
EXPLANATORY NOTE

(This note is not part of the Order)

The United Kingdom Emissions Trading Scheme (the “UK ETS”) was established by the Greenhouse Gas Emissions Trading Scheme Order 2020 (the “UK ETS Order”). The UK ETS runs for ten “scheme years” beginning with 2021, split into two five-year “allocation periods”. Operators of certain industrial installations and certain aircraft operators are required to monitor, report on, and surrender “allowances” equivalent to, their greenhouse gas emissions in each scheme year. Allowances (which are tradable) are held in accounts in the UK ETS registry, and there is a cap on the number of allowances that may be created. Allowances are sold at auction, but some operators of installations and aircraft operators receive an allocation of allowances free of charge.

This Order amends the UK ETS Order, Commission Delegated [Regulation \(EU\) 2019/331](#) (the “Free Allocation Regulation”), Commission Implementing [Regulation \(EU\) 2019/1842](#) (the “Activity Level Changes Regulation”) and the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021.

Free allocation for aviation

Where an aircraft operator’s free allocation for the 2024 and 2025 scheme years exceeds the aircraft operator’s emissions for the year, the aircraft operator may be required to return any excess allowances: see amendments to articles 34K and 34T of the UK ETS Order.

Free allocation for “electricity generators”

A number of changes are made to free allocation for installations that generate electricity for sale as well as carrying out activities that are eligible for free allocation: see amendments to articles 34C, 34S and 34W of the UK ETS Order, new Articles 2b and 2c, and amendments to Articles 2, 2a (except for the omission of paragraph 1(a) and for new paragraph 8), 5 and 25, of, and new section 1.4(d) to (f) of Annex 4 to, the Free Allocation Regulation and the amendments to the Activity Level Changes Regulation and the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021. Installations that are classed as “electricity generators” (as defined in the Free Allocation Regulation) do not benefit from free allocation to the same extent as other installations, receiving free allocation only in relation to “measurable heat” produced by means of “high-efficiency cogeneration” or exported for district heating.

From the 2026-2030 allocation period, electricity generated for sale before 1 January 2019; electricity representing no more than 5% of total electricity generated; and electricity generated at a CHP plant certified under the CHP Quality Assurance Programme that generates electricity for the purposes of the installation as well as for export will be ignored in determining whether an installation is an electricity generator. In addition, installations that have generated electricity for sale in excess of the 5% limit between 2019 and 2023 but do not generate any electricity for sale (other than from such a CHP plant) until the end of the allocation period may benefit from free allocation to the same extent as other installations. Finally, provision is made for electricity generators to be able to satisfy the conditions for free allocation in relation to measurable heat produced by means of high-efficiency cogeneration part-way through, as well as at the beginning of, an allocation period.

Carbon capture, transport and storage

It is made clear that the “regulated activity” of capturing greenhouse gases includes their capture from regulated activities at the same installation at which the capture takes place as well as from regulated activities at other installations; and that an installation that carries on the regulated activity of capturing, transporting or storing greenhouse gases (none of which is eligible for free allocation)

is not precluded from applying for free allocation in respect of other activities carried out at the same installation: see amendments to Schedule 2 to the UK ETS Order and to Articles 2a (the omission of paragraph 1(a) and the insertion of new paragraph 8), 10, 15a and 18a of, and sections 1.4(b) and 2.2 of Annex 4, and section 10 of Annex 7, to, the Free Allocation Regulation. It is also made clear that an installation may be an “electricity generator” whether or not capture activities, etc. are carried out at the installation.

An impact assessment is available from the Industrial Decarbonisation and Emissions Trading Directorate, Department for Energy Security and Net Zero, 3-8 Whitehall Place, London SW1A 2JP and is available alongside this Order on www.legislation.gov.uk. The assessment covers free allocation for aviation and for electricity generators.