
STATUTORY INSTRUMENTS

2022 No. 454

The Greenhouse Gas Emissions Trading
Scheme (Amendment) 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 39 amended (inspections)

5.—(1) Article 39 is amended as follows.

(2) In paragraph (1) after “regulator” insert “or an authorised person⁽²⁾”.

Article 40 amended (powers of entry, etc)

6.—(1) Article 40 is amended as follows.

(2) In paragraph (4)—

(a) in sub-paragraph (a) omit the final “or”;

(b) in sub-paragraph (b)(ii) for “answer.” substitute “answer; or”;

(c) after sub-paragraph (b) insert—

“(c) intentionally to obstruct the regulator, or an authorised person, in the exercise of a power referred to in paragraph (1).”.

Article 44 amended (enforcement notices)

7.—(1) Article 44 is amended as follows.

(2) In paragraph (2)(a)—

(a) in paragraph (i) after “this Order” insert “, except for Schedule 5A”;

(b) after paragraph (ii) insert—

“(iii) the Verification Regulation 2018⁽³⁾;

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

(2) “Authorised person” is defined in article 38(2) of [S.I. 2020/1265](#).

(3) “Verification Regulation 2018” is defined in article 4(1) of [S.I. 2020/1265](#) as Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018. Article 25 of that Order provides that the Regulation has effect for the purposes of the UK Emissions Trading Scheme, subject to modifications set out in Schedule 5 to that Order.

- (iv) the Free Allocation Regulation(4);
 - (v) the Activity Level Changes Regulation(5).”.
- (3) After paragraph (2) insert—
- “(2A) Where the registry administrator considers that a person has contravened, is contravening or is likely to contravene a requirement imposed on the person by or under Schedule 5A, the registry administrator may give notice (an “enforcement notice”) to the person.”.
- (4) In paragraph (3)(a) after “regulator” insert “, or the requirement imposed by or under Schedule 5A that the registry administrator,”.
- (5) In paragraph (5) after “regulator” insert “or the registry administrator”.

Article 47 amended (penalty notices)

- 8.—(1) Article 47 is amended as follows.
- (2) In paragraph (6)(d) after “maximum amount” insert “(if any)”.
- (3) After paragraph (7) insert—
- “(7A) A penalty notice imposing a civil penalty that consists of a daily penalty under article 64A(2)(b) (for which there is no maximum) may be given at such intervals as the regulator considers appropriate.”.
- (4) In paragraph (12) in the definition of “daily penalty” after “64(2)(b),” insert “64A(2)(b),”.

Article 52 amended (failure to surrender allowances)

- 9.—(1) Article 52 is amended as follows.
- (2) After paragraph (3)(a) insert—
- “(aa) under paragraph (1)(a)(ii), paragraph 11(4)(b)(iii)(bb) of Schedule 6 must be disregarded;
- (ab) under paragraph (1)(a)(iii), paragraph 12(5)(b)(iii)(bb) of Schedule 6 must be disregarded;”.

Article 64A inserted

10. After article 64 insert—

“Failure to comply with notice to return allowances

64A.—(1) A person is liable to a civil penalty where the person fails to comply (or to comply on time) with the requirements of a notice (the “notice to return allowances”) given under article 34V.

- (2) The civil penalty is—
- (a) £20,000; and
 - (b) a daily penalty at a daily rate of £1,000 for each day that the person fails to comply with the requirements of the notice to return allowances, beginning with the day on which the initial notice is given.”.

(4) EUR 2019/331, amended by [S.I. 2020/1557](#) and [2021/1455](#). (“Free Allocation Regulation” is defined in article 4(1) of [S.I. 2020/1265](#).)

(5) EUR 2019/1842, amended by [S.I. 2020/1557](#). (“Activity Level Changes Regulation” is defined in article 4(1) of [S.I. 2020/1265](#).)

Article 65 amended (failure to comply with enforcement notice)

- 11.—(1) Article 65 is amended as follows.
- (2) In the heading omit “given by regulator”.
- (3) In paragraph (1) omit “by the regulator”.

Article 75 amended (information notices)

- 12.—(1) Article 75 is amended as follows.
- (2) In paragraph (1)—
- (a) for “or a regulator” substitute “, a regulator or the registry administrator”;
- (b) after sub-paragraph (c) insert—
- “(d) the Free Allocation Regulation;
- (e) the Activity Level Changes Regulation.”.

Schedule 6 amended (permits)

- 13.—(1) Schedule 6 is amended as follows.

Paragraph 11 amended (surrender of permits)

- (2) For paragraph 11(4)(b)(iii) substitute—
- “(iii) where the permit is a greenhouse gas emissions permit, on or before a date set out in the notice (which must not be before 30th April in the end year), surrender allowances equal to the sum of—
- (aa) the installation’s reportable emissions in the period referred to in sub-paragraph (i); and
- (bb) if, in relation to reportable emissions before that period, the operator fails to comply with the surrender condition of the permit, the number of allowances in respect of which the operator fails to comply.”.

Paragraph 12 amended (revocation of permits)

- (3) For paragraph 12(5)(b)(iii) substitute—
- “(iii) where the permit is a greenhouse gas emissions permit, on or before a date set out in the notice (which must not be before 30th April in the end year), surrender allowances equal to the sum of—
- (aa) the installation’s reportable emissions in the period referred to in sub-paragraph (i); and
- (bb) if, in relation to reportable emissions before that period, the operator fails to comply with the surrender condition of the permit, the number of allowances in respect of which the operator fails to comply.”.