

SCHEDULE 8

Ultra-small emitters

End of ultra-small emitter status: ceasing to meet criteria

- 7.—(1) This paragraph applies where—
- (a) an installation is an ultra-small emitter for any of the 2021, 2022, 2023, 2026, 2027 and 2028 scheme years; and
 - (b) the regulator considers that the installation’s reportable emissions in any of those years (the “excess year”) exceed the maximum amount.
- (2) Subject to sub-paragraph (7), the regulator must, as soon as reasonably practicable, give a notice to the operator of the installation.
- (3) The notice must—
- (a) set out the grounds for the notice;
 - (b) state that the installation is not an ultra-small emitter—
 - (i) where the notice is given in the scheme year following the excess year, for the scheme year following the scheme year in which the notice is given;
 - (ii) where the notice is given after the scheme year following the excess year, for the scheme year in which the notice is given;
 - (c) state that the operator must—
 - (i) apply for a greenhouse gas emissions permit; and
 - (ii) comply with the conditions of the permit—
 - (aa) where paragraph (b)(i) applies, from 1st January in the scheme year following the year in which the notice is given; or
 - (bb) where paragraph (b)(ii) applies, from no later than the date (the “relevant date”) set out in the notice.
- (4) But the notice must also state that, where sub-paragraph (5) applies, the operator must apply for a hospital or small emitter permit and comply with the requirements of that permit, instead of a greenhouse gas emissions permit.
- (5) This sub-paragraph applies where—
- (a) the operator within 14 days of the date of the notice—
 - (i) gives notice to the regulator that the operator prefers to comply with the conditions of a hospital or small emitter permit instead of a greenhouse gas emissions permit; and
 - (ii) submits evidence to the regulator that the installation is not an ineligible installation for the purposes of paragraph 4 of Schedule 7; and
 - (b) the regulator gives notice to the operator that the regulator considers that the installation is not an ineligible installation.
- (6) Where sub-paragraph (3)(b)(ii) applies, although the installation is not an ultra-small emitter for the scheme year in which the notice is given (see paragraph 2), the operator—
- (a) must comply with paragraph 5 in respect of the period beginning on 1st January in the scheme year in which the notice is given and ending on the earlier of—
 - (i) the day before a permit for the installation comes into force; and
 - (ii) the relevant date;

Status: This is the original version (as it was originally made).

- (b) is not liable to a civil penalty under article 50 in respect of that period (but is liable to a civil penalty under article 60).
- (7) Sub-paragraph (2) does not apply where—
- (a) it is not possible for the notice to be given in the same allocation period as the excess year; or
 - (b) although it is possible for the notice to be given in the same allocation period as the excess year, the regulator considers that it would not be reasonable to expect the operator to apply for a permit before the end of the allocation period.