
STATUTORY INSTRUMENTS

2022 No. 1173

The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2022

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 20 amended (cap for scheme years)

5.—(1) Article 20 is amended as follows.

(2) In paragraph (2) after “Finance Act 2020” insert “or for the creation of up to 40,984,970 allowances in the trading period for the purpose of free allocation in respect of installations(2)”.

Article 34H amended (installations: errors in applications for free allocation, etc.)

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

(2) In paragraph (2)(b) for “activity level report” substitute “activity level or other report”.

Article 34W amended (notice to withhold allowances)

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

(2) After paragraph (1)(g) insert—

“(ga) in relation to allowances that would otherwise have been allocated in respect of the installation for the 2023 scheme year, if the operator of the installation has made an application under Article 5a of the Activity Level Changes Regulation(3) that has not been determined or has been granted an extension of time to make such an application that has not expired;”.

(3) In paragraph (2) for “paragraph (1)(a) to (g)” substitute “paragraph (1)(a) to (ga)”.

Article 45 amended (determination of reportable emissions or aviation emissions by regulator)

8.—(1) Article 45 is amended as follows.

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

(2) See Article 16a(2)(b) of EUR 2019/331, which refers to the “flexible share”.

(3) EUR 2019/1842, amended by [S.I. 2020/1557](#) and by this Order. Article 5a is inserted by article 26 of 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.

- (2) Omit paragraph (3)(a).
- (3) Omit paragraph (4).

Article 57 amended (hospitals and small emitters: failure to notify when ceasing to meet criteria)

9.—(1) Article 57 is amended as follows.

(2) In paragraph (4) in the definition of “RE” for “paragraph 13(4)(a)” substitute “paragraph 13(4)(a)(i)”.

Article 75B amended (restriction on disclosing information)

10.—(1) Article 75B is amended as follows.

(2) After paragraph (3)(d) insert—

“(e) in the case of a disclosure by the UK ETS authority, if the disclosure is permitted under article 75BA (power to publish UK ETS information).”.

Article 75BA inserted

11. After article 75B insert—

“Power to publish UK ETS information

75BA.—(1) The UK ETS authority may publish information held or obtained under UK ETS legislation—

- (a) to ensure the effective operation of the UK ETS;
- (b) to inform the public about the operation of the UK ETS.

(2) But the UK ETS authority may not publish information under paragraph (1) that the UK ETS authority considers may be commercially sensitive unless the UK ETS authority considers that the publication of the information is proportionate to what is sought to be achieved by it.

(3) In this article, “UK ETS legislation” has the meaning given in article 75B(4).”.

Article 75C amended (national security)

12.—(1) Article 75C is amended as follows.

(2) In paragraph (1) after “(aviation allocation table)” insert “, paragraph 31 of Schedule 5A (information about accounts) or paragraph 22A of Schedule 7 (publication of emissions targets and reportable emissions)”.

Schedule 4 amended (modifications to Monitoring and Reporting Regulation 2018)

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

Paragraph 18 amended (Article 38)

(2) In paragraph 18—

- (a) in sub-paragraph (a) in the inserted text after “but” insert “, subject to paragraph 2a.”;
- (b) after sub-paragraph (a) insert—

“(aa) after paragraph 2 there were inserted—

“2a. The emission factor for category 1 tallow or category 2 tallow may be treated as zero where the tallow concerned is used to produce heat that is used at the operator’s installation (including heat used to generate electricity at the installation, but only if the electricity is used at the installation).

In this paragraph:

- (a) “category 1 tallow” means tallow that is category 1 material under Article 8 of Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption(4);
- (b) “category 2 tallow” means tallow that is category 2 material under Article 9 of that Regulation;”

Paragraph 19 amended (Article 39)

(3) For paragraph 19(b) substitute—

“(b) paragraph 3 were omitted.”.

Paragraph 27 amended (Article 54)

(4) In paragraph 27 in the substituted Article 54—

- (a) in paragraph 4 omit “referred to in the Schedule to the Renewable Transport Fuel Obligations Order 2007”;
- (b) in paragraph 5 for “those criteria” substitute “the sustainability criteria”;
- (c) after paragraph 5 insert—

“6. In this Article, “sustainability criteria”, in relation to biofuel, means the sustainability criteria (within the meaning of the Renewable Transport Fuel Obligations Order 2007(5)) that applied for the purposes of that Order on the date of purchase of the biofuel.”.

Paragraph 35 amended (Annex 1)

(5) In paragraph 35—

(a) for sub-paragraph (a) substitute—

“(a) in section 1—

(i) in point (1)(a)—

(aa) in the opening words “a description of the installation and activities carried out by the installation to be monitored, containing” were omitted;

(bb) in point (i) for “description” there were substituted “list”;

(cc) in point (ii) “describing the installation or” were omitted;

(ii) in point (2)(b) for “and *de minimis*” in both places it occurs there were substituted “, *de minimis* and marginal”;

(b) in sub-paragraph (c)(ii) in the inserted point (f) for “referred to in the Schedule to the Renewable Transport Fuel Obligations Order 2007” substitute “(as defined in Article 54(6))”.

(4) EUR 2009/1069. Articles 8 and 9 of the Regulation are amended by S.I. 2020/1388.

(5) S.I. 2007/3072; relevant amending instruments are S.I. 2011/2937, 2018/374 and 2021/1420.

Paragraphs 38A and 38B inserted (Annexes 5 and 6)

(6) After paragraph 38 insert—

- “**38A.** Annex 5 is to be read as if in Table 1 in the eighth row (scrubbing (urea))—
- (a) in the entry in the column headed “net calorific value” for “1” there were substituted “n.a.”;
 - (b) in the entry in the column headed “oxidation factor” for “1” there were substituted “n.a.”;
 - (c) in the entry in the column headed “conversion factor” for “n.a.” there were substituted “1”.

38B.—(1) Annex 6 is to be read as if in section 3 for Table 6 there were substituted—

<i>Gas</i>	<i>Global warming potential</i>
N ₂ O	265 t CO _{2(e)} /t N ₂ O
CF ₄	6 630 t CO _{2(e)} /t CF ₄
C ₂ F ₆	11 100 t CO _{2(e)} /t C ₂ F ₆

(2) The modifications made by sub-paragraph (1) have effect in relation to the 2023 and subsequent scheme years.”.

Paragraph 40 amended (Annex 10)

(7) In paragraph 40(c)(iiia) in the substituted point (12)(a) for “referred to in the Schedule to the Renewable Transport Fuel Obligations Order 2007” substitute “(as defined in Article 54(6))”.

Schedule 5 amended (modifications to Verification Regulation 2018)

14.—(1) Schedule 5 is amended as follows.

Paragraph 4 amended (Article 3)

(2) In paragraph 4—

- (a) in sub-paragraph (b)(ii) in the substituted text for “EN ISO 14065:2013” substitute “the standard referred to in Annex 2”;
- (b) in sub-paragraph (c) before paragraph (i) insert—
 - “(ai) “or another legal entity” were omitted;”.

Paragraph 5 amended (Article 4)

(3) In paragraph 5(a) in the substituted text for “EN ISO 14065:2013” substitute “the standard referred to in Annex 2”.

Paragraph 24 amended (Articles 34a and 34b)

(4) In paragraph 24—

- (a) in the inserted Article 34a—
 - (i) in the heading after “Virtual site visits” insert “by verifiers of installations”;
 - (ii) in the first subparagraph omit “or aircraft operator” each time it occurs;
 - (iii) in the second subparagraph omit “or the aircraft operator”;

- (iv) in the third subparagraph omit “or aircraft operator”;
- (b) after the inserted Article 34a insert—

“Article 34b

Virtual site visits by verifiers of aircraft operators

1. For the purpose of verifying the report of an aircraft operator (other than a small emitter referred to in Article 55(1) of Implementing Regulation (EU) 2018/2066), the verifier may, with the agreement of the aircraft operator and subject to the approval of the regulator in accordance with paragraph 4, carry out a virtual site visit instead of carrying out a physical site visit in accordance with Article 21(1).

2. Before any virtual site visit, the verifier must undertake a risk analysis that includes considering measures to reduce the verification risk to an acceptable level to obtain reasonable assurance that the aircraft operator’s report is free from material misstatements.

3. An application for the regulator’s approval for a virtual site visit must be submitted by an aircraft operator on or before 28 February in the year after the scheme year to which the aircraft operator’s report relates or such later date as the regulator may specify.

4. On an application being submitted, the regulator must take the following into consideration in deciding whether or not to approve the virtual site visit:

- (a) the information provided by the verifier on the outcome of the risk analysis;
- (b) information on how the virtual site visit will be carried out;
- (c) evidence that measures are taken to reduce the verification risk to an acceptable level;
- (d) any proposal to carry out a physical site visit after the virtual site visit;
- (e) any other information requested by the regulator to enable the regulator to decide whether or not to approve the virtual site visit.

5. When approving a virtual site visit, the regulator may impose conditions on the approval (including a condition that a physical site visit be carried out within a period specified by the regulator); and the aircraft operator must ensure that any conditions are complied with.”.

Paragraph 34 substituted (Article 46)

- (5) For paragraph 34 substitute—

“34. Article 46(1) is to be read as if—

- (a) in the first subparagraph “or other legal entity” were omitted;
- (b) in the second subparagraph “harmonised” were omitted.”.

Paragraph 37 substituted (Article 49)

- (6) For paragraph 37 substitute—

“37. Article 49 is to be read as if—

- (a) in paragraph 1 “harmonised” were omitted;
- (b) in paragraph 2 in the second subparagraph “harmonised” were omitted;
- (c) after paragraph 2 there were inserted—

“3. An accreditation certificate granted on attestation by the national accreditation body that a verifier meets the requirements set by EN ISO 14065:2013(6) ceases to be valid on 1 July 2024 unless before that date the accreditation of the verifier is extended or renewed on attestation by the national accreditation body that the verifier meets the requirements set by EN ISO 14065:2020(7), in conjunction with ISO/IEC 17029:2019(8).”.”.

Paragraph 55 substituted (Annex 2)

(7) For paragraph 55 substitute—

“55. Annex 2 is to be read as if for the first sentence there were substituted—

“The standard referred to in this Annex is:

- (a) EN ISO 14065:2020, in conjunction with ISO/IEC 17029:2019:
 - (i) with respect to requirements on verifiers in relation to new requests for accreditation (whenever made);
 - (ii) with respect to other requirements on verifiers on or after 1 July 2024;
- (b) either the standard referred to in point (a) or EN ISO 14065:2013, with respect to requirements on verifiers (other than those referred to in point (a)(i)) before 1 July 2024.”.”.

Schedule 5A amended (registry)

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

Paragraph 12 amended (transfer of operator holding accounts)

(2) In paragraph 12—

- (a) in sub-paragraph (1)(b)(ii) after “transferring operator” insert “(but see sub-paragraph (8))”;
- (b) after sub-paragraph (7) insert—

“(8) Where the grant of the application results in a merger (as defined in Article 2(17) of the Free Allocation Regulation(9)) and the transfer date (as defined in paragraph 9(6) of Schedule 6 to this Order) is on or after 31st March in a scheme year, the registry administrator must not close the transferring operator’s operator holding account in accordance with an instruction under sub-paragraph (1)(b)(ii) of this paragraph until any transfers or returns of allowances required to be made from the operator holding account by notice under article 34U or 34V are made.”.

Part 4 inserted

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- (6) ISO 14065:2013 specifies principles and requirements for bodies that undertake validation or verification of greenhouse gas (GHG) assertions. It can be accessed at <https://www.iso.org/standard/60168.html>. A copy may be inspected at the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET.
 - (7) ISO 14065:2020 specifies general principles and requirements for bodies validating and verifying environmental information. The document includes sector-specific requirements in addition to the requirements of ISO/IEC 17029:2019. It can be accessed at <https://www.iso.org/standard/74257.html>. A copy may be inspected at the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET.
 - (8) ISO/IEC 17029:2019 contains general principles and requirements for the competence, consistent operation and impartiality of bodies performing validation/verification as conformity assessment activities. It can be accessed at <https://www.iso.org/standard/29352.html>. A copy may be inspected at the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET.
 - (9) EUR 2019/331, amended by [S.I. 2020/1557](#) and [2021/1455](#) and by 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) After paragraph 30 insert—

“PART 4

Publication of information from registry

Information about accounts: operator and aircraft operator holding accounts and trading accounts

31.—(1) The UK ETS authority must publish information about each of the following accounts (including closed accounts)—

- (a) operator holding accounts;
 - (b) aircraft operator holding accounts;
 - (c) trading accounts.
- (2) The information is—
- (a) the account holder’s name;
 - (b) the type of account;
 - (c) whether the account is open or closed;
 - (d) if the account is an operator holding account, the information referred to in paragraph 32;
 - (e) if the account is an aircraft operator holding account, the information referred to in paragraph 33;
 - (f) if the account is a trading account, the account holder’s address.
- (3) The UK ETS authority must—
- (a) publish the information as soon as reasonably practicable after this paragraph comes into force;
 - (b) publish updated information from time to time and in any event at least once a year as soon as reasonably practicable after 1st May.
- (4) This paragraph is subject to article 75C (national security).

Information about accounts: operator holding accounts

- 32.**—(1) In the case of an operator holding account, the information is—
- (a) the identifier used in the registry for the installation to which the account relates;
 - (b) the regulator for the installation;
 - (c) the number of the installation’s greenhouse gas emissions permit;
 - (d) the first scheme year for which the installation’s reportable emissions are recorded in the account;
 - (e) if the account is closed, the last scheme year for which the installation’s reportable emissions are recorded in the account;
 - (f) the number of allowances allocated free of charge in respect of the installation for each scheme year;
 - (g) the installation’s reportable emissions in each scheme year, and the installation’s total reportable emissions in the trading period, recorded in the account as at the relevant date;

- (h) the total number of allowances transferred from the account to the surrender account (excluding transfers that have subsequently been reversed) as at the relevant date;
 - (i) the code (known as the “static compliance code”) generated in the registry from the information recorded in the account as at the relevant date, and the key to that code, indicating which one of the statuses referred to in sub-paragraph (2) applies.
- (2) The statuses are that—
- (a) a regulated activity did not begin to be carried out at the installation by the end of the scheme year preceding the relevant date;
 - (b) paragraph (a) does not apply and the installation’s reportable emissions in the scheme year preceding the relevant date are not recorded in the account as at the relevant date;
 - (c) neither paragraph (a) nor (b) applies and the total number of allowances referred to in sub-paragraph (1)(h) is greater than or equal to the installation’s total reportable emissions in the trading period recorded in the account as at the relevant date;
 - (d) neither paragraph (a) nor (b) applies and the total number of allowances referred to in sub-paragraph (1)(h) is less than the installation’s total reportable emissions in the trading period recorded in the account as at the relevant date.
- (3) In this paragraph, “relevant date” means the 1st May preceding the date of publication of the information or updated information.

Information about accounts: aircraft operator holding accounts

- 33.**—(1) In the case of an aircraft operator holding account, the information is—
- (a) the account holder’s Eurocontrol Central Route Charges Office identification number;
 - (b) the regulator of the account holder;
 - (c) the number of the account holder’s emissions monitoring plan;
 - (d) the first scheme year for which the account holder’s aviation emissions are recorded in the account;
 - (e) if the account is closed, the last scheme year for which the account holder’s aviation emissions are recorded in the account;
 - (f) the number of allowances allocated free of charge to the account holder for each scheme year;
 - (g) the account holder’s aviation emissions in each scheme year, and the account holder’s total aviation emissions in the trading period, recorded in the account as at the relevant date;
 - (h) the total number of allowances transferred from the account to the surrender account (excluding transfers that have subsequently been reversed) as at the relevant date;
 - (i) the code (known as the “static compliance code”) generated in the registry from the information recorded in the account as at the relevant date, and the key to that code, indicating which one of the statuses referred to in sub-paragraph (2) applies.
- (2) The statuses are that—
- (a) the account holder is not an aircraft operator in relation to the scheme year preceding the relevant date;
 - (b) paragraph (a) does not apply and the account holder’s aviation emissions in the scheme year preceding the relevant date are not recorded in the account as at the relevant date;

- (c) neither paragraph (a) nor (b) applies and the total number of allowances referred to in sub-paragraph (1)(h) is greater than or equal to the account holder's total aviation emissions in the trading period recorded in the account as at the relevant date;
- (d) neither paragraph (a) nor (b) applies and the total number of allowances referred to in sub-paragraph (1)(h) is less than the account holder's total aviation emissions in the trading period recorded in the account as at the relevant date.

(3) In this paragraph, "relevant date" means the 1st May preceding the date of publication of the information or updated information.

Information about transfers of allowances

34.—(1) The UK ETS authority must publish the total number of transfers, and the total number of allowances transferred, from each type of account referred to in paragraph 5(2)(a), broken down by transfers to accounts of the same type and to accounts of every other type separately.

(2) Information about transfers completing in the period beginning with 1st January 2021 and ending with 30th April 2022 must be published as soon as reasonably practicable after 30th April 2025.

(3) Information about transfers completing in the 12-month period ending with 30th April 2023, and in each subsequent 12-month period ending with 30th April, must be published as soon as reasonably practicable after 3 years have elapsed since the end of the 12-month period.

(4) The information that is required to be published under this paragraph does not include information about transfers that complete but are subsequently reversed."

Schedule 6 amended (permits)

16.—(1) Schedule 6 is amended as follows.

Paragraph 4 amended (greenhouse gas emissions permits: content of permit)

(2) Omit paragraph 4(2)(c) (including the final "and").

Paragraph 11 amended (surrender of permits)

(3) In paragraph 11—

(a) in sub-paragraph (7)—

(i) after "reportable emissions" insert ", or reports on activity levels,";

(ii) for "condition referred to in paragraph 4(2)(b)" substitute "conditions referred to in paragraph 4(2)(b) and (6)(b)";

(b) after sub-paragraph (7) insert—

"(8) Despite sub-paragraphs (6)(b) and (7), the condition referred to in paragraph 4(6)(b) does not have effect to require the operator to prepare a report on the installation's activity levels in the scheme year before the first non-entitled scheme year (as defined in Article 26(2) of the Free Allocation Regulation)."

Paragraph 12 amended (revocation of permits)

(4) In paragraph 12—

(a) in sub-paragraph (8)—

(i) after "reportable emissions" insert ", or reports on activity levels,";

- (ii) for “condition referred to in paragraph 4(2)(b)” substitute “conditions referred to in paragraph 4(2)(b) and (6)(b)”;
- (b) after sub-paragraph (8) insert—
 - “(8A) Despite sub-paragraphs (7)(b) and (8), the condition referred to in paragraph 4(6)(b) does not have effect to require the operator to prepare a report on the installation’s activity levels in the scheme year before the first non-entitled scheme year (as defined in Article 26(2) of the Free Allocation Regulation).”.

Schedule 7 amended (hospitals and small emitters)

17.—(1) Schedule 7 is amended as follows.

Paragraph 1 amended (interpretation)

- (2) In paragraph 1(1) in the definition of “conversion notice” after “paragraph 23” insert “or 23A”.

Paragraph 13 amended (hospitals and small emitters: modifications to Monitoring and Reporting Regulation 2018)

- (3) For paragraph 13(4) substitute—
 - “(4) Article 38 is to be read as if—
 - (a) in paragraph 2—
 - (i) in the first subparagraph “, but, subject to paragraph 2a, 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;
 - (ii) in the second subparagraph for “each fuel” there were substituted “a mixed fuel”;
 - (b) paragraph 2a were omitted.”.

Paragraph 22A inserted

- (4) After paragraph 22 insert—

“Publication of emissions targets and reportable emissions

- 22A.—(1) The regulator must inform the UK ETS authority of—
 - (a) emissions targets (including any revised emissions targets) calculated by the regulator;
 - (b) the reportable emissions in each scheme year of every installation that is a hospital or small emitter for the scheme year that are reported to the regulator.
- (2) The UK ETS authority must publish the information referred to in sub-paragraph (1) as soon as reasonably practicable after receiving it.
- (3) This paragraph is subject to article 75C (national security).”.

Paragraph 23A inserted

- (5) After paragraph 23 insert—

“End of hospital or small emitter status: voluntary exit of status for 2024 and 2025 scheme years

23A.—(1) Where the operator of an installation included in the hospital and small emitter list for 2021-2025 wishes that the installation should not be a hospital or small emitter for the 2024 and 2025 scheme years, the operator may request the regulator to give a notice (a “conversion notice”) to the operator of the installation.

(2) If the regulator receives a request on or before 31st March 2023, the regulator must, as soon as reasonably practicable, give a conversion notice to the operator of the installation.

(3) The regulator must refuse a request received after 31st March 2023.”.

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

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

Paragraph 1 amended (interpretation)

(2) In paragraph 1 in the definition of “first eligible scheme year” in paragraph (a) after “paragraph 23” insert “or 23A”.

Paragraph 2 amended (application)

(3) In paragraph 2(a)(i) after “paragraph 23” insert “or 23A”.

Paragraph 4 amended (calculation and approval of final allocation)

(4) In paragraph 4(3) for “Article 18(11)” substitute “Article 18a(11)”.