

POLICY NOTE

THE GREENHOUSE GAS EMISSIONS TRADING SCHEME (AMENDMENT) ORDER 2020

SI 2020/1557

The above instrument is to be made in exercise of the powers conferred on all the four administrations (Scottish, UK, Welsh and Northern Ireland governments) by sections 44, 46(3), 54 and 90(3), schedule 2 and paragraph 9 of schedule 3 of the Climate Change Act 2008. The Order in Council is subject to negative procedure.

Summary Box

This is a joint instrument between the four administrations (Scottish, UK, Welsh and Northern Irish governments). It amends the UK-wide Emissions Trading Scheme (“UK ETS”) established by the Greenhouse Gas Emissions Trading Scheme Order 2020 (“original instrument”)¹.

This instrument makes additional provision for further elements required for an operational UK ETS: the UK ETS Registry, which is the required to account for allowances under the scheme, and makes provision of the free allocation of allowances (“free allocation”) to eligible participants. This second instrument will come into effect alongside the original instrument, and the combined effect of the two instruments is a UK ETS that replaces the EU ETS after the end of the EU Exit Transition Period. (For further information on the UK ETS, see the Policy Note accompanying the original instrument)².

Policy Objectives

The UK will no longer participate in the EU ETS following the end of the Transition Period on 31 December 2020. The original instrument established the framework for a replacement UK ETS to maintain a carbon price signal to incentivise decarbonisation. This second instrument adds two further aspects required for a UK ETS from 1 January 2020: it creates a Registry to account for the distribution and use of allowances, both by operators for compliance purposes and by traders; and it sets out the rules for free allocation to industrial sectors to protect against carbon leakage risks, closely replicating the EU rules.³

Further information on the overall UK ETS policy can be found in the Policy Note accompanying the original instrument⁴ and the accompanying UK Government Explanatory Memoranda.⁵ The UK Government is currently making separate secondary legislation for auctioning allowances using reserved powers. All these instruments will collectively constitute the UK ETS.

This instrument is made according the same process as the original instrument, but according to the negative procedure. It will be laid in all four legislatures after being made at the Privy Council in November.

¹ <https://www.legislation.gov.uk/ukdsi/2020/9780348209761/contents>

² https://www.legislation.gov.uk/ukdsi/2020/9780348209761/pdfs/ukdsiod_9780348209761_en.pdf

³ Carbon leakage is where carbon regulations negatively impact industrial competitiveness compared to those in jurisdictions with lesser carbon costs, which could lead to industry relocating and offshoring emissions.

⁴ *ibid* 2

⁵ *ibid* 2

Consultation

The instrument adds specific features of UK ETS to the framework established in the original instrument. Therefore it is covered by the overall UK ETS public consultation that took place from May to July 2019. This fulfils the requirements of section 48(1)(b) of the Climate Change Act 2008 for consultation.

Impact Assessments

The instrument creates specific features of UK ETS established in the original instrument. Therefore it is covered by the original Impact Assessment undertaken on a UK-wide basis for the overall UK ETS published on 1 June.⁶

Financial Effects

The Cabinet Secretary for Environment, Climate Change and Land Reform confirms that no BRIA is necessary this is a continuation of the original instrument covered by the joint Impact Assessment was published alongside the joint Government Response on 1 June 2020.

Scottish Government
Directorate for Energy and Climate Change

December 2020

⁶ UK ETS Impact Assessment – 1 June 2020

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/889038/The_future_of_UK_carbon_pricing_impact_assessment.pdf