
STATUTORY INSTRUMENTS

2020 No. 1265

The Greenhouse Gas Emissions Trading Scheme Order 2020

PART 8

Appeals

Right of appeal

70.—(1) Subject to paragraph (3), the following may appeal to the appeal body—

(a) a person who is aggrieved by a decision of the regulator [^{F1}or the registry administrator] determining an application made by the person under this Order;

[^{F2}(b) a person who is aggrieved by a notice given—

(i) to the person under a provision referred to in paragraph (2);

(ii) to the registry administrator—

(aa) under article 34U in respect of the transfer of allowances from the person's operator holding account or aircraft operator holding account;

(bb) under article 34W(1) in respect of the withholding of allowances that would otherwise have been allocated in respect of an installation of which the person is the operator under article 34E or to the person under article 34O.]

(2) Those provisions are—

(a) article 30(1) (refusal of application for an emissions monitoring plan);

(b) article 31(4), (5) or (6) (variation of an emissions monitoring plan);

[^{F3}(ba) article 34H(4) (notice of regulator's estimate of value of parameter);

(bb) article 34V (return of allowances: notice to operator, etc.);]

(c) [^{F4}article 44(1) or (2A)] (enforcement notices);

(d) article 45(5) (determination of reportable emissions by regulator);

(e) article 47(3) or (7) (penalty notices);

(f) article 75(1) (information notices);

(g) paragraph 1(12) of Schedule 3 (application to be treated as being withdrawn);

[^{F5}(ga) paragraph 11(5) of Schedule 5A (notice suspending operator holding account);

(gb) paragraph 12(4) of Schedule 5A (notice suspending operator holding account on transfer);

(gc) paragraph 13(4) of Schedule 5A (notice suspending aircraft operator holding account);

(gd) paragraph 14(4)(b) of Schedule 5A (notice refusing to open trading account);

(ge) paragraph 16(7)(b) of Schedule 5A (notice refusing to appoint authorised representative);

(gf) paragraph 17(4)(b) of Schedule 5A (notice refusing to change account permission);

- (gg) paragraph 18(2) of Schedule 5A (notice suspending access to registry of authorised representative);
- (gh) paragraph 19(2) of Schedule 5A (notice removing authorised representative);
- (gi) paragraph 25(3) of Schedule 5A (notice suspending account);
- (gj) paragraph 29(4) of Schedule 5A (notice closing trading account);]
- (h) paragraph 6(4) or (5) of Schedule 6 (variation of permits);
- (i) paragraph 10(2) of Schedule 6 (transfer of permits: underreporting discovered after transfer);
- (j) paragraph 12(4) of Schedule 6 (revocation of permits);
- (k) paragraph 23(1) or (2) of Schedule 7 (conversion notices);
- (l) paragraph 7(2) of Schedule 8 (end of ultra-small emitter status);
- (m) paragraph 1(3)(b) or (4)(b) of Schedule 11 (permits under GGETSR 2012).
- [^{F6}(n) Article 8(6)(b) of the Free Allocation Regulation (notice rejecting monitoring methodology plan);
- (o) Article 3(5) of the Activity Level Changes Regulation (notice of regulator's estimate of value of parameter in activity level report).]
- [^{F7}(p) Article 12(4)(b) of the Monitoring and Reporting Regulation 2018 (notice rejecting monitoring plan).]
- (3) An appeal under paragraph (1) may not be made to the extent that the decision implements—
 - (a) a direction given under—
 - (i) section 40 of the Environment Act 1995 ^{M1};
 - (ii) section 52 of CCA 2008;
 - (iii) article 11 of the Natural Resources Body for Wales (Establishment) Order 2012 ^{M2};
 - (iv) regulation 40 of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 ^{M3};
 - (b) a direction given by an appeal body under this Order.
- [^{F8}(4) To avoid doubt, no appeal may be brought under paragraph (1)(a) in respect of—
 - (a) a calculation of the regulator under article 34M(1)(b) or 34Q(5)(b);
 - (b) a preliminary assessment of the regulator under paragraph 5(3) of Schedule 7 or paragraph 3(3) of Schedule 8.]

Textual Amendments

- F1** Words in art. 70(1)(a) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **27(2)(a)**
- F2** Art. 70(1)(b) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **27(2)(b)**
- F3** Art. 70(2)(ba)(bb) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **27(3)(a)**
- F4** Words in art. 70(2)(c) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **27(3)(b)**
- F5** Art. 70(2)(ga)-(gj) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **27(3)(c)**
- F6** Art. 70(2)(n)(o) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **27(3)(d)**

- F7** Art. 70(2)(p) inserted (7.2.2022) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2021 (S.I. 2021/1455), arts. 2, **20(2)**
- F8** Art. 70(4) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), arts. 2(1), **27(4)**

Commencement Information

- I1** Art. 70 in force at 12.11.2020, see [art. 2\(1\)](#)

Marginal Citations

- M1** Section 40 was amended by [S.I. 2011/1043](#) and 2013/755 and amended prospectively by [S.I. 2019/458](#) with effect from IP completion day.
- M2** [S.I. 2012/1903](#) (W. 230).
- M3** S.R. (NI) 2013 No. 160.

Changes to legislation:

There are currently no known outstanding effects for the The Greenhouse Gas Emissions Trading Scheme Order 2020, Section 70.