
STATUTORY INSTRUMENTS

2023 No. 850

The Greenhouse Gas Emissions Trading
Scheme (Amendment) Order 2023

PART 2

Greenhouse Gas Emissions Trading Scheme Order 2020 amended

Greenhouse Gas Emissions Trading Scheme Order 2020 amended

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

Article 34B amended (allocation tables: supplementary)

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

(2) After paragraph (3) insert—

“(3A) Where the final annual number of allowances to be allocated in respect of an installation is approved under article 20(5) of the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (free allocation for 2024 and 2025 scheme years: lime and malt extract), any increase in the number previously approved must be added to the amount included in column A or, if the installation is a new entrant (as defined in point (22) of Article 2(1) of the Free Allocation Regulation⁽²⁾), to the amount included in column B.”.

Article 34C amended (allocation tables: updates)

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

(2) After paragraph (1)(g) insert—

“(h) Article 5c(7) of the Activity Level Changes Regulation⁽³⁾ (activity level changes: average activity level omitting 2020 data);

(i) article 20(5) of the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (free allocation for 2024 and 2025 scheme years: lime and malt extract).”.

Article 34G amended (new entrants’ reserve)

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

(2) In paragraph (4)(b) after “determined under” insert “paragraph 4(2) of Schedule 8A,”.

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

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

(3) [EUR 2019/1842](#), amended by [S.I. 2020/1557](#), [2022/1173](#) and this Order. Article 4(1) of [S.I. 2020/1265](#) defines “Activity Level Changes Regulation” as [Commission Implementing Regulation \(EU\) 2019/1842](#) of 31 October 2019, as it forms part of domestic law. Article 5c is inserted by article 18 of this Order.

Schedule 4 amended (Monitoring and Reporting Regulation 2018)

8.—(1) Schedule 4 is amended as follows.

Paragraph 23 amended (Article 49)

(2) After paragraph 23(b) insert—

- “(c) in paragraph 3 in the first subparagraph after “expressed as the quantity of CO₂ transferred.” there were inserted “(But see subsection B.2 of section 21 of Annex 4, which provides for the use of a calculation-based methodology instead of a measurement-based methodology).”.”.

Schedule 5A amended (registry)

9.—(1) Schedule 5A is amended as follows.

Paragraph 16 amended (appointment of authorised representatives)

(2) In paragraph 16—

(a) after sub-paragraph (4)(d) insert—

- “(e) in the case of an operator holding account or an aircraft operator holding account, permission to perform the following actions only (including permission to propose the actions for approval, and approve them if proposed, by another operational authorised representative)—

- (i) to transfer allowances from the account to the surrender account;
- (ii) where allowances to which a person is not entitled (as set out in article 34S(3) or 34T(3)) have been transferred to the account under Part 4A, to transfer an equal number of allowances from the account to a central account designated by the UK ETS authority for the return of allowances (whether or not a notice under article 34V is given).”;

(b) in sub-paragraph (11) for “or (c)” substitute “, (c) or (e)”.

Schedule 8A amended (free allocation for former hospital or small emitters and ultra-small emitters)

10.—(1) Schedule 8A is amended as follows.

Paragraph 1 amended (interpretation)

(2) In paragraph 1—

(a) before the definition of “eligible scheme year” insert—

““baseline period” has the meaning given in point (14) of Article 2(1) of the Free Allocation Regulation;”;

(b) after the definition of “relevant notice” insert—

““start of normal operation” has the meaning given in point (12) of Article 2(1) of the Free Allocation Regulation;”.

Paragraph 3 amended (monitoring methodology plan to be submitted for approval)

(3) In paragraph 3—

(a) in the heading after “approval” insert “, etc.”;

(b) for sub-paragraph (1) substitute—

“(1) If the operator of the installation wants free allocation in respect of the installation for eligible scheme years, the operator must submit to the regulator—

(a) within 2 months after the date on which the relevant notice is given, the monitoring methodology plan previously submitted under the Free Allocation Regulation together with either—

(i) any modifications necessary to ensure that the plan complies with Article 8 of, and Annex 6 to, that Regulation; or

(ii) a statement that no such modifications are necessary;

(b) where relevant, within 6 months after the date on which the relevant notice is given, a report on any sub-installation at the installation that did not operate for a full calendar year after the start of normal operation during the baseline period but has operated for a full calendar year after the start of normal operation at the date on which the relevant notice is given containing—

(i) the information referred to in Article 3(2) of the Activity Level Changes Regulation for the first full calendar year of operation that is verified as satisfactory in accordance with the Verification Regulation 2018(4) as if the report were an activity level report submitted under Article 3(3) of the Activity Level Changes Regulation; and

(ii) the verifier’s confirmation that the monitoring methodology plan, so far as it is used as a basis for the report, is compliant with the Free Allocation Regulation.”;

(c) after paragraph (2) insert—

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

(a) references to the time limit for submitting the activity level report are to be read as references to the period of 6 months referred to in sub-paragraph (1)(b);

(b) Article 3(8)(a) is to be read as if the reference to Article 3a were a reference to paragraph 4(2)(za) of this Schedule.”.

Paragraph 4 amended (calculation and approval of final allocation)

(4) In paragraph 4—

(a) in sub-paragraph (1)—

(i) in paragraph (a)(ii) omit the final “and”;

(ii) in paragraph (b) after “Regulation” insert “; and”;

(iii) after paragraph (b) insert—

“(c) the operator submits to the regulator either—

(i) a report on every sub-installation referred to in paragraph 3(1)(b) in accordance with that paragraph; or

(ii) a statement that no such report is required.”;

(b) in sub-paragraph (2)—

(i) before paragraph (a) insert—

(4) “Verification Regulation 2018” is defined in article 4(1) of [S.I. 2020/1265](#).

- “(za) where relevant, determine the historical activity level of every sub-installation referred to in paragraph 3(1)(b) in accordance with Article 17(1) of the Free Allocation Regulation;”;
- (ii) in paragraph (b) after “send the” insert “determination (if any) and”;
- (c) for sub-paragraph (3) substitute—
 - “(3) The final annual number of allowances to be allocated in respect of a sub-installation for an eligible scheme year is the preliminary annual number of allowances to be allocated for the scheme year multiplied by the reduction factor for the scheme year (as defined in Article 18a(11) of the Free Allocation Regulation), where—
 - (a) for sub-installations referred to in paragraph 3(1)(b), the preliminary annual number of allowances must be calculated in accordance with Article 18(1) of the Free Allocation Regulation;
 - (b) for all other sub-installations, the preliminary annual number of allowances is the number previously calculated under Article 16 of the Free Allocation Regulation (including any corrections required under Article 16(11)).”;
- (d) in sub-paragraph (6)—
 - (i) in the opening words after “On receipt of the” insert “determination (if any) and”;
 - (ii) in paragraph (a) after “the calculation” insert “(including, in the case of a sub-installation referred to in paragraph 3(1)(b), to the historical activity level and preliminary annual number of allowances)”.