the permit to come into force.
- (2) In sub-paragraph (1)(h), “environmental licence” means—
- (a) an authorisation under—
 - (i) Part 1 of the Environmental Protection Act 1990**(19)**;
 - (ii) the Industrial Pollution Control (Northern Ireland) Order 1997**(20)**;
 - (b) a permit under—
 - (i) the Pollution Prevention and Control (Scotland) Regulations 2012**(21)**;
 - (ii) the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013**(22)**;
 - (iii) the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013**(23)**;
 - (iv) the Environmental Permitting (England and Wales) Regulations 2016**(24)**;
 - (v) the Environmental Authorisations (Scotland) Regulations 2018**(25)**.

(19) 1990 c. 43.

(20) S.I. 1997/2777 (N.I.18).

(21) S.S.I. 2012/360.

(22) S.I. 2013/971.

(23) S.R. 2013/160.

(24) S.I. 2016/1154.

(25) S.S.I. 2018/219.

Greenhouse gas emissions permits: issue of permit

3. A greenhouse gas emissions permit may be issued only if the regulator considers that from the date on which the permit comes into force the operator of the installation will be capable of monitoring and reporting the installation's reportable emissions in accordance with the monitoring and reporting conditions of the permit.

Greenhouse gas emissions permits: content of permit

- 4.—(1) A greenhouse gas emissions permit must contain—
- (a) the name and postal address in the United Kingdom (including postcode) of the operator and any other address for correspondence included by the operator in the application;
 - (b) the postal address and national grid reference of the installation (or, in the case of an installation in UK coastal waters or the UK sector of the continental shelf, equivalent information identifying the installation and its location);
 - (c) a description of the installation, the regulated activities to be carried out at the installation and the specified emissions from those activities;
 - (d) a description of the site and the location of the installation on the site;
 - (e) the date on which the permit comes into force;
 - (f) the monitoring plan—
 - (i) where an application is made for the permit, approved in relation to the installation under Articles 11 to 13 of the Monitoring and Reporting Regulation 2018;
 - (ii) where an existing permit is converted into a greenhouse gas emissions permit, approved in relation to the installation under Articles 11 to 13 of the Monitoring and Reporting Regulation 2012 or Articles 11 to 13 of the Monitoring and Reporting Regulation 2018 for the purpose of monitoring specified emissions at the installation immediately before the greenhouse gas emissions permit comes into force;
 - (g) the monitoring and reporting conditions (see sub-paragraph (2));
 - (h) the surrender condition (see sub-paragraphs (3) to (5));
 - (i) any conditions that the regulator considers necessary to ensure that the operator notifies the regulator of any planned or effective changes to the capacity, activity level or operation of the installation, on or before 31st December in the year in which the change is planned or occurs;
 - (j) any other conditions that the regulator considers appropriate to include in the permit.
- (2) The monitoring and reporting conditions are—
- (a) a condition requiring the operator to monitor the installation's reportable emissions in accordance with—
 - (i) the Monitoring and Reporting Regulation 2018; and
 - (ii) the monitoring plan (including the written procedures supplementing the monitoring plan);
 - (b) a condition requiring the operator to prepare in accordance with the Monitoring and Reporting Regulation 2018 a report of the installation's reportable emissions in each scheme year that is verified in accordance with the Verification Regulation 2018 and to submit the report to the regulator on or before 31st March in the following year;
 - (c) a condition requiring the operator to satisfy the regulator, if an emission factor of zero is reported in respect of the use of bioliquids, that the sustainability criteria set out in Article 17(2) to (5) of [Directive 2009/28/EC](#) of the European Parliament and of the Council of

23 April 2009 on the promotion of the use of energy from renewable sources⁽²⁶⁾ have been fulfilled; and

(d) any further conditions that the regulator considers necessary to give proper effect to the Monitoring and Reporting Regulation 2018 or the Verification Regulation 2018.

(3) The surrender condition is a condition requiring the operator to surrender allowances equal to the installation's reportable emissions in a scheme year on or before 30th April in the following year.

(4) For the purposes of the surrender condition, where an installation's reportable emissions in a scheme year (the "non-compliance year") exceeds the allowances surrendered on or before 30th April in the following year, the installation's reportable emissions in the relevant scheme year must be treated as being increased by the difference.

(5) In sub-paragraph (4), the relevant scheme year means—

(a) the scheme year following the non-compliance year; or

(b) if the failure to comply with the surrender condition results from an error in the verified emissions report submitted by the operator, the scheme year in which the error is discovered.

Greenhouse gas emissions permits: effect of permit, etc.

5.—(1) A greenhouse gas emissions permit for an installation—

(a) comes into force on the date set out in the permit;

(b) authorises the regulated activities set out in the permit to be carried out at the installation.

(2) The operator of the installation must comply with the conditions of the permit.

PART 2

Greenhouse gas emissions permits and hospital or small emitter permits

Variation of permits

6.—(1) The operator of an installation—

(a) may apply to the regulator to vary the installation's permit;

(b) must apply to the regulator to vary the installation's permit where required by a condition of the permit.

(2) The regulator may vary an installation's permit at any time if the regulator considers that it is necessary to do so for the purposes of the UK ETS and in particular may do so in consequence of any of the following—

(a) a report of the operator referred to in Article 69 of the Monitoring and Reporting Regulation 2018;

(b) a notification under a condition included under paragraph 4(1)(i) (notification of planned changes in operation);

(c) a failure by the operator to comply with a condition of the permit to apply for a variation.

(3) The regulator may vary a permit to comply with—

(a) paragraph 9(3), (4) or (5) (transfer of permits);

⁽²⁶⁾ O.J. No. L 140, 5.6.2009, p. 16, amended by Council Directive 2013/18/EU (O.J. No. L 158, 10.6.2013, p. 230) and Directive (EU) 2015/1513 (O.J. No. L 239, 15.9.2015, p. 1).

- (b) any of the following provisions of Schedule 7—
 - (i) paragraph 10 (conversion of permit to hospital or small emitter permit);
 - (ii) paragraph 18 (calculation of later emissions targets where initial targets based on estimates);
 - (iii) paragraph 20 (banking overachieved target);
 - (iv) paragraph 21 (emissions targets for 2026-2030 allocation period);
 - (v) paragraph 24 (conversion of permit on loss of hospital or small emitter status);
 - (vi) paragraph 26 (conversion of permit at end of 2021-2025 allocation period).

(4) The variation of an installation's permit is given effect by the regulator giving a notice to the operator of the installation setting out the variations to the permit.

(5) Where a permit is varied, the regulator may, by giving notice to the operator, replace the permit with a consolidated version that includes the variations.

Transfer of permits: application

7.—(1) Subject to sub-paragraphs (3) and (4), a permit holder (the “transferring operator”) and another person (the “new operator”) may jointly apply to the regulator—

- (a) for the transfer of the permit to the new operator;
- (b) for the partial transfer of the permit to the new operator.

(2) For the purposes of this Order, the partial transfer of a permit is the transfer in respect of part of the installation at which the permit authorises a regulated activity to be carried out.

(3) An application for the transfer or partial transfer of a permit may not be made in respect of an installation (or part of an installation) that has ceased operation.

(4) An application may not be made for the partial transfer of a hospital or small emitter permit.

(5) In this paragraph and paragraphs 8 to 10—

- “existing permit” has the meaning given in paragraph 9(5);
- “new operator” has the meaning given in sub-paragraph (1);
- “transferred activities” has the meaning given in paragraph 8(a);
- “transferred units” has the meaning given in paragraph 8(a);
- “transferring operator” has the meaning given in sub-paragraph (1).

Transfer of permits: contents of application

8. An application for the transfer or partial transfer of a permit must contain—

- (a) a description of the installation (or part of an installation) in respect of which the application is made (the “transferred units”) and of the regulated activities authorised to be carried out there (the “transferred activities”);
- (b) in relation to both the transferring operator and the new operator, an address to which correspondence relating to the application should be sent (in addition to the addresses required by paragraph 1(5) of Schedule 3);
- (c) if the new operator is a body corporate, the matters referred to in paragraph 2(1)(b) in relation to the new operator;
- (d) either—
 - (i) the new operator's monitoring plan in accordance with Article 12 of the Monitoring and Reporting Regulation 2018, together with—

- (aa) the supporting documents referred to in Article 12(1) of that Regulation;
 - (bb) except where the transferred units are an installation with low emissions within the meaning of Article 47(2) of that Regulation, the uncertainty assessment carried out under Article 28(1)(a) of that Regulation; or
 - (ii) the new operator's specification of the parts of the existing monitoring plan that it is proposed be varied and any necessary corresponding update of the supporting documents and any uncertainty assessment;
- (e) in the case of an application for a partial transfer of a permit, the transferring operator's specification of the parts of the existing monitoring plan that it is proposed be varied and any necessary corresponding update of the supporting documents and any uncertainty assessment.

Transfer of permits: grant of application

9.—(1) An application for the transfer or partial transfer of a permit may be granted only if the regulator considers that from the transfer date, the new operator—

- (a) will be the operator of the installation; and
- (b) will be capable of monitoring and reporting the installation's reportable emissions in accordance with the monitoring and reporting conditions of the permit (including as varied under this paragraph).

(2) Where an application for a transfer or a partial transfer is granted, the regulator must give notice of the transfer to—

- (a) the transferring operator; and
- (b) the new operator.

(3) Where an application for the partial transfer of a permit is granted—

- (a) the regulator must issue a new greenhouse gas emissions permit (the "new permit") to the new operator that—
 - (i) sets out that the new permit comes into force on the transfer date;
 - (ii) sets out the transferred activities and the transferred units at which the transferred activities may be carried out;
 - (iii) includes such other provisions as the regulator considers appropriate to take account of the transfer;
- (b) the regulator may make such corresponding variations under paragraph 6 to the permit (the "original permit") held by the transferring operator as the regulator considers appropriate to take account of the transfer;
- (c) the new permit comes into force on the transfer date to authorise the transferred activities to be carried out at the transferred units from that date;
- (d) the variations to the original permit have effect from the transfer date (which must be set out in the original permit).

(4) Where an application for the transfer of a permit (other than for a partial transfer) is granted—

- (a) the regulator must vary the permit under paragraph 6 so that it includes—
 - (i) the name and other particulars of the new operator;
 - (ii) the transfer date;
 - (iii) such variations to the monitoring plan as the regulator considers appropriate;
- (b) the new operator is the holder of the permit as varied from the transfer date.

(5) But if the new operator already holds a permit (the “existing permit”) for an installation that is on the same site as the transferred units, the regulator may, instead of varying the transferring operator’s permit under sub-paragraph (4)—

- (a) vary the existing permit under paragraph 6 so that it includes such variations as the regulator considers necessary to take account of the transferred units and transferred activities; and the variations have effect from the transfer date, which must be set out in the existing permit; and
- (b) by giving notice to the transferring operator, cancel the permit held by the transferring operator so that the permit ceases to authorise regulated activities to be carried out from the transfer date.

(6) In this paragraph, “transfer date” means the date agreed by the transferring operator, the new operator and the regulator as the date on which the transfer or partial transfer to the new operator is to take effect.

Transfer of permits: underreporting discovered after transfer

10.—(1) This paragraph applies where—

- (a) after the transfer of a greenhouse gas emissions permit under paragraph 9 takes effect, the regulator becomes aware, following a determination of reportable emissions under article 45, of an error in a report submitted for a scheme year by the transferring operator under the monitoring and reporting conditions of the permit; and
- (b) as a result of the error, the transferring operator failed to comply with the surrender condition of the permit in respect of the scheme year to which the error relates.

(2) The regulator must give notice to the transferring operator of the error as soon as reasonably practicable.

(3) The transferring operator must within 1 month of the notice effect a transfer to the new operator of allowances equal to the reportable emissions in respect of which, as a result of the error, the transferring operator failed to comply with the surrender condition of the permit.

(4) The new operator must surrender the allowances within 1 month after the transfer of the allowances.

(5) In sub-paragraph (1), the reference to the transfer of a greenhouse gas emissions permit under paragraph 9 includes a reference to an application for a transfer of a permit to which effect is given by a variation of the new operator’s existing permit under sub-paragraph (5) of that paragraph.

Surrender of permits

11.—(1) Where a permit authorises a regulated activity to be carried out at an installation that has ceased operation, the operator must apply to the regulator to surrender the permit on or before—

- (a) the last day of the period of 1 month beginning with the day on which it ceased operation; or
- (b) such later date as may be agreed by the regulator.

(2) Where a permit authorises a regulated activity to be carried out at an installation where a regulated activity is no longer being carried out but it is not technically impossible to resume operation, the operator of the installation may apply to the regulator to surrender the permit.

(3) Where the regulator grants an application to surrender a permit under sub-paragraph (1) or (2), the regulator must give a notice (a “surrender notice”) to the operator.

(4) The surrender notice must—

- (a) set out a date (the “end date”) on which the surrender of the permit takes effect;

- (b) require the operator to—
 - (i) submit to the regulator on or before a date set out in the notice a report of the installation’s reportable emissions in the period beginning on 1st January in the scheme year (the “end year”) in which the end date falls and ending on the end date;
 - (ii) ensure that the report is prepared and verified in accordance with the monitoring and reporting conditions of the permit;
 - (iii) where the permit is a greenhouse gas emissions permit, on or before a date set out in the notice, surrender allowances equal to the installation’s reportable emissions in the period referred to in sub-paragraph (i).
- (5) The operator must comply with the requirements of the surrender notice.
- (6) Where a surrender notice is given—
 - (a) the permit ceases to be in force on the end date (and therefore ceases to authorise a regulated activity to be carried out at the installation from that date); but
 - (b) the conditions of the permit continue to have effect as if the permit were in force until the regulator certifies that the conditions of the permit and the requirements of the surrender notice have been complied with.
- (7) The reference in sub-paragraph (6)(b) to the conditions of the permit that continue to have effect includes a reference to conditions relating to reportable emissions before the end year that the operator is required to comply with on or before a date that may fall after the end date (for example, in the case of a greenhouse gas emissions permit, the condition referred to in paragraph 4(2)(b) and the surrender condition or, in the case of a hospital or small emitter permit, the condition referred to in paragraph 11(2)(b) of Schedule 7).

Revocation of permits

12.—(1) Where the operator of an installation fails to apply to surrender the installation’s permit under paragraph 11(1) on or before the date referred to in that sub-paragraph, the regulator must revoke the permit as soon as reasonably practicable after that date.

(2) Where a permit authorises a regulated activity to be carried out at an installation that is included in the ultra-small emitter list for 2026-2030, the regulator must revoke the permit so that it ceases to be in force at the end of 31st December 2025.

- (3) The regulator may revoke a permit if—
 - (a) the operator fails to comply with—
 - (i) a requirement imposed on the operator by or under—
 - (aa) this Order;
 - (bb) the Monitoring and Reporting Regulation 2018;
 - (cc) the Verification Regulation 2018;
 - (ii) a condition of the permit; or
 - (b) the operator of an installation fails to pay the charge for maintaining the permit in force⁽²⁷⁾.
- (4) A permit is revoked by giving a notice (a “revocation notice”) to the operator.
- (5) The revocation notice must—
 - (a) set out a date (the “end date”) on which the revocation of the permit takes effect;

⁽²⁷⁾ Paragraph 23(4) of Schedule 7 provides for the regulator to give a conversion notice in respect of the hospital or small emitter permit instead of revoking the permit.

- (b) require the operator to—
 - (i) submit to the regulator on or before a date set out in the notice a report of the installation’s reportable emissions in the period beginning on 1st January in the scheme year (the “end year”) in which the end date falls and ending on the end date;
 - (ii) ensure that the report is prepared and verified in accordance with the monitoring and reporting conditions of the permit;
 - (iii) where the permit is a greenhouse gas emissions permit, on or before a date set out in the notice, surrender allowances equal to the installation’s reportable emissions in the period referred to in sub-paragraph (i).
- (6) The operator must comply with the requirements of the revocation notice.
- (7) Where a revocation notice is given—
 - (a) the permit ceases to be in force on the end date (and therefore ceases to authorise a regulated activity to be carried out at the installation from that date); but
 - (b) the conditions of the permit continue to have effect as if the permit were in force until the regulator certifies that the conditions of the permit and the requirements of the revocation notice have been complied with.
- (8) The reference in sub-paragraph (7)(b) to the conditions of the permit that continue to have effect includes a reference to conditions relating to reportable emissions before the end year that the operator is required to comply with on or before a date that may fall after the end date (for example, in the case of a greenhouse gas emissions permit, the condition referred to in paragraph 4(2)(b) and the surrender condition or, in the case of a hospital or small emitter permit, the condition referred to in paragraph 11(2)(b) of Schedule 7).
- (9) A regulator who gives a revocation notice may, by notice to the operator, withdraw the revocation notice at any time before the end date.

SCHEDULE 7

Article 26(4)

Hospitals and small emitters

PART 1

Preliminary

Interpretation

1.—(1) In this Schedule—

“conversion notice” has the meaning given in paragraph 23;

“emissions report” has the meaning given in paragraph 11(2)(b);

“emissions target”, in relation to an installation, means a target for the installation’s reportable emissions (excluding emissions from biomass) set out in the installation’s hospital or small emitter permit; and an emissions target for a scheme year is the emissions target for that year set out in the permit;

“hospital-qualifying installation” means—

- (a) in relation to an installation included in the hospital and small emitter list for 2021-2025, an installation stated in that list to be a “hospital” by the inclusion of “Y” in the entry relating to the installation in the column headed “Hospital (YES/NO)”;
- (b) in relation to an installation included in the hospital and small emitter list for 2026-2030, an installation that meets condition A (whether or not the installation also meets condition B or C) (see paragraphs 5 and 6);
- (c) in relation to an installation included in the ultra-small emitter list for 2021-2025 or the ultra-small emitter list for 2026-2030—
 - (i) in respect of which a notice under paragraph 7(2) of Schedule 8 is given; and
 - (ii) that is a hospital or small emitter for a scheme year by virtue of paragraph 4 of this Schedule,an installation that primarily provided services to a hospital in the scheme year before the notice was given;

“maximum amount” means 24,999 tonnes of carbon dioxide equivalent.

(2) For the purposes of this Order, in determining whether or not an installation’s reportable emissions or an estimate of reportable emissions exceed the maximum amount or an emissions target and in calculating an installation’s emissions target based on reportable emissions or an estimate, emissions from biomass must be excluded.

Meaning of installation that primarily provides services to a hospital in scheme year

2.—(1) For the purposes of this Schedule, an installation is an installation that primarily provides services to a hospital in a scheme year if at least 85% of the heat produced by the installation in that year is used by or supplied to one or more hospitals.

(2) In sub-paragraph (1), “hospital” means—

- (a) an institution for the reception and treatment of persons suffering from illness;
- (b) a maternity home;
- (c) an institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation;
- (d) a clinic, dispensary or out-patient department maintained in connection with an establishment referred to in any of paragraphs (a) to (c);
- (e) a research or teaching facility that is associated with an establishment referred to in any of paragraphs (a) to (c) that has as its primary purpose medical research or medical teaching;
- (f) any other facility that has as its primary purpose the provision of such services as are necessary to maintain the proper functioning of an establishment referred to in any of paragraphs (a) to (d), including in particular—
 - (i) blood transfusion services;
 - (ii) catering services;
 - (iii) laundry services;
 - (iv) medical sanitisation services.

(3) In sub-paragraph (2), “illness” includes any disorder or disability of the mind and any injury or disability requiring medical or dental treatment or nursing.

PART 2

Hospital or small emitter status

Hospital or small emitter status

3.—(1) This paragraph and paragraph 4 apply to determine whether or not an installation is a hospital or small emitter for a scheme year.

(2) Subject to sub-paragraphs (3) and (4), an installation is a hospital or small emitter for the scheme years in the 2021-2025 allocation period if the installation is included in the list (the “hospital and small emitter list for 2021-2025”) of installations to be excluded from the EU ETS under Article 27 of the Directive from 1st January 2021 published for the purposes of the EU ETS on the website of SEPA on 28th May 2020⁽²⁸⁾.

(3) Where a conversion notice is given to the operator of the installation stating that the installation is not a hospital or small emitter for a scheme year in the 2021-2025 allocation period, the installation is not a hospital or small emitter for that scheme year or subsequent scheme years in the allocation period.

(4) Where a regulated activity does not begin to be carried out before 1st November 2020 at an installation that is included in the hospital and small emitter list for 2021-2025—

- (a) the installation is not a hospital or small emitter for the scheme years in the 2021-2025 allocation period; and
- (b) for the purposes of this Order, the hospital and small emitter list for 2021-2025 must be treated as not including the installation.

(5) Subject to sub-paragraphs (6) and (7), an installation is a hospital or small emitter for the scheme years in the 2026-2030 allocation period if the installation is included in the hospital and small emitter list for 2026-2030.

(6) Where a conversion notice is given to the operator of the installation stating that the installation is not a hospital or small emitter for a scheme year in the 2026-2030 allocation period, the installation is not a hospital or small emitter for that scheme year or subsequent scheme years in the allocation period.

(7) Where a regulated activity does not begin to be carried out before 1st November 2025 at an installation that is included in the hospital and small emitter list for 2026-2030—

- (a) the installation is not a hospital or small emitter for the scheme years in the 2026-2030 allocation period; and
- (b) for the purposes of this Order, the hospital and small emitter list for 2026-2030 must be treated as not including the installation.

Hospital or small emitter status: former ultra-small emitters

4.—(1) This paragraph applies to an installation if—

- (a) the installation is included in—
 - (i) the ultra-small emitter list for 2021-2025; or
 - (ii) the ultra-small emitter list for 2026-2030;

⁽²⁸⁾ The hospital and small emitter list for 2021-2025 can be accessed at www.sepa.org.uk/media/504726/uk-article-27-27a-installation-list.pdf. A copy of the list may be inspected at the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET; the Industrial Pollution and Radiochemical Inspectorate, Department for Agriculture, Environment and Rural Affairs, Klondyke Building, Cromac Avenue, Belfast BT7 2JA; the Scottish Government Directorate of Energy & Climate Change, Fourth Floor, 5 Atlantic Quay, 150 Broomielaw, Glasgow G2 8LU; and the offices of the Welsh Government, Cathays Park 2, Cathays Park, Cardiff CF10 2NQ.

- (b) the regulator gives notice to the operator of the installation under paragraph 7(2) of Schedule 8 stating that the installation will not be an ultra-small emitter for a scheme year (the “relevant scheme year”); and
 - (c) the regulator gives notice to the operator under paragraph 7(5)(b) of that Schedule that the regulator considers that the installation is not an ineligible installation.
- (2) Subject to paragraph 3(3), an installation to which this paragraph applies by virtue of subparagraph (1)(a)(i) is a hospital or small emitter for the relevant scheme year and for subsequent scheme years in the 2021-2025 allocation period.
- (3) Subject to paragraph 3(6), an installation to which this paragraph applies by virtue of subparagraph (1)(a)(ii) is a hospital or small emitter for the relevant scheme year and for subsequent scheme years in the 2026-2030 allocation period.
- (4) For the purpose of this paragraph, an installation is an ineligible installation if—
- (a) where the activity referred to in column 1 of the first entry in table C in Schedule 2 (combustion of fuels) is carried out at the installation, the installation’s rated thermal input is 35 megawatts or above—
 - (i) where the installation is included in the ultra-small emitter list for 2021-2025, in any of the scheme years (within the meaning of GGETSR 2012) beginning on 1st January 2016, 2017 or 2018;
 - (ii) where the installation is included in the ultra-small emitter list for 2026-2030, in any of the 2021, 2022 or 2023 scheme years; and
 - (b) the installation is not an installation that primarily provided services to a hospital in the scheme year preceding the scheme year in which the notice under paragraph 7(2) of Schedule 8 is given.

Obtaining hospital or small emitter status for 2026-2030 allocation period

- 5.—(1) The operator of an installation who wishes to apply for the installation to be a hospital or small emitter for the scheme years in the 2026-2030 allocation period must submit the following to the regulator—
- (a) details of the installation, including details of any permit in force;
 - (b) evidence that the installation meets condition A, B or C (see paragraph 6);
 - (c) where the operator submits evidence that the installation meets condition A, the evidence and any estimate required by paragraph 6(3);
 - (d) where the operator submits evidence that the installation meets condition C, any estimate required by paragraph 6(6).
- (2) An application—
- (a) may not be made before 1st April 2024;
 - (b) must be made on or before 30th June 2024.
- (3) After receiving an application, the regulator must on or before 30th September 2024—
- (a) make a preliminary assessment of whether or not the installation meets condition A, B or C; and
 - (b) send the preliminary assessment and the reasons for it to the UK ETS authority.
- (4) After receiving the preliminary assessment—
- (a) the UK ETS authority must make a final assessment of whether or not the installation meets condition A, B or C; and

- (b) if the UK ETS authority considers that the installation meets condition A, B or C, the UK ETS authority must include the installation in a list (the “hospital and small emitter list for 2026-2030”).
- (5) The UK ETS authority must publish the hospital and small emitter list for 2026-2030 on or before 30th April 2025.
- (6) Evidence of an installation’s historic reportable emissions may not be taken into account for the purposes of assessing whether or not an installation meets condition B or C unless the evidence is—
 - (a) verified in accordance with the Verification Regulation 2018; or
 - (b) where relevant, set out in an emissions report accompanied by the declaration referred to in paragraph 11(2)(b)(ii).
- (7) An application may not be made under this paragraph and paragraph 3 of Schedule 8.

Obtaining hospital or small emitter status for 2026-2030 allocation period: Conditions A, B and C

6.—(1) This paragraph applies for the purposes of paragraph 5.

Condition A

- (2) Condition A is that the installation—
 - (a) is an installation that primarily provides services to a hospital in the 2023 scheme year; or
 - (b) if a regulated activity has not begun to be carried out at the installation at the date of the application—
 - (i) a regulated activity will begin to be carried out at the installation before 1st November 2025; and
 - (ii) the installation will be an installation that primarily provides services to a hospital after that date.
- (3) Where the operator submits evidence that the installation meets condition A, the operator must also submit—
 - (a) if a regulated activity begins to be carried out at the installation on or before 1st January 2021, evidence of—
 - (i) the installation’s reportable emissions in each of the 2021, 2022 and 2023 scheme years, verified as mentioned in paragraph 5(6);
 - (ii) where the activity referred to in column 1 of the first entry in table C in Schedule 2 (combustion of fuels) is carried out at the installation, the installation’s rated thermal input in each of those years;
 - (b) in any other case—
 - (i) where a regulated activity has begun to be carried out at the installation at the date of the application, such evidence of the matters referred to in paragraph (a)(i) and (ii) as is available at the date of the application; and
 - (ii) where the evidence submitted under sub-paragraph (i) does not include evidence of reportable emissions for a complete scheme year, an estimate of the installation’s reportable emissions in the 2026 scheme year.

Condition B

- (4) Condition B is that—

- (a) a regulated activity begins to be carried out at the installation on or before 1st January 2021;
- (b) the installation's reportable emissions in each of the 2021, 2022 and 2023 scheme years do not exceed the maximum amount; and
- (c) where the activity referred to in column 1 of the first entry in table C in Schedule 2 (combustion of fuels) is carried out at the installation, the installation's rated thermal input is below 35 megawatts in each of those years.

Condition C

(5) Condition C is that—

- (a) if a regulated activity is carried out at the installation at the date of the application, the regulated activity began to be carried out at the installation after 1st January 2021;
- (b) if a regulated activity has not begun to be carried out at the installation at the date of the application, a regulated activity will begin to be carried out at the installation before 1st November 2025;
- (c) the installation's reportable emissions—
 - (i) are not likely to exceed the maximum amount in each of the scheme years in the 2026-2030 allocation period; and
 - (ii) if a regulated activity has begun to be carried out at the installation at the date of the application, do not exceed the maximum amount in each of the scheme years for which, at the date of the application, evidence of reportable emissions is available; and
- (d) where the activity referred to in column 1 of the first entry in table C in Schedule 2 (combustion of fuels) is carried out at the installation, the installation's rated thermal input—
 - (i) is likely to be below 35 megawatts in each of the scheme years in the 2026-2030 allocation period; and
 - (ii) if a regulated activity has begun to be carried out at the installation at the date of the application, is below 35 megawatts in each of the scheme years for which, at the date of the application, evidence of rated thermal input is available.

(6) Where the evidence submitted under sub-paragraph (5) does not include evidence of reportable emissions for a complete scheme year, the operator must also submit an estimate of the installation's reportable emissions in the 2026 scheme year.

PART 3

Hospital or small emitter permits

Hospital or small emitter permits: application

7.—(1) The operator of an installation that is a hospital or small emitter for a scheme year may apply to the regulator for a hospital or small emitter permit to come into force in that year⁽²⁹⁾.

(2) But an application may not be made if a permit for the installation is already in force.

(3) In sub-paragraph (2), “permit” includes a permit within the meaning of GGETSR 2012 to which paragraph 1 of Schedule 11 applies (permits to be converted).

⁽²⁹⁾ Paragraph 10 of Schedule 7 and paragraph 1 of Schedule 11 provide for the conversion of permits into hospital or small emitter permits.

Hospital or small emitter permits: content of application

8. An application for a hospital or small emitter permit must contain the matters set out in paragraph 2 of Schedule 6, except for the uncertainty assessment referred to in sub-paragraph (1)(g)(ii) of that paragraph.

Hospital or small emitter permits: issue of permit

9. A hospital or small emitter permit may be issued only if the regulator considers that—
- (a) the application is made for a permit to come into force in a scheme year for which the installation is a hospital or small emitter; and
 - (b) from the date on which the permit comes into force the operator of the installation will be capable of monitoring and reporting the installation's reportable emissions in accordance with the monitoring and reporting conditions of the permit.

Hospital or small emitter permits: conversion of existing greenhouse gas emissions permit for 2026-2030 allocation period

10.—(1) This paragraph applies where a greenhouse gas emissions permit is in force for an installation that is included in the hospital and small emitter list for 2026-2030.

(2) The regulator must convert the greenhouse gas emissions permit into a hospital or small emitter permit with effect from 1st January 2026 by varying it under paragraph 6 of Schedule 6, so that the provisions of the permit are replaced by provisions that satisfy the requirements of paragraph 11.

(3) When varying a permit under sub-paragraph (2), the regulator may make only such variations as the regulator considers necessary in consequence of the installation's inclusion in the hospital and small emitter list for 2026-2030.

(4) The conversion of the permit does not affect the obligations of the operator under the greenhouse gas emissions permit in respect of specified emissions before 1st January 2026.

Hospital or small emitter permits: content of permit

- 11.—(1) A hospital or small emitter permit must contain—
- (a) the name and postal address in the United Kingdom (including postcode) of the operator and any other address for correspondence included by the operator in the application;
 - (b) the postal address and national grid reference of the installation (or, in the case of an installation in UK coastal waters or the UK sector of the continental shelf, equivalent information identifying the installation and its location);
 - (c) a description of the installation, the regulated activities to be carried out at the installation and the specified emissions from those activities;
 - (d) a description of the site and the location of the installation on the site;
 - (e) the date on which the permit comes into force;
 - (f) an emissions target for the installation, calculated by the regulator in accordance with paragraphs 15 to 17—
 - (i) subject to paragraph 18, where the installation is included in the hospital and small emitter list for 2021-2025, for each scheme year in the 2021-2025 allocation period;
 - (ii) subject to paragraph 18, where the installation is included in the hospital and small emitter list for 2026-2030, for each scheme year in the 2026-2030 allocation period;

- (iii) where the installation is included in the ultra-small emitter list for 2021-2025, for each scheme year in the 2021-2025 allocation period for which the installation is a hospital or small emitter (see paragraph 4(2));
- (iv) where the installation is included in the ultra-small emitter list for 2026-2030, for each scheme year in the 2026-2030 allocation period for which the installation is a hospital or small emitter (see paragraph 4(3));
- (g) the monitoring plan—
 - (i) where an application is made for the permit, approved in relation to the installation under Articles 11 to 13 of the Monitoring and Reporting Regulation 2018;
 - (ii) where an existing permit is converted into a hospital or small emitter permit, approved in relation to the installation under Articles 11 to 13 of the Monitoring and Reporting Regulation 2012 or Articles 11 to 13 of the Monitoring and Reporting Regulation 2018 for the purpose of monitoring reportable emissions at the installation immediately before the hospital or small emitter permit comes into force;
- (h) the monitoring and reporting conditions (see sub-paragraph (2));
- (i) any other conditions that the regulator considers appropriate to include in the permit.
- (2) The monitoring and reporting conditions are—
 - (a) a condition requiring the operator to monitor the installation’s reportable emissions in each scheme year for which the installation is a hospital or small emitter in accordance with—
 - (i) the Monitoring and Reporting Regulation 2018; and
 - (ii) the monitoring plan (including the written procedures supplementing the monitoring plan);
 - (b) a condition requiring the operator to prepare in accordance with the Monitoring and Reporting Regulation 2018 a report (the “emissions report”) of the installation’s reportable emissions in each scheme year for which the installation is a hospital or small emitter that is—
 - (i) verified in accordance with the Verification Regulation 2018; or
 - (ii) accompanied by a declaration stating that—
 - (aa) in preparing the emissions report the operator has complied with the Monitoring and Reporting Regulation 2018;
 - (bb) the operator has complied with the monitoring plan; and
 - (cc) the emissions report is free from material misstatements,and to submit the emissions report (and any declaration) to the regulator on or before 31st March in the following year; and
 - (c) any further conditions that the regulator considers necessary to give proper effect to the Monitoring and Reporting Regulation 2018 or the Verification Regulation 2018.
- (3) A hospital or small emitter permit for a hospital-qualifying installation must contain conditions requiring the operator—
 - (a) if the installation ceases to be an installation that primarily provides services to a hospital in a scheme year for which the installation is a hospital or small emitter, to give notice to the regulator on or before 31st March in the following year;
 - (b) except where the operator gives notice under paragraph (a)—
 - (i) to maintain records demonstrating that the installation continues to be an installation that primarily provides services to a hospital; and

(ii) to comply with requests from the regulator to inspect the records for the purpose of verifying the accuracy of the records and of the emissions report.

(4) A hospital or small emitter permit for an installation that is not a hospital-qualifying installation must contain a condition requiring the operator, if the installation's reportable emissions in a scheme year for which the installation is a hospital or small emitter exceed the maximum amount, to give notice to the regulator on or before 31st March in the following year.

(5) This paragraph is subject to paragraph 14.

Hospital or small emitter permits: effect of permit, etc.

12.—(1) A hospital or small emitter permit for an installation—

- (a) comes into force on the date set out in the permit;
- (b) authorises the regulated activities set out in the permit to be carried out at the installation.

(2) The operator of the installation must comply with the conditions of the permit.

Hospitals and small emitters: modifications to Monitoring and Reporting Regulation 2018

13.—(1) Where an installation is a hospital or small emitter for a scheme year, the Monitoring and Reporting Regulation 2018 has effect with the following modifications (in addition to the modifications in Schedule 4).

(2) References in the Monitoring and Reporting Regulation 2018 to a greenhouse gas emissions permit are to be read as references to a hospital or small emitter permit.

(3) Article 19 is to be read as if—

- (a) in paragraph 2 for the words from “in one of the following categories” to the end there were substituted “as a category A installation”;
- (b) paragraph 5 were omitted.

(4) Article 38(2) is to be read as if—

- (a) in the first subparagraph “, but the emission factor for bioliquids shall be zero only if the sustainability criteria set out in Article 17(2) to (5) of [Directive 2009/28/EC](#) have been fulfilled” were omitted;
- (b) in the second subparagraph for “each fuel” there were substituted “a mixed fuel”.

(5) Article 47 is to be read as if—

- (a) every installation that is a hospital or small emitter for a scheme year were an installation to which Article 47 applies (that is to say, an installation that operates with low emissions, disregarding the second subparagraph of paragraph 1 of that Article);
- (b) paragraph 8 were omitted.

(6) Where an emissions report submitted to the regulator under paragraph 11(2)(b) is accompanied by a declaration referred to in paragraph 11(2)(b)(ii) (and is not verified in accordance with the Verification Regulation 2018), in the Monitoring and Reporting Regulation 2018—

- (a) Annex 10 must be read as if section 1(2) were omitted;
- (b) a reference to a verified annual emission report is to be read as a reference to the emissions report;
- (c) a reference to verified annual emissions or verified emissions is to be read as a reference to the reportable emissions reported in the emissions report;
- (d) a reference to a verifier is to be read as a reference to the regulator;

- (e) a reference to verifying or verification is to be read as a reference to auditing the reportable emissions reported in the emissions report by the regulator in accordance with the regulator’s procedures for auditing reportable emissions of installations, the operators of which submit emissions reports under paragraph 11(2)(b)(ii);
- (f) a reference to a verification report is to be read as a reference to the record of such an audit given to the operator by the regulator.

Former ultra-small emitters: hospital or small emitter permits coming into force after beginning of scheme year

14.—(1) This paragraph applies where a hospital or small emitter permit for an installation referred to in paragraph 4(2) or (3) comes into force on a day after 1st January in the relevant scheme year.

(2) References in paragraph 11(2) to a scheme year for which the installation is a hospital or small emitter must be treated as not including a reference to the part of the relevant scheme year before the date on which the permit comes into force.

(3) The installation’s emissions target for the relevant scheme year is the emissions target calculated under paragraph 16 or, as the case may be, 17 multiplied by the factor set out in sub-paragraph (4).

(4) The factor is $(Y - D)/Y$, where—

Y is the number of days in the relevant scheme year;

D is the number of days in the relevant scheme year before the date on which the permit comes into force.

(5) Paragraph 19 has effect as if the reference to the installation’s reportable emissions in the relevant scheme year were a reference to the installation’s reportable emissions in the relevant scheme year on and after the date on which the permit comes into force.

(6) In this paragraph, “relevant scheme year” has the meaning given in paragraph 4(1)(b).

PART 4

Emissions targets

Emissions targets other than for hospital-qualifying installations may not exceed maximum amount

15.—(1) Except in the case of a hospital-qualifying installation, an emissions target for a scheme year may not exceed the maximum amount.

(2) This paragraph overrides paragraphs 16 and 17.

Emissions targets for 2021-2025 allocation period

16.—(1) This paragraph applies for the purpose of calculating an installation’s emissions targets for the scheme years in the 2021-2025 allocation period under paragraph 11(1)(f)(i) and (iii).

(2) Where a regulated activity began to be carried out at the installation before 2019, the installation’s emissions target for a scheme year is the installation’s relevant emissions multiplied by the reduction factor for the scheme year.

(3) For the purpose of sub-paragraph (2), the relevant emissions of an installation are—

- (a) where a regulated activity began to be carried out at the installation before 2016, the sum of the installation’s reportable emissions in 2016, 2017 and 2018 divided by 3;
 - (b) where a regulated activity began to be carried out at the installation in 2016, the sum of the installation’s reportable emissions in 2017 and 2018 divided by 2;
 - (c) where a regulated activity began to be carried out at the installation in 2017, the installation’s reportable emissions in 2018;
 - (d) where a regulated activity began to be carried out at the installation in 2018, the installation’s reportable emissions in 2019.
- (4) Where a regulated activity began to be carried out at the installation in 2019, the installation’s emissions target—
- (a) for the 2021 scheme year is the 2021 estimate multiplied by the reduction factor for the 2021 scheme year;
 - (b) for every other scheme year (the “relevant scheme year”) in the 2021-2025 allocation period is the installation’s reportable emissions in 2020 multiplied by the reduction factor for the relevant scheme year.
- (5) Where a regulated activity began to be carried out at the installation in the period beginning on 1st January 2020 and ending on 31st October 2020, the installation’s emissions target—
- (a) for the 2021 scheme year is the 2021 estimate multiplied by the reduction factor for the 2021 scheme year;
 - (b) for the 2022 scheme year is the 2021 estimate multiplied by the reduction factor for the 2022 scheme year;
 - (c) for every other scheme year (the “relevant scheme year”) in the 2021-2025 allocation period is the installation’s reportable emissions in the 2021 scheme year multiplied by the reduction factor for the relevant scheme year.
- (6) In sub-paragraphs (4) and (5), “2021 estimate” means the conservative estimate of annual average emissions referred to in Article 19(4) of the Monitoring and Reporting Regulation 2012 used for the purposes of a monitoring plan submitted under that Regulation and contained in the application for a permit under GGETSR 2012 (see paragraph 1(1)(f) of Schedule 4 to GGETSR 2012).
- (7) For the purpose of this paragraph, the reduction factor for a scheme year set out in column 1 of table D is the value set out in the corresponding entry in column 2.

Table D

<i>Column 1</i>	<i>Column 2</i>
<i>Scheme year</i>	<i>Reduction factor</i>
2021	0.8697
2022	0.8461
2023	0.8224
2024	0.7988
2025	0.7751

- (8) In this paragraph, a reference to reportable emissions is a reference to reportable emissions (within the meaning of GGETSR 2012 or this Order)—

- (a) verified in accordance with the Verification Regulation 2012 or the Verification Regulation 2018;
 - (b) where relevant, set out in an emissions report accompanied by the notice or declaration referred to in paragraph 3(8)(b)(ii) of Schedule 5 to GGETSR 2012 or paragraph 11(2)(b)(ii) of this Schedule.
- (9) This paragraph is subject to paragraph 14.

Emissions targets for 2026-2030 allocation period

17.—(1) This paragraph applies for the purpose of calculating an installation’s emissions targets for the scheme years in the 2026-2030 allocation period under—

- (a) paragraph 11(1)(f)(ii) and (iv);
- (b) paragraph 21.

(2) Where a regulated activity begins to be carried out at the installation before 2024, the installation’s emissions target for a scheme year is the installation’s relevant emissions multiplied by the reduction factor for the scheme year.

(3) For the purpose of sub-paragraph (2), the relevant emissions of an installation are—

- (a) where a regulated activity begins to be carried out at the installation before 2021, the sum of the installation’s reportable emissions in 2021, 2022 and 2023 divided by 3;
- (b) where a regulated activity begins to be carried out at the installation in 2021, the sum of the installation’s reportable emissions in 2022 and 2023 divided by 2;
- (c) where a regulated activity begins to be carried out at the installation in 2022, the installation’s reportable emissions in 2023;
- (d) where a regulated activity begins to be carried out at the installation in 2023, the installation’s reportable emissions in 2024.

(4) Where a regulated activity begins to be carried out at the installation in 2024, the installation’s emissions target—

- (a) for the 2026 scheme year is the 2026 estimate multiplied by the reduction factor for the 2026 scheme year;
- (b) for every other scheme year (the “relevant scheme year”) in the 2026-2030 allocation period is the installation’s reportable emissions in the 2025 scheme year multiplied by the reduction factor for the relevant scheme year.

(5) Where a regulated activity begins to be carried out at the installation in the period beginning on 1st January 2025 and ending on 31st October 2025, the installation’s emissions target—

- (a) for the 2026 scheme year is the 2026 estimate multiplied by the reduction factor for the 2026 scheme year;
- (b) for the 2027 scheme year is the 2026 estimate multiplied by the reduction factor for the 2027 scheme year;
- (c) for every other scheme year (the “relevant scheme year”) in the 2026-2030 allocation period is the installation’s reportable emissions in the 2026 scheme year multiplied by the reduction factor for the relevant scheme year.

(6) In sub-paragraphs (4) and (5), “2026 estimate” means the estimate of the installation’s reportable emissions in the 2026 scheme year provided under—

- (a) in the case of a hospital-qualifying installation, paragraph 6(3)(b);
- (b) in any other case, paragraph 6(6).

(7) For the purpose of this paragraph, the reduction factor for a scheme year set out in column 1 of table E is the value set out in the corresponding entry in column 2.

Table E

<i>Column 1</i>	<i>Column 2</i>
<i>Scheme year</i>	<i>Reduction factor</i>
2026	0.8882
2027	0.8602
2028	0.8322
2029	0.8043
2030	0.7763

(8) In this paragraph, a reference to reportable emissions is a reference to reportable emissions—

- (a) verified in accordance with the Verification Regulation 2018; or
- (b) where relevant, set out in an emissions report accompanied by the declaration referred to in paragraph 11(2)(b)(ii).

(9) This paragraph is subject to paragraph 14.

Emissions targets: calculation of later targets where initial targets based on estimates

18.—(1) This paragraph applies where an installation’s emission targets for the scheme years in an allocation period are required to be calculated under—

- (a) paragraph 16(4) or (5);
- (b) paragraph 17(4) or (5).

(2) Paragraph 11(1)(f)(i) and (ii) do not require the installation’s hospital or small emitter permit to contain emissions targets for scheme years (the “relevant scheme years”) for which, at the date of issue of the permit, the information required to calculate the emission targets is not available.

(3) As soon as reasonably practicable after the information to calculate the installation’s emissions targets for the relevant scheme years becomes available, the regulator must vary the installation’s hospital or small emitter permit under paragraph 6 of Schedule 6 by adding the emissions targets.

(4) But sub-paragraph (3) does not apply if the regulator has given a conversion notice to the operator of the installation, the effect of which is that the installation will not be a hospital or small emitter for the relevant scheme years.

Emissions targets: hospital or small emitters must not exceed targets

19.—(1) The operator of an installation must ensure that the installation’s reportable emissions in a scheme year for which the installation is a hospital or small emitter do not exceed the emissions target for that year.

(2) This paragraph is subject to paragraph 14.

Emissions targets: banking overachieved target

20.—(1) In this paragraph, an installation’s “bankable amount”, in relation to a scheme year, means $ET - RE$, where—

ET is the installation's emissions target for that year;

RE is the reportable emissions stated in the installation's emissions report for that year.

(2) But if the installation's emissions target for a scheme year is calculated in accordance with any of the following provisions (emissions targets based on estimates), for the purposes of this paragraph the installation's bankable amount for that scheme year must be treated as zero—

- (a) paragraph 16(4)(a);
- (b) paragraph 16(5)(a) or (b);
- (c) paragraph 17(4)(a);
- (d) paragraph 17(5)(a) or (b).

(3) Subject to sub-paragraphs (5) and (6), where an installation's bankable amount for a scheme year (the "scheme year in question") is greater than zero—

- (a) the regulator may increase the installation's emissions target for the following scheme year (the "next scheme year") by the bankable amount; and
- (b) if the regulator does so, the regulator must vary the installation's hospital or small emitter permit under paragraph 6 of Schedule 6 by substituting the increased emissions target for the existing target.

(4) Subject to sub-paragraph (6), where the amount of reportable emissions stated in the installation's emissions report for the scheme year in question is amended following a determination of emissions under article 45, the regulator must—

- (a) calculate the bankable amount for the scheme year in question as if RE in sub-paragraph (1) were the amount of reportable emissions for that year as amended following the determination; and
- (b) where an increased emissions target for the next scheme year has been substituted under sub-paragraph (3)(b), further vary the permit under paragraph 6 of Schedule 6 by substituting a revised emissions target for that year, based on the revised calculation of the bankable amount under paragraph (a).

(5) Sub-paragraph (3) does not apply if the scheme year in question is—

- (a) the 2025 scheme year;
- (b) the 2030 scheme year.

(6) Except where the installation is a hospital-qualifying installation, if increasing the emissions target for the next scheme year would result in an emissions target that exceeds the maximum amount, the emissions target must be increased by such amount as results in an emissions target of the maximum amount.

Emissions targets: targets for 2026-2030 allocation period for hospital or small emitters in 2021-2025 allocation period

21.—(1) This paragraph applies where—

- (a) a hospital or small emitter permit is in force for an installation that contains emissions targets for a scheme year in the 2021-2025 allocation period; and
- (b) the installation is included in the hospital and small emitter list for 2026-2030.

(2) The regulator must, on or before 31st December 2025—

- (a) calculate an emissions target for the installation for each scheme year in the 2026-2030 allocation period; and
- (b) vary the installation's hospital or small emitter permit under paragraph 6 of Schedule 6 to include those emissions targets.

(3) But sub-paragraph (2) does not apply if the regulator has given a conversion notice to the operator of the installation (the effect of which is that the installation will not be a hospital or small emitter for the scheme years in the 2026-2030 allocation period).

Emissions targets: errors

22.—(1) This paragraph applies where the amount of an installation’s reportable emissions used to calculate the installation’s emission targets (including revised emissions targets under paragraph 20) for scheme years in an allocation period is amended following a determination of emissions under article 45.

(2) The regulator may calculate revised emissions targets for the current and future scheme years in the allocation period and, if the regulator does so, the regulator must vary the installation’s hospital or small emitter permit under paragraph 6 of Schedule 6 to include those emissions targets.

(3) In calculating revised emissions targets under sub-paragraph (2), the regulator may take account of what revised emissions targets for past scheme years in the allocation period calculated under this paragraph might have been if the determination had been made earlier (but may not calculate revised emissions targets for past years).

(4) In this paragraph—

- (a) a reference to reportable emissions used to calculate emissions targets for the 2021-2025 allocation period includes a reference to reportable emissions within the meaning of GGETSR 2012; and
- (b) a reference to a determination of emissions under article 45 includes, in the case of reportable emissions referred to in paragraph (a), a reference to a determination of emissions under regulation 44(3) of GGETSR 2012 or Article 70(1) of the Monitoring and Reporting Regulation 2012.

PART 5

End of hospital or small emitter status

End of hospital or small emitter status: ceasing to meet criteria

23.—(1) Where—

- (a) an installation (other than a hospital-qualifying installation) is a hospital or small emitter for any of the 2021, 2022, 2023, 2026, 2027 and 2028 scheme years; and
- (b) the regulator considers that the installation’s reportable emissions in any of those years exceed the maximum amount,

the regulator must, as soon as reasonably practicable, give a notice (a “conversion notice”) to the operator of the installation.

(2) Where the regulator considers that a hospital-qualifying installation ceases to be an installation that primarily provides services to a hospital in a scheme year (the “relevant scheme year”) for which the installation is a hospital or small emitter, the regulator must, as soon as reasonably practicable, give a notice (a “conversion notice”) to the operator of the installation.

(3) But sub-paragraph (2) does not apply—

- (a) where the relevant scheme year is in the 2021-2025 allocation period and the installation was in operation in any of the 2016, 2017 and 2018 scheme years (within the meaning of GGETSR 2012), if—

- (i) the installation's reportable emissions in each of those years did not exceed the maximum amount; and
 - (ii) where the activity referred to in column 1 of the first entry in table C in Schedule 2 (combustion of fuels) was carried out at the installation, the installation's rated thermal input was below 35 megawatts in each of those years.
- (b) where the relevant scheme year is in the 2026-2030 allocation period and the installation was in operation in any of the 2021, 2022 and 2023 scheme years, if—
- (i) the installation's reportable emissions in each of those years do not exceed the maximum amount; and
 - (ii) where the activity referred to in column 1 of the first entry in table C in Schedule 2 (combustion of fuels) is carried out at the installation, the installation's rated thermal input is below 35 megawatts in each of those years.
- (4) Where a hospital or small emitter permit may be revoked under paragraph 12 of Schedule 6, the regulator may instead of revoking the permit give a notice (a "conversion notice") to the operator of the installation.

Conversion notices

24.—(1) A conversion notice must—

- (a) set out the grounds for the notice;
- (b) state that the installation is not a hospital or small emitter for the scheme year following the year in which the notice is given;
- (c) state that the operator must comply with the conditions of a greenhouse gas emissions permit from 1st January (the "date of conversion") in the scheme year following the year in which the notice is given;
- (d) state that the operator must apply to vary the monitoring plan to comply with the requirements of a greenhouse gas emissions permit.

(2) Where a conversion notice is given, the regulator must convert, with effect from the date of conversion, the installation's hospital or small emitter permit (if any) into a greenhouse gas emissions permit by varying it under paragraph 6 of Schedule 6 so that the provisions of the permit are replaced by provisions that satisfy the requirements of paragraph 4 of Schedule 6.

(3) But if the regulator considers that the operator will not be capable of monitoring and reporting the installation's reportable emissions in accordance with the monitoring and reporting conditions of a greenhouse gas emissions permit, the regulator must revoke the permit under paragraph 12 of Schedule 6 instead of converting it.

(4) When varying a permit, the regulator may make only such variations as the regulator considers necessary in consequence of the installation ceasing to be a hospital or small emitter.

(5) The conversion of the permit does not affect the obligations of the operator under the permit in respect of specified emissions before the date of conversion.

End of hospital or small emitter status: ceasing to meet criteria: publication

25.—(1) The regulator must, as soon as reasonably practicable, inform the UK ETS authority about each installation in respect of which a conversion notice is given.

(2) The UK ETS authority must, from time to time, publish the information referred to in subparagraph (1).

End of hospital or small emitter status: end of allocation period

26.—(1) The regulator must, on or before 31st May 2025 give notice to the operator of an installation to which sub-paragraph (2) applies—

- (a) stating that the operator must comply with the conditions of a greenhouse gas emissions permit from 1st January 2026; and
- (b) requesting the operator to submit any proposed changes to the monitoring plan approved in relation to the installation under Articles 11 to 13 of the Monitoring and Reporting Regulation 2012 or Articles 11 to 13 of the Monitoring and Reporting Regulation 2018 to the regulator on or before 30th September 2025.

(2) This sub-paragraph applies to an installation that is a hospital or small emitter for the 2025 scheme year other than an installation that is included in—

- (a) the hospital and small emitter list for 2026-2030; or
- (b) the ultra-small emitter list for 2026-2030.

(3) Where a notice under sub-paragraph (1) is given, the regulator must convert, with effect from 1st January 2026, the installation’s hospital or small emitter permit (if any) into a greenhouse gas emissions permit by varying it under paragraph 6 of Schedule 6 so that the provisions of the permit are replaced by provisions that satisfy the requirements of paragraph 4 of Schedule 6.

(4) But if, after the date referred to in paragraph (1)(b), the regulator considers that the operator will not be capable of monitoring and reporting the installation’s reportable emissions in accordance with the monitoring and reporting conditions of a greenhouse gas emissions permit, the regulator must revoke the permit under paragraph 12 of Schedule 6 instead of converting it.

(5) When varying a permit, the regulator may make only such variations as the regulator considers necessary in consequence of the installation ceasing to be a hospital or small emitter.

(6) The conversion of the permit does not affect the obligations of the operator under the permit in respect of specified emissions before 1st January 2026.

SCHEDULE 8

Article 26(5)

Ultra-small emitters

Interpretation

1.—(1) In this Schedule, “maximum amount” means 2,499 tonnes of carbon dioxide equivalent.

(2) For the purposes of this Order, in determining whether or not an installation’s reportable emissions exceed the maximum amount, emissions from biomass must be excluded.

Ultra-small emitter status

2.—(1) This paragraph applies to determine whether or not an installation is an ultra-small emitter for a scheme year.

(2) An installation is an ultra-small emitter for the scheme years in the 2021-2025 allocation period if the installation is included in the list (the “ultra-small emitter list for 2021-2025”) of installations to be excluded from the EU ETS under Article 27a of the Directive from 1st January 2021 published for the purposes of the EU ETS on the website of SEPA on 28th May 2020(30).

(30) The ultra-small emitter list for 2021-2025 can be accessed at www.sepa.org.uk/media/504726/uk-article-27-27a-installation-list.pdf. A copy of the list may be inspected at the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET; the Industrial Pollution and Radiochemical Inspectorate, Department for Agriculture, Environment and

(3) But if a notice under paragraph 7(2) is given to the operator of the installation stating that the installation is not an ultra-small emitter for a scheme year in the 2021-2025 allocation period, the installation is not an ultra-small emitter for that scheme year or subsequent scheme years in the allocation period.

(4) An installation is an ultra-small emitter for the scheme years in the 2026-2030 allocation period if the installation is included in the ultra-small emitter list for 2026-2030.

(5) But if a notice under paragraph 7(2) is given to the operator of the installation stating that the installation is not an ultra-small emitter for a scheme year in the 2026-2030 allocation period, the installation is not an ultra-small emitter for that scheme year or subsequent scheme years in the allocation period.

Obtaining ultra-small emitter status for 2026-2030 allocation period

3.—(1) The operator of an installation who wishes to apply for the installation to be an ultra-small emitter for the scheme years in the 2026-2030 allocation period must submit the following to the regulator—

- (a) details of the installation, including details of any permit in force;
- (b) evidence that the installation meets the relevant condition.

(2) An application—

- (a) may not be made before 1st April 2024;
- (b) must be made on or before 30th June 2024.

(3) After receiving an application, the regulator must on or before 30th September 2024—

- (a) make a preliminary assessment of whether or not the installation meets the relevant condition; and
- (b) send the preliminary assessment and the reasons for it to the UK ETS authority.

(4) The relevant condition is that—

- (a) a regulated activity begins to be carried out at the installation on or before 1st January 2021; and
- (b) the installation's reportable emissions in each of the 2021, 2022 and 2023 scheme years do not exceed the maximum amount.

(5) After receiving the preliminary assessment—

- (a) the UK ETS authority must make a final assessment of whether or not the installation meets the relevant condition; and
- (b) if the UK ETS authority considers that the installation meets the relevant condition, the UK ETS authority must include the installation in a list (the "ultra-small emitter list for 2026-2030").

(6) The UK ETS authority must publish the ultra-small emitter list for 2026-2030 on or before 30th April 2025.

(7) Evidence of an installation's reportable emissions may not be taken into account for the purposes of assessing whether or not an installation meets the relevant condition unless the evidence is—

- (a) verified in accordance with the Verification Regulation 2018; or

- (b) where relevant, in an emissions report accompanied by the declaration referred to in paragraph 11(2)(b)(ii) of Schedule 7.
- (8) An application may not be made under this paragraph and paragraph 5 of Schedule 7.

Obtaining ultra-small emitter status for 2026-2030 allocation period: modifications to Verification Regulation 2018 for ultra-small emitters in 2021-2025 allocation period

4.—(1) For the purposes of paragraph 3(7)(a), where an installation is included in the ultra-small emitter list for the 2021-2025 allocation period, the Verification Regulation 2018 has effect with the following modifications.

- (2) References in the Verification Regulation 2018—
 - (a) to the operator’s report or emission report are to be read as references to the evidence of the installation’s reportable emissions provided to the verifier by the operator for verification and intended to be submitted under paragraph 3(1)(b);
 - (b) to the monitoring plan or the monitoring plan approved by the regulator are to be read as references to the appropriate monitoring plan referred to in paragraph 5, including any modifications to the plan made under Article 14 of the Monitoring and Reporting Regulation 2018, as applied by paragraph 5(4) of this Schedule (even though such modifications do not require the approval of the regulator: see paragraph 5(5)).
- (3) Article 2 is to be read as if “reported pursuant to Implementing Regulation (EU) 2018/2066” were omitted.
- (4) Article 3(13)(a) is to be read as if “the permit and” were omitted.
- (5) Article 7 is to be read as if—
 - (a) in paragraph 4—
 - (i) in point (a) “and meets the requirements laid down in Annex X to Implementing Regulation (EU) 2018/2066” were omitted;
 - (ii) in point (b) “the permit and” were omitted;
 - (b) in paragraph 5 the reference to non-compliance with the Monitoring and Reporting Regulation 2018 were a reference to non-compliance with the provisions of that Regulation referred to in paragraph 5(4) to (6) of this Schedule;
 - (c) paragraph 6 were omitted.
- (6) Article 10(1) is to be read as if—
 - (a) point (a) were omitted;
 - (b) in point (b) “as well as any other relevant versions of the monitoring plan approved by the regulator, including evidence of the approval” were omitted;
 - (c) points (l) to (n) were omitted.
- (7) Article 11 is to be read as if paragraph 4(c) were omitted.
- (8) Article 17 is to be read as if paragraph 4 were omitted.
- (9) Article 18(1) is to be read as if—
 - (a) the second subparagraph were omitted;
 - (b) in the third subparagraph for “is not able to obtain such approval in time” there were substituted “uses methods other than those referred to in the first subparagraph”.
- (10) Article 19(1) is to be read as if for “Implementing Regulation (EU) 2018/2066” there were substituted “the monitoring plan”.

(11) Article 21(1) is to be read as if after “verification process” there were inserted “but at least once during the 2021-2025 allocation period (as defined in the Greenhouse Gas Emissions Trading Scheme Order 2020)”.

(12) Article 22 is to be read as if—

- (a) references to non-compliance with the Monitoring and Reporting Regulation 2018 were references to non-compliance with the provisions of that Regulation referred to in paragraph 5(4) to (6) of this Schedule;
- (b) in paragraph 1 in the third subparagraph “notify the regulator and” were omitted.

(13) Article 27 is to be read as if—

- (a) references to non-compliance with the Monitoring and Reporting Regulation 2018 were references to non-compliance with the provisions of that Regulation referred to in paragraph 5(4) to (6) of this Schedule;
- (b) in paragraph 3—
 - (i) point (n) were omitted;
 - (ii) for point (p) there were substituted—
 - “(p) a confirmation whether the method used to complete the data gap pursuant to the last subparagraph of Article 18(1) is conservative and whether it does or does not lead to material misstatements;”.

(14) Article 29(1) is to be read as if—

- (a) the reference to the verification report related to the previous monitoring period were a reference to—
 - (i) the verification report under the Verification Regulation 2018 in respect of the scheme year (within the meaning of GGETSR 2012) beginning on 1st January 2020; or
 - (ii) where the operator has previously provided evidence of the installation’s reportable emissions in the 2021-2026 allocation period to the verifier for verification for the purposes of submission under paragraph 3(1)(b) of this Schedule, the verifier’s last report under the Verification Regulation 2018 (as modified by this paragraph) on that evidence;
- (b) “according to the requirements on the operator referred to in Article 69(4) of Implementing Regulation (EU) 2018/2066, where relevant” were omitted;
- (c) “pursuant to Article 69(4) of Implementing Regulation (EU) 2018/2066” were omitted.

(15) The Verification Regulation 2018 is to be read as if Articles 30 to 32 were omitted.

Duty to monitor reportable emissions, etc.

5.—(1) Where an installation is an ultra-small emitter for a scheme year, the operator of the installation must monitor the installation’s reportable emissions in the scheme year in accordance with the appropriate monitoring plan.

(2) The appropriate monitoring plan is—

- (a) the monitoring plan approved in relation to the installation under Articles 11 to 13 of the Monitoring and Reporting Regulation 2018 for the 2025 scheme year, including—
 - (i) any modifications approved by the regulator in that scheme year; and
 - (ii) any modifications that are not significant (within the meaning of Article 15(3) of that Regulation) notified to the regulator on or before 31st December 2025; or

- (b) if there is no such monitoring plan, the monitoring plan approved in relation to the installation under Articles 11 to 13 of the Monitoring and Reporting Regulation 2012 for the purposes of the EU ETS for the scheme year (within the meaning of GGESR 2012) beginning on 1st January 2020, including—
 - (i) any modifications approved by the regulator in that scheme year; and
 - (ii) any modifications that are not significant (within the meaning of Article 15(3) of that Regulation) notified to the regulator on or before 31st December 2020.
- (3) Subject to sub-paragraphs (4) to (6), where an installation is an ultra-small emitter for a scheme year, the Monitoring and Reporting Regulation 2018 does not apply to the monitoring or reporting of emissions of greenhouse gases from the installation in the scheme year.
- (4) Article 14 of the Monitoring and Reporting Regulation 2018 applies to the operator of an installation that is an ultra-small emitter for a scheme year, but is to be read as if—
 - (a) references to the monitoring plan were references to the appropriate monitoring plan;
 - (b) in paragraph 1 “, and whether the monitoring methodology can be improved” were omitted;
 - (c) in paragraph 2—
 - (i) after “the following situations” there were inserted “and those referred to in Article 15(3)(c), (f) and (i)”;
 - (ii) points (b) and (d) to (f) were omitted.
- (5) Any modifications to the appropriate monitoring plan under Article 14 of the Monitoring and Reporting Regulation 2018 must be made in accordance with the provisions of that Regulation; but this sub-paragraph does not require—
 - (a) the operator to give notice of the modifications to the regulator;
 - (b) the regulator to approve the modifications;
 - (c) the regulator to assess whether a monitoring methodology is technically feasible or would incur unreasonable costs.
- (6) Where the appropriate monitoring plan is modified under Article 14 of the Monitoring and Reporting Regulation 2018, Article 16 of that Regulation applies in relation to the modifications, but is to be read as if—
 - (a) paragraphs 1 and 2 were omitted;
 - (b) in paragraph 3—
 - (i) references to the monitoring plan were references to the appropriate monitoring plan;
 - (ii) points (c) and (d) were omitted;
 - (iii) in point (e) “in accordance with paragraph 2 of this Article” were omitted.
- (7) Where the appropriate monitoring plan is modified under Article 14 of the Monitoring and Reporting Regulation 2018, sub-paragraph (1) of this paragraph has effect as if the reference to the appropriate monitoring plan included a reference to the plan as modified.

Reportable emissions must not exceed maximum amount

6. If an installation’s reportable emissions in a scheme year for which the installation is an ultra-small emitter exceed the maximum amount, the operator of the installation must give notice to the regulator on or before 31st March in the following year.

End of ultra-small emitter status: ceasing to meet criteria

- 7.—(1) This paragraph applies where—
- (a) an installation is an ultra-small emitter for any of the 2021, 2022, 2023, 2026, 2027 and 2028 scheme years; and
 - (b) the regulator considers that the installation’s reportable emissions in any of those years (the “excess year”) exceed the maximum amount.
- (2) Subject to sub-paragraph (7), the regulator must, as soon as reasonably practicable, give a notice to the operator of the installation.
- (3) The notice must—
- (a) set out the grounds for the notice;
 - (b) state that the installation is not an ultra-small emitter—
 - (i) where the notice is given in the scheme year following the excess year, for the scheme year following the scheme year in which the notice is given;
 - (ii) where the notice is given after the scheme year following the excess year, for the scheme year in which the notice is given;
 - (c) state that the operator must—
 - (i) apply for a greenhouse gas emissions permit; and
 - (ii) comply with the conditions of the permit—
 - (aa) where paragraph (b)(i) applies, from 1st January in the scheme year following the year in which the notice is given; or
 - (bb) where paragraph (b)(ii) applies, from no later than the date (the “relevant date”) set out in the notice.
- (4) But the notice must also state that, where sub-paragraph (5) applies, the operator must apply for a hospital or small emitter permit and comply with the requirements of that permit, instead of a greenhouse gas emissions permit.
- (5) This sub-paragraph applies where—
- (a) the operator within 14 days of the date of the notice—
 - (i) gives notice to the regulator that the operator prefers to comply with the conditions of a hospital or small emitter permit instead of a greenhouse gas emissions permit; and
 - (ii) submits evidence to the regulator that the installation is not an ineligible installation for the purposes of paragraph 4 of Schedule 7; and
 - (b) the regulator gives notice to the operator that the regulator considers that the installation is not an ineligible installation.
- (6) Where sub-paragraph (3)(b)(ii) applies, although the installation is not an ultra-small emitter for the scheme year in which the notice is given (see paragraph 2), the operator—
- (a) must comply with paragraph 5 in respect of the period beginning on 1st January in the scheme year in which the notice is given and ending on the earlier of—
 - (i) the day before a permit for the installation comes into force; and
 - (ii) the relevant date;
 - (b) is not liable to a civil penalty under article 50 in respect of that period (but is liable to a civil penalty under article 60).
- (7) Sub-paragraph (2) does not apply where—
- (a) it is not possible for the notice to be given in the same allocation period as the excess year; or

- (b) although it is possible for the notice to be given in the same allocation period as the excess year, the regulator considers that it would not be reasonable to expect the operator to apply for a permit before the end of the allocation period.

End of ultra-small emitter status: publication

8.—(1) The regulator must, as soon as reasonably practicable, inform the UK ETS authority about—

- (a) each installation in respect of which a notice under paragraph 7(2) is given; and
- (b) where relevant, whether the operator of the installation applied for a greenhouse gas emissions permit or a hospital or small emitter permit.

(2) The UK ETS authority must, from time to time, publish the information referred to in sub-paragraph (1).

SCHEDULE 9

Article 74(1)

Appeals to Scottish Land Court

1.—(1) A person who wishes to appeal to the Scottish Land Court under article 70 against a decision of the regulator must—

- (a) send the appropriate form to the Scottish Land Court together with the documents referred to in sub-paragraph (2);
- (b) at the same time, send a copy of that form to the regulator together with copies of the documents referred to in sub-paragraph (2)(a) and (f).

(2) The documents are—

- (a) a statement of the grounds of appeal;
- (b) a copy of any relevant application;
- (c) a copy of any relevant plan;
- (d) a copy of any relevant correspondence between the appellant and the regulator;
- (e) a copy of any notice (or particulars of any deemed refusal) which is the subject matter of the appeal;
- (f) a statement indicating whether the appellant wishes the appeal to be—
 - (i) in the form of a hearing; or
 - (ii) to be disposed of on the basis of written representations.

(3) An appeal to the Scottish Land Court may be made on one or more of the following grounds—

- (a) the decision or notice was based on an error of fact;
- (b) the decision or notice was wrong in law;
- (c) the decision or notice was unreasonable for any other reason (including that the amount of a penalty was unreasonable);
- (d) any other reason.

(4) In this Schedule—

“appropriate form” has the meaning given in rule 3 of the Rules of the Scottish Land Court Order 2014(31);

“decision” includes a deemed refusal under this Order.

2.—(1) Subject to sub-paragraph (2), the appropriate form must be sent to the Scottish Land Court before the expiry of the period of 28 days beginning with the date of the decision.

(2) The Scottish Land Court may accept the appropriate form after the expiry of that period where satisfied that there was a good reason for the failure to bring the appeal in time.

3.—(1) The Scottish Land Court may determine an appeal, or any part of an appeal, on the basis of written representations and without a hearing where—

- (a) the parties agree; or
- (b) the Scottish Land Court considers it can determine the matter justly without a hearing.

(2) The Scottish Land Court must not determine the appeal without a hearing without first giving the parties notice of its intention to do so, and an opportunity to make written representations as to whether there should be a hearing.

4.—(1) The regulator must, within 16 days of receipt of the copy of the appropriate form, give notice of it to any person who appears to the regulator to have a particular interest in the appeal (“interested party”).

(2) A notice under sub-paragraph (1) must—

- (a) state that an appeal has been initiated;
- (b) state the name of the appellant;
- (c) describe the decision or notice to which the appeal relates;
- (d) state that, if a hearing is to be held wholly or partly in public, an interested party will be notified of the date, time and location of the hearing;
- (e) state that an interested party may request to be heard at a hearing.

(3) An interested party may request the regulator to provide the interested party with a copy of the documents set out in paragraph 1(2) only for the purposes of the appeal.

(4) Where a request is made under sub-paragraph (3), the regulator must provide the documents to the interested party as soon as reasonably practicable.

(5) An interested party may—

- (a) make representations to the Scottish Land Court in relation to the appeal;
- (b) be heard at a hearing in relation to the appeal.

(6) The representations by an interested party must be made within 16 days of the date of the notice under sub-paragraph (1).

(7) The Scottish Land Court must provide a copy of any representations to the parties.

(8) The regulator must, within 8 days of sending a notice under sub-paragraph (1), give notice to the Scottish Land Court of the persons to whom and the date on which the notice was sent.

(9) If an appeal is withdrawn, the regulator must give notice to all interested parties about the withdrawal.

(31) S.S.I. 2014/229.

SCHEDULE 10

Article 74(2)

Appeals to Planning Appeals Commission (Northern Ireland)

1.—(1) A person who wishes to appeal to the Planning Appeals Commission under article 70 against a decision of the regulator must give to the Planning Appeals Commission—

- (a) written notice of the appeal; and
- (b) a statement of the grounds of appeal.

(2) The notice of appeal must be accompanied by any fee for the appeal prescribed in regulations made under section 223(7)(b) of the Planning Act (Northern Ireland) 2011; and for that purpose section 223(7)(b) has effect as if the reference to an appeal under that Act included a reference to an appeal under this Order.

(3) The Planning Appeals Commission must as soon as reasonably practicable send a copy of the notice of appeal and the statement of grounds to the regulator.

2. A notice of appeal under paragraph 1 must be given before the expiry of the period of 47 days beginning with the date on which the decision of the regulator takes effect.

3.—(1) An appellant may withdraw an appeal by giving notice to the Planning Appeals Commission.

(2) If an appellant withdraws an appeal, the Planning Appeals Commission must give notice to the regulator of the withdrawal as soon as reasonably practicable.

4.—(1) The Planning Appeals Commission must determine the appeal; and section 204(1), (3) and (4) of the Planning Act (Northern Ireland) 2011 apply in relation to the determination of the appeal as they apply in relation to the determination of an appeal in accordance with that Act.

(2) The Planning Appeals Commission must—

- (a) determine the process for determining the appeal; and
- (b) when doing so, take into account any requests by either party to the appeal.

SCHEDULE 11

Article 77

Transitional provisions: installations

Permits under GGETSR 2012

1.—(1) This paragraph applies to a permit within the meaning of GGETSR 2012 that immediately before this Schedule comes into force authorises a regulated activity to be carried out at an installation.

(2) But this paragraph does not apply to a permit—

- (a) in respect of which an application under regulation 13 of GGETSR 2012 for the surrender of the permit has been made but has yet to be determined;
- (b) that is due, in accordance with provision made under GGETSR 2012, to be surrendered or revoked; or
- (c) that authorises a regulated activity to be carried out at an installation included in the ultra-small emitter list for 2021-2025.

(3) Where the installation is included in the hospital and small emitter list for 2021-2025, the regulator must—

- (a) convert the permit into a hospital or small emitter permit the provisions of which satisfy the requirements of paragraph 11 of Schedule 7 and that authorises the regulated activity to be carried out at the installation from 1st January 2021; and
- (b) give notice of the conversion to the operator of the installation.

(4) In any other case, the regulator must—

- (a) convert the permit into a greenhouse gas emissions permit the provisions of which satisfy the requirements of paragraph 4 of Schedule 6 and that authorises the regulated activity to be carried out at the installation from 1st January 2021; and
- (b) give notice of the conversion to the operator of the installation.

(5) When converting a permit under sub-paragraph (3) or (4), the regulator may make only such changes to the operator's obligations under the permit as the regulator considers necessary to convert the permit into a greenhouse gas emissions permit or, as the case may be, a hospital or small emitter permit.

(6) But sub-paragraph (5) does not prevent the regulator correcting errors.

(7) When converting a permit under sub-paragraph (4), the regulator may include under paragraph 4(2)(d) of Schedule 6 a condition to give proper effect to Article 69(4) of the Monitoring and Reporting Regulation 2018 that requires the operator to submit a report to the regulator relating to non-conformities or recommendations for improvements stated in a verification report under the Verification Regulation 2018 in respect of the scheme year (within the meaning of GGETSR 2012) beginning on 1st January 2020.

(8) The conversion of a permit under sub-paragraph (3) or (4) does not affect the operator's obligations under the permit in respect of specified emissions before 1st January 2021 (and GGETSR 2012 continue to apply in relation to such obligations).

(9) A permit that is converted under this paragraph continues in force as if issued under this Order until cancelled, surrendered or revoked under this Order.

Applications for permits, etc. under GGETSR 2012

2.—(1) An application under regulation 10 of GGETSR 2012 for a permit for an installation that is made to the regulator before 1st January 2021, but not determined before that date—

- (a) where the installation is included in the hospital and small emitter list for 2021-2025, must be treated as an application for a hospital or small emitter permit under paragraph 7 of Schedule 7 to this Order;
- (b) in any other case (except where the installation is included in the ultra-small emitter list for 2021-2025), must be treated as an application for a greenhouse gas emissions permit under paragraph 1 of Schedule 6 to this Order.

(2) An application under regulation 11 of GGETSR 2012 to vary a permit that is made to the regulator before 1st January 2021, but not determined before that date, must be treated as an application to vary the permit under paragraph 6 of Schedule 6 to this Order.

(3) An application under regulation 12 of GGETSR 2012 for the transfer of a permit that is made to the regulator before 1st January 2021, but not determined before that date, must be treated as an application to transfer the permit under paragraph 7 of Schedule 6 to this Order.

Schedule does not apply to permits for relevant Northern Ireland electricity generators, etc.

3.—(1) This Schedule does not apply to—

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Greenhouse Gas Emissions Trading Scheme Order 2020 No. 1265

- (a) relevant Northern Ireland permits; or
- (b) applications for, or in relation to, relevant Northern Ireland permits.

(2) In this paragraph, “relevant Northern Ireland permit” means a permit within the meaning of GGETSR 2012 that authorises a regulated activity to be carried out at a relevant Northern Ireland electricity generator.