
DRAFT STATUTORY INSTRUMENTS

2020 No. XXX

CLIMATE CHANGE

The Greenhouse Gas Emissions Trading Scheme Order 2020

Made - - - - - ***

Coming into force in accordance with article 2

**THE GREENHOUSE GAS EMISSIONS
TRADING SCHEME ORDER 2020**

PART 1

Preliminary

1. Citation
2. Commencement
3. Extent
4. Interpretation
5. Meaning of operator
6. Meaning of aircraft operator
7. Exempt commercial air transport operators
8. Exempt non-commercial air transport operators
9. Meaning of regulator
10. Meaning of regulator: installations
11. Meaning of regulator: aircraft operators
12. Aircraft operator: change in regulator
13. Aircraft operator: change in registered office
14. Meaning of UK ETS authority, etc.
15. Applications, notices, etc.

PART 2

Basic elements of the UK ETS

CHAPTER 1

Establishment of the UK ETS and requirement for review

16. UK Emissions Trading Scheme
17. Review of UK ETS

CHAPTER 2

Allowances and caps

18. Allowances
19. Cap for trading period
20. Cap for scheme years
21. Cap: hospital and small emitter reduction factors
22. Cap: base for scheme years
23. Trading in allowances

CHAPTER 3

Monitoring, reporting and verification

24. Monitoring and reporting of emissions
25. Verification of data and accreditation of verifiers

PART 3

Installations

26. Installations: requirement for permit to carry out regulated activity
27. Installations: requirement to surrender allowances

PART 4

Aviation

28. Application for emissions monitoring plans
29. Issue of emissions monitoring plans
30. Refusal of application for emissions monitoring plans
31. Variation of emissions monitoring plans
32. Monitoring emissions and emissions monitoring plan conditions
33. Reporting aviation emissions
34. Surrender of allowances by aircraft operators

PART 5

Charging

35. Charges
36. Approval, publication and revision of charges
37. Remittance of charges

PART 6

Monitoring compliance

38. Authorised persons
39. Inspections
40. Powers of entry, etc.
41. Warrants
42. Admissible evidence
43. Legal professional privilege

PART 7

Enforcement

CHAPTER 1

Enforcement notices and determination of emissions by regulator

- 44. Enforcement notices
- 45. Determination of reportable emissions or aviation emissions by regulator

CHAPTER 2

Civil penalties

- 46. Carbon price
- 47. Penalty notices
- 48. Penalty notices: supplementary
- 49. Regulator must publish names of persons subject to civil penalty under article 52
- 50. Installations: carrying out regulated activity without permit contrary to article 26
- 51. Installations: failure to comply with conditions of permit, etc.
- 52. Failure to surrender allowances
- 53. Installations: failure to transfer or surrender allowances where underreporting discovered after transfer
- 54. Hospitals and small emitters: exceeding emissions target
- 55. Hospitals and small emitters: failure to pay civil penalty for exceeding emissions target
- 56. Hospitals and small emitters: under-reporting of emissions
- 57. Hospitals and small emitters: failure to notify when ceasing to meet criteria
- 58. Installations: failure to apply to surrender permit
- 59. Ultra-small emitters: reportable emissions exceeding maximum amount
- 60. Ultra-small emitters: failure to notify where reportable emissions exceed maximum amount
- 61. Aviation: failure to apply or make revised application for emissions monitoring plan
- 62. Aviation: failure to comply with condition of emissions monitoring plan
- 63. Aviation: failure to monitor aviation emissions
- 64. Aviation: failure to report aviation emissions
- 65. Failure to comply with enforcement notice given by regulator
- 66. Failure to comply with information notice
- 67. Providing false or misleading information, etc.
- 68. Inspection: refusal to allow access to premises

PART 8

Appeals

- 69. Interpretation
- 70. Right of appeal
- 71. Appeal body
- 72. Effect of appeals
- 73. Determination of appeals

74. Procedure for appeals

PART 9

Miscellaneous

- 75. Information notices
 - 76. Crown application
 - 77. Transitional provisions
- Signature

SCHEDULE 1 — Aviation activity

- 1. Aviation activity
- 2. Excluded flights

SCHEDULE 2 — Meaning of installation and regulated activity

- 1. Interpretation
- 2. Meaning of installation
- 3. Meaning of regulated activity, etc.

SCHEDULE 3 — Applications, notices, etc.

PART 1 — Applications, notices, etc. submitted to regulators

- 1. Submission of applications, notices, etc. to regulators
- 2. Determination of applications by regulators

PART 2 — Notices, etc. given by regulators, national authorities or UK ETS authority

- 3. Service of notices, etc.
- 4. Service on certain Crown operators

SCHEDULE 4 — Modifications to Commission Regulation (EU) 2018/2066

- 1. Commission Implementing Regulation (EU) 2018/2066 is to be read as...
- 2. Article 1 is to be read as if for the...
- 3. Article 2 is to be read as if for the...
- 4. Article 3 is to be read as if—
- 5. Article 4 is to be read as if for “under...
- 6. Article 5 is to be read as if for the...
- 7. Article 9 is to be read as if for “Article...
- 8. Article 12 is to be read as if paragraph 3...
- 9. Article 13 is to be read as if—
- 10. Article 14(1) is to be read as if “in accordance...
- 11. Article 15 is to be read as if—
- 12. Article 16(1) is to be read as if for the...
- 13. Article 18 is to be read as if—
- 14. Article 19(3) is to be read as if—
- 15. Article 20 is to be read as if—
- 16. Article 26(3) is to be read as if after “source streams”...
- 17. Article 31(1)(b) is to be read as if for “Member...
- 18. Article 38 is to be read as if—
- 19. Article 39 is to be read as if—
- 20. Article 42(1) is to be read as if, in the...
- 21. Article 47(1) is to be read as if for “Annex...
- 22. Article 48(2) is to be read as if—

23. Article 49 is to be read as if—
24. Article 50 is to be read as if—
25. Article 51 is to be read as if—
26. Article 53 is to be read as if—
27. Article 54 is to be read as if—
28. Article 55(2) is to be read as if for “Commission”...
29. Article 58(1) is to be read as if the second...
30. Article 68 is to be read as if for the...
31. Article 71 is to be read as if—
32. Article 72(3) is to be read as if “calculating the...
33. Article 73 is to be read as if—
34. Article 78 is to be read as if the words...
35. Annex 1 is to be read as if—
36. Annex 2 is to be read as if, before section...
37. Annex 3 is to be read as if section 1...
38. Annex 4 is to be read as if—
39. Section 2(7) of Annex 9 is to be read as...
40. Annex 10 is to be read as if—

SCHEDULE 5 — Amendments to the Verification Regulation 2018

1. The Verification Regulation 2018 is amended as follows.
2. For “competent authority” in each place it occurs substitute “regulator”....
3. In Article 1, for “2012 Regulations” substitute “2020 Order”.
4. In Article 2, for the words from “2019” to the...
5. In Article 3— (a) for the words before point (A1),...
6. Omit Article 3a.
7. In Article 5, for “bodies” substitute “body”.
8. In Article 7— (a) in paragraph 3, for “competent authorities”...
9. In Article 10(1)(a), omit “greenhouse gas emissions”.
10. In Article 17(4) for “and the CO₂” substitute “or transferred...
11. In Article 27(3)(g), for “activity, other than aviation, listed in...
12. In Article 31— (a) in paragraph 1, for “a” in...
13. In Article 36— (a) in paragraphs 2(b) and 6, for...
14. In Article 37— (a) in paragraph 2, for “an” substitute...
15. In Article 38— (a) for “EU ETS” in each place...
16. In Article 39(2), for “an EU” substitute “a UK”.
17. In Article 40, for “EU” in each place it occurs...
18. In Article 43(1), at the end insert “or under the...
19. In Article 45, in the words before point (a), for...
20. In Article 47(1), for “each” substitute “the”.
21. In Article 59(1)(b), for “Directive 2003/87/EC” substitute “the 2020 Order”....
22. In Article 60(2)(a), for “Directive 2003/87/EC” substitute “the 2020 Order”....
23. In Article 69— (a) in paragraph 1, omit “in accordance...
24. In Article 70— (a) in paragraph 1—
25. In Article 71— (a) in paragraph 1, in the words...
26. In Article 76(1)— (a) for “National accreditation bodies, or where...

SCHEDULE 6 — Permits

PART 1 — Application for greenhouse gas emissions permits

1. Greenhouse gas emissions permits: application
2. Greenhouse gas emissions permits: content of application

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Greenhouse Gas Emissions Trading Scheme Order 2020 No. 1265

3. Greenhouse gas emissions permits: issue of permit
4. Greenhouse gas emissions permits: content of permit
5. Greenhouse gas emissions permits: effect of permit, etc.
 - PART 2 — Greenhouse gas emissions permits and hospital or small emitter permits
6. Variation of permits
7. Transfer of permits: application
8. Transfer of permits: contents of application
9. Transfer of permits: grant of application
10. Transfer of permits: underreporting discovered after transfer
11. Surrender of permits
12. Revocation of permits

SCHEDULE 7 — Hospitals and small emitters

PART 1 — Preliminary

1. Interpretation
2. Meaning of installation that primarily provides services to a hospital in scheme year
 - PART 2 — Hospital or small emitter status
3. Hospital or small emitter status
4. Hospital or small emitter status: former ultra-small emitters
5. Obtaining hospital or small emitter status for 2026-2030 allocation period
6. Obtaining hospital or small emitter status for 2026-2030 allocation period: Conditions A, B and C
 - PART 3 — Hospital or small emitter permits
7. Hospital or small emitter permits: application
8. Hospital or small emitter permits: content of application
9. Hospital or small emitter permits: issue of permit
10. Hospital or small emitter permits: conversion of existing greenhouse gas emissions permit for 2026-2030 allocation period
11. Hospital or small emitter permits: content of permit
12. Hospital or small emitter permits: effect of permit, etc.
13. Hospitals and small emitters: modifications to Monitoring and Reporting Regulation 2018
14. Former ultra-small emitters: hospital or small emitter permits coming into force after beginning of scheme year
 - PART 4 — Emissions targets
15. Emissions targets other than for hospital-qualifying installations may not exceed maximum amount
16. Emissions targets for 2021-2025 allocation period
17. Emissions targets for 2026-2030 allocation period
18. Emissions targets: calculation of later targets where initial targets based on estimates
19. Emissions targets: hospital or small emitters must not exceed targets
20. Emissions targets: banking overachieved target
21. Emissions targets: targets for 2026-2030 allocation period for hospital or small emitters in 2021-2025 allocation period
22. Emissions targets: errors
 - PART 5 — End of hospital or small emitter status
23. End of hospital or small emitter status: ceasing to meet criteria
24. Conversion notices
25. End of hospital or small emitter status: ceasing to meet criteria: publication
26. End of hospital or small emitter status: end of allocation period

SCHEDULE 8 — Ultra-small emitters

1. Interpretation
2. Ultra-small emitter status
3. Obtaining ultra-small emitter status for 2026-2030 allocation period
4. Obtaining ultra-small emitter status for 2026-2030 allocation period: modifications to Verification Regulation 2018 for ultra-small emitters in 2021-2025 allocation period
5. Duty to monitor reportable emissions, etc.
6. Reportable emissions must not exceed maximum amount
7. End of ultra-small emitter status: ceasing to meet criteria
8. End of ultra-small emitter status: publication

SCHEDULE 9 — Appeals to Scottish Land Court

1. (1) A person who wishes to appeal to the Scottish...
2. (1) Subject to sub-paragraph (2), the appropriate form must be...
3. (1) The Scottish Land Court may determine an appeal, or...
4. (1) The regulator must, within 16 days of receipt of...

SCHEDULE 10 — Appeals to Planning Appeals Commission (Northern Ireland)

1. (1) A person who wishes to appeal to the Planning...
2. A notice of appeal under paragraph 1 must be given...
3. (1) An appellant may withdraw an appeal by giving notice...
4. (1) The Planning Appeals Commission must determine the appeal; and...

SCHEDULE 11 — Transitional provisions: installations

1. Permits under GGETSR 2012
2. Applications for permits, etc. under GGETSR 2012
3. Schedule does not apply to permits for relevant Northern Ireland electricity generators, etc.

Explanatory Note