
STATUTORY INSTRUMENTS

2020 No. 1265

The Greenhouse Gas Emissions Trading Scheme Order 2020

[^{F1}PART 4A

Free Allocation

[^{F1}CHAPTER 1

Installations

Textual Amendments

- F1** Pt. 4A inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), arts. 2(1), **18**

Allocation tables

34A.—(1) The UK ETS authority must compile a table (an “allocation table”) for each allocation period as soon as reasonably practicable after approval under Article 16b of the Free Allocation Regulation of the final annual number of allowances to be allocated in respect of installations—

- (a) in the case of the allocation table for the 2021-2025 allocation period, in respect of which a deemed application for free allocation in the 2021-2025 allocation period (as defined in Article 2(19) of that Regulation) is made;
 - (b) in the case of the allocation table for the 2026-2030 allocation period, in respect of which an application for free allocation in the 2026-2030 allocation period is made under Article 4 of that Regulation.
- (2) The allocation table for the 2021-2025 allocation period must contain an entry for each relevant installation.
- (3) For the purposes of paragraph (2), an installation is a “relevant” installation if—
- (a) a deemed application for free allocation in the 2021-2025 allocation period (as defined in Article 2(19) of the Free Allocation Regulation) is made in respect of the installation that the UK ETS authority subsequently informs the regulator is valid; or
 - (b) an application for free allocation in the 2021-2025 allocation period is made in respect of the installation under Article 5(1)(a) of the Free Allocation Regulation that the UK ETS authority subsequently informs the regulator is valid.
- (4) But an installation referred to in paragraph (3)(a) is not a “relevant” installation if—
- (a) the installation is included in the hospital and small emitter list for 2021-2025 or the ultra-small emitter list for 2021-2025;
 - (b) the installation ceases operation (within the meaning of GGETSR 2012) on or before 31st December 2020; or

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- (c) the installation's permit (within the meaning of GGETSR 2012) is revoked under regulation 14 of GGETSR 2012 on or before that date.
- (5) The allocation table for the 2026-2030 allocation period must contain an entry for each relevant installation.
- (6) For the purposes of paragraph (5), an installation is a “relevant” installation if—
 - (a) an application for free allocation in the 2026-2030 allocation period is made in respect of the installation under Article 4 of the Free Allocation Regulation that the UK ETS authority subsequently informs the regulator is valid; or
 - (b) an application for free allocation in the 2026-2030 allocation period is made in respect of the installation under Article 5(1)(b) of the Free Allocation Regulation that the UK ETS authority subsequently informs the regulator is valid.
- (7) But an installation referred to in paragraph (6)(a) is not a “relevant” installation if—
 - (a) the installation is included in the hospital and small emitter list for 2026-2030 or the ultra-small emitter list for 2026-2030;
 - (b) the installation ceases operation on or before 31st December 2025; or
 - (c) the installation's permit is revoked under paragraph 12 of Schedule 6 on or before that date.
- (8) The entry for an installation must set out—
 - (a) the installation identifier used in the registry;
 - (b) for each scheme year in the allocation period, the final annual number of allowances to be allocated in respect of the installation for the scheme year, in 3 columns as follows (see article 34B)—
 - (i) column A (standard free allocation);
 - (ii) column B (new entrants' reserve);
 - (iii) column C (total).

Allocation tables: supplementary

34B.—(1) This article applies for the purposes of article 34A(8)(b).

(2) Where the final annual number of allowances to be allocated in respect of an installation is approved under Article 16b of the Free Allocation Regulation, that number must be included in column A.

(3) Where the final annual number of allowances to be allocated in respect of an installation is approved under Article 18a of that Regulation [^{F2}or under paragraph 4 of Schedule 8A to this Order], that number must be included in column B.

(4) Paragraphs (5) and (6) apply where a calculation (a “relevant calculation”) of the final annual number of allowances to be allocated in respect of the installation for a scheme year is approved by the UK ETS authority under either or both of the following—

- (a) Article 24(3)(a)(ii) of the Free Allocation Regulation (renunciation other than in respect of whole installation);
- (b) Article 6a of the Activity Level Changes Regulation.

(5) If the effect of the relevant calculation is a final annual number of allowances to be allocated in respect of the installation for the scheme year that is greater than the number that would otherwise be set out in the entry for the installation for the scheme year, the net increase must be added to the amount that would otherwise be included in column B.

(6) If the effect of the relevant calculation is a final annual number of allowances to be allocated in respect of the installation for the scheme year that is less than the number that would otherwise be

set out in the entry for the installation for the scheme year, the net decrease must be deducted first from any amount that would otherwise be included in column B, before being deducted from any amount that would otherwise be included in column A.

(7) The total final annual number of allowances to be allocated in respect of the installation for the scheme year (that is to say, the sum of columns A and B) must be included in column C.

Textual Amendments

F2 Words in [art. 34B\(3\)](#) inserted (7.2.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, **10(2)**

Allocation tables: updates

34C.—(1) The UK ETS authority must update an allocation table to take account of any approval of the UK ETS authority under—

- (a) Article 18a of the Free Allocation Regulation (new entrants);
- (b) Article 6a of the Activity Level Changes Regulation (activity level changes);
- (c) Article 24 of the Free Allocation Regulation (renunciation);
- (d) Article 25 of that Regulation (mergers and splits);
- (e) Article 26 of that Regulation (cessation);
- (f) article 34H of this Order (installations: errors in applications for free allocation, etc.).

[paragraph 4 of Schedule 8A to this Order (former hospital or small emitters and ultra-^{F3}(g) small emitters).]

(2) To avoid doubt, the UK ETS authority may update an allocation table under paragraph (1) so as to increase or reduce the final annual number of allowances to be allocated in respect of an installation for a scheme year after allowances have already been allocated in respect of the installation for the scheme year under article 34E. (See article 34S in relation to the return of allowances where the number of allowances to be allocated in respect of an installation for a scheme year is reduced after allowances for the scheme year have been allocated, for example, because of a decrease in activity levels.)

Textual Amendments

F3 [Art. 34C\(1\)\(g\)](#) inserted (7.2.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, **11(2)**

Allocation tables: publication, etc.

34D.—(1) The UK ETS authority must notify the registry administrator of an allocation table as soon as reasonably practicable after it is compiled and of an updated allocation table as soon as reasonably practicable after it is updated.

(2) The UK ETS authority must publish the allocation table for the 2021-2025 allocation period as soon as reasonably practicable after it is compiled and in any event before 30th June 2021.

(3) The UK ETS authority must publish the allocation table for the 2026-2030 allocation period as soon as reasonably practicable after it is compiled and in any event before 1st January 2026.

(4) The UK ETS authority must publish an updated allocation table as soon as reasonably practicable after the allocation table is updated.

(5) Paragraphs (2) to (4) are subject to article 75C (national security).

Allocation of allowances

34E.—(1) The registry administrator must allocate allowances in respect of an installation in accordance with the allocation table by transferring allowances to the operator holding account for the installation.

(2) Allowances—

- (a) for the 2021 scheme year must be allocated as soon as reasonably practicable after the allocation table for the 2021-2025 allocation period is published;
- (b) for any other scheme year must be allocated on or before 28th February in that year.

(3) Where, after allowances for a scheme year have been allocated in respect of an installation in accordance with paragraph (2), an update to the allocation table results in an increase in the final annual number of allowances to be allocated in respect of the installation for the scheme year, the increased number of allowances must be allocated as soon as reasonably practicable.

(4) This article is subject to—

- (a) article 34F (no allocation unless monitoring methodology plan approved);
- (b) article 34G(2) (new entrants' reserve);
- (c) article 34W (notice to withhold allowances).

No allocation unless monitoring methodology plan approved

34F.—(1) Where a monitoring methodology plan has not been approved in relation to an installation under Article 8 of the Free Allocation Regulation, the regulator may, by notice to the registry administrator, require the registry administrator to withhold allowances that would otherwise have been allocated in respect of the installation under article 34E.

(2) Where a notice under paragraph (1) is given, no allowances may be allocated in respect of the installation set out in the notice until the regulator gives a further notice to the registry administrator, which must be given as soon as reasonably practicable after a monitoring methodology plan is approved.

New entrants' reserve

34G.—(1) The new entrants' reserve is a reserve of 30,249,066 allowances for the trading period.

(2) The number of allowances set out in column B of an allocation table must be allocated from the new entrants' reserve until the new entrants' reserve is exhausted, after which no allocation may be made for a scheme year in respect of allowances set out in that column.

(3) Where an allocation table or an updated allocation table requires an allocation to be made from the new entrants' reserve in respect of more than one installation, allowances must be allocated in accordance with paragraphs (4) and (5) (until the new entrants' reserve is exhausted).

[^{F4}(4) Allowances must first be allocated in respect of sub-installations of installations in respect of which the historical activity level of the sub-installation has been determined, in chronological order of the date (and, where relevant, time)—

- (a) where the historical activity level was determined under Article 15 of the Free Allocation Regulation, of the approval by the UK ETS authority of the final annual number of allowances to be allocated in respect of the installation under paragraph 4 of Schedule 8A (free allocation for former hospital or small emitters and ultra-small emitters);
- (b) where the historical activity level was determined under Article 17(1) of the Free Allocation Regulation or Article 3a(2) of the Activity Level Changes Regulation, on which

the operator submitted sufficient information to enable the historical activity level of the sub-installation to be determined.]

(5) Allowances must next be allocated in respect of sub-installations of installations in respect of which the historical activity level of the sub-installation has not been so determined, in chronological order of the date (and, where relevant, time) on which the operator submitted sufficient information to enable the activity level of the sub-installation to be determined for the purposes of Article 18(2) of the Free Allocation Regulation or under Article 3a(3) of the Activity Level Changes Regulation.

(6) Where allowances to which a person is not entitled (see article 34S) are allocated from the new entrants' reserve, for the purposes of this article, those allowances must be treated as not having been allocated from the new entrants' reserve, to the extent that an equal number of allowances are transferred or returned in accordance with a notice under article 34U or 34V.

(7) For the purposes of this article, each regulator must—

- (a) keep such records as the regulator considers appropriate to enable the chronological order referred to in paragraph (4) or (5) to be determined;
- (b) provide any information required by the UK ETS authority or the registry administrator to enable allowances to be allocated in accordance with this article.

(8) In this article, “historical activity level” and “sub-installation” have the same meanings as in the Free Allocation Regulation.

Textual Amendments

- F4** Art. 34G(4) substituted (7.2.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, **12(2)**

Installations: errors in applications for free allocation, etc.

34H.—^{F5}(1) This article applies where the regulator considers that, as a result of a relevant error—

(a) either—

- (i) the final annual number of allowances set out in an allocation table to be allocated in respect of an installation for a scheme year; or
- (ii) the number of allowances allocated in accordance with an allocation table under article 34E in respect of an installation for a scheme year,

is materially greater, or materially less, than the number that would otherwise have been set out in the table but for the relevant error; or

(b) there has been a failure to include an entry for an installation in an allocation table.]

(2) In this article, “relevant error” means—

- (a) an error in an application for free allocation made in respect of an installation under Article 4 or 5 of the Free Allocation Regulation (including a deemed application for free allocation in the 2021-2025 allocation period as defined in Article 2(19) of that Regulation);
- (b) an error in an activity level report submitted by the operator of an installation under the Activity Level Changes Regulation;
- (c) an error of the regulator or the UK ETS authority in the exercise of functions under this Order (including under this article), the Free Allocation Regulation or the Activity Level Changes Regulation.

(3) The regulator may do any of the following—

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- (a) determine the historical activity level of a sub-installation of the installation that the regulator considers would have been determined for the purposes of the UK ETS but for the relevant error;
 - (b) calculate the preliminary annual number of allowances to be allocated in respect of a sub-installation of the installation for the scheme year that the regulator considers would have been calculated for the purposes of the UK ETS but for the relevant error;
 - (c) calculate the final annual number of allowances to be allocated in respect of a sub-installation of the installation for the scheme year that the regulator considers would have been calculated for the purposes of the UK ETS but for the relevant error.
- (4) For the purposes of paragraph (3), the regulator may make a conservative estimate of the value of any relevant parameter; and if the regulator does so, the regulator must give notice of the value to the operator.
- (5) Where the regulator does any of the things referred to in paragraph (3), the regulator must send to the UK ETS authority—
- (a) details of the relevant error;
 - (b) any determination or calculation referred to in paragraph (3);
 - (c) the regulator's recalculation of the final annual number of allowances to be allocated in respect of the installation of which the sub-installation is part for the scheme year, taking account of the determination or calculation referred to in paragraph (3).
- (6) If the UK ETS authority considers [^{F6}that there is a relevant error and, as a result of the relevant error, the circumstances referred to in paragraph (1)(a) or (b) apply in relation to the installation], the UK ETS authority must—
- (a) approve the final annual number of allowances to be allocated in respect of the installation for the scheme year, making any corrections to the historical activity level, preliminary annual number of allowances or final annual number of allowances determined or calculated by the regulator that the UK ETS authority considers appropriate; and
 - (b) inform the regulator accordingly.
- (7) The regulator must give notice to the operator of the installation—
- (a) of the relevant error;
 - (b) of the final annual number of allowances approved;
 - (c) where the relevant error was the error of including an entry for the installation in an allocation table for an allocation period, that the installation is not an FA installation for the allocation period.
- (8) In this article, “historical activity level” and “sub-installation” have the same meanings as in the Free Allocation Regulation.]

Textual Amendments

- F5** Art. 34H(1) substituted (7.2.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, **13(2)**
- F6** Words in art. 34H(6) substituted (7.2.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, **13(3)**

[^{F7}Free allocation for former hospital or small emitters and ultra-small emitters

34HA. Schedule 8A (free allocation for former hospital or small emitters and ultra-small emitters) has effect.]

Textual Amendments

- F7** [Art. 34HA](#) inserted (7.2.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, **14**

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