
STATUTORY INSTRUMENTS

2021 No. 484

The Greenhouse Gas Emissions Trading
Scheme Auctioning Regulations 2021

PART 14

Transparency and Confidentiality

Publication

43.—(1) The auction platform must publish all legislation, guidance, instructions, forms, documents, announcements, and any other non-confidential information pertinent to the auctions on the auction platform, including—

- (a) the auction calendar;
- (b) the list of persons admitted to bid in the auctions;
- (c) any decision, including any decision pursuant to regulation 40, to impose a maximum bid-size; and
- (d) any other remedial measures necessary to mitigate an actual or potential discernible risk of money-laundering, terrorist financing, other criminal activity or market abuse on that auction platform,

on a dedicated up-to-date auctioning website maintained by that auction platform.

(2) Information which is no longer relevant must be archived, and the archives must be accessible through the same auctioning website.

(3) A list of the names, addresses, telephone numbers, electronic mail addresses and websites of all persons admitted to bid on behalf of others in auctions conducted by any appointed auction platform must be published on the website maintained by the auction platform concerned.

Commencement Information

II Reg. 43 in force at 22.4.2021, see [reg. 1\(2\)](#)

Announcement and notification of the auction results

44.—(1) An auction platform must announce the results of each auction it conducts including at least the following information—

- (a) the volume of the allowances auctioned;
- (b) the auction clearing price in pounds sterling;
- (c) the total volumes included in bids submitted;
- (d) the total number of bidders and the number of successful bidders;

- (e) in case of [^{F1}cancellation of, or unsold allowances at, an auction], the auctions to which the volume of allowances will be carried over;
 - (f) the total revenue earned from the auction.
- (2) The auction platform must announce the results of each auction as soon as is reasonably practicable.
- (3) The information on the auction results pursuant to paragraph (1)(a) and (b) must be announced no later than 5 minutes after the close of the bidding window.
- (4) The information on the auction results pursuant to paragraph (1)(c) to (f) must be announced no later than 15 minutes after the close of the bidding window.
- (5) At the same time as the auction platform announces the information listed in paragraph [^{F2}(1)(c) to (f)], the auction platform must notify each successful bidder through its systems—
- (a) the total number of allowances to be allocated to that bidder;
 - (b) which of its tied bids, if any, were randomly selected;
 - (c) the payment due in pounds sterling;
 - (d) the date by which the payment due must be paid in cleared funds into the auctioneer's nominated bank account.
- (6) An auction platform must notify the relevant clearing system and settlement system connected to it of the information notified to each successful bidder under paragraph (5).

Textual Amendments

- F1** Words in reg. 44(1)(e) substituted (25.8.2021) by [The Greenhouse Gas Emissions Trading Scheme Auctioning \(Amendment\) \(No. 2\) Regulations 2021 \(S.I. 2021/917\)](#), regs. 1(2), **15(2)**
- F2** Words in reg. 44(5) substituted (19.5.2021) by [The Recognised Auction Platforms and Greenhouse Gas Emissions Trading Scheme Auctioning \(Amendment\) Regulations 2021 \(S.I. 2021/513\)](#), regs. 1(2), **14**

Commencement Information

- I2** Reg. 44 in force at 22.4.2021, see reg. 1(2)

Protection of confidential information

- 45.—**(1) The following information is to be treated as confidential information—
- (a) the contents of a bid;
 - (b) the contents of any instructions to bid even when no bid is submitted;
 - (c) information which discloses, or from which can be deduced, the identity of the bidder in question and either of the following—
 - (i) the number of allowances which a bidder wishes to acquire in an auction;
 - (ii) the price which a bidder is willing to pay for those allowances;
 - (d) information about, or derived from, one or more bids or instructions to bid which either separately or collectively would be likely to—
 - (i) give an indication as to the demand for allowances prior to any auction;
 - (ii) give an indication as to the auction clearing price prior to any auction;

- (e) information provided by persons in the context of the establishment or maintenance of the relationship with bidders or in the context of the monitoring of that relationship under regulations 17, 18, 19 and 37;
 - (f) business secrets provided by persons participating in a competitive procurement process to appoint an auction platform;
 - (g) information on the algorithm used for the random selection of tied bids, referred to in regulation 6(3).
 - [^{F3}(h) the methodology referred to in regulation 7(4) and the prevailing secondary market price determined in accordance with that methodology.]
- (2) Confidential information may not be disclosed by any person who obtained that information, whether directly or indirectly, otherwise than in accordance with paragraph (3).
- (3) Paragraph (2) does not prevent the disclosure of confidential information which—
- (a) has already lawfully been made available to the public;
 - (b) is made public with the written consent of a bidder, person admitted to bid, or person applying for admission to bid;
 - (c) is required to be disclosed or to be publicly available by an obligation under the law of the United Kingdom or of any part of the United Kingdom;
 - (d) is made public pursuant to a court order;
 - (e) is disclosed or made public for the purposes of any criminal, administrative, or judicial investigations or proceedings carried out in the United Kingdom;
 - (f) is aggregated or redacted prior to its disclosure, so that it is unlikely that information relating to the following is discernible—
 - (i) individual bids or instructions to bid;
 - (ii) individual auctions;
 - (iii) individual bidders, prospective bidders or persons applying for admission to bid;
 - (iv) individual applications for admission to bid;
 - (v) individual relationships with bidders;
 - (g) is referred to in paragraph (1)(f) provided that it is disclosed to persons working for the [^{F4}auctioneer] or other persons involved in the competitive procurement process referred to in paragraph (1)(f), who are themselves bound by an obligation of professional secrecy under their terms of employment;
 - (h) is made public after the end of a period of 30 months starting from any of the following dates, subject to any subsisting professional secrecy obligations under the law of the United Kingdom or any part of the United Kingdom—
 - (i) the date of the opening of the bidding window of the auction in which the confidential information is first disclosed with respect to confidential information in paragraph (1)(a) to (d);
 - (ii) the date of the termination of the relationship with a bidder with respect to confidential information in paragraph (1)(e);
 - (iii) the date of submission of the information in the competitive procurement process with respect to confidential information in paragraph (1)(f).
- (4) The measures required to ensure that confidential information is not wrongfully disclosed and the consequences of any such wrongful disclosure by an auction platform, including any persons contracted to work for it, must be set out in the contract appointing it.

(5) Confidential information obtained by an auction platform, including any persons contracted to work for it, may be used solely for the purpose of the performance of its obligations or the exercise of its functions with respect to the auctions.

(6) Paragraphs (1) to (5) do not preclude the exchange of confidential information between an auction platform and—

- (a) the FCA;
- [^{F5}(aa) the auctioneer;
- (ab) the UK ETS authority;
- (ac) the Treasury;]
- (b) any body which is a supervisory authority for the purposes of the Money Laundering Regulations; or
- (c) the police and competent national authorities responsible for investigating and prosecuting money laundering, terrorist financing, other criminal activity or market abuse.

(7) Confidential information exchanged under paragraph (6) may not be disclosed to any person other than those referred to in paragraph (6)^{F6}... contrary to paragraph (2).

(8) Any person who works, or has worked for, an auction platform involved in the auctions, must be bound by the obligation of professional secrecy and must ensure that confidential information is protected pursuant to this regulation.

Textual Amendments

- F3** Reg. 45(1)(h) inserted (25.8.2021) by The Greenhouse Gas Emissions Trading Scheme Auctioning (Amendment) (No. 2) Regulations 2021 (S.I. 2021/917), regs. 1(2), **16(2)**
- F4** Word in reg. 45(3)(g) substituted (25.8.2021) by The Greenhouse Gas Emissions Trading Scheme Auctioning (Amendment) (No. 2) Regulations 2021 (S.I. 2021/917), regs. 1(2), **16(3)**
- F5** Reg. 45(6)(aa)-(ac) inserted (25.8.2021) by The Greenhouse Gas Emissions Trading Scheme Auctioning (Amendment) (No. 2) Regulations 2021 (S.I. 2021/917), regs. 1(2), **16(4)**
- F6** Words in reg. 45(7) omitted (25.8.2021) by virtue of The Greenhouse Gas Emissions Trading Scheme Auctioning (Amendment) (No. 2) Regulations 2021 (S.I. 2021/917), regs. 1(2), **16(5)**
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Commencement Information

- I3** Reg. 45 in force at 22.4.2021, see reg. 1(2)

Language regime

46.—(1) Written information provided by the appointed auction platform pursuant to regulation 43 or under the contract appointing it, must be in English.

(2) All communications from applicants for admission to bid and persons admitted to bid must be in English, including—

- (a) their applications for admission to bid, including any supporting documents;
- (b) their bids, including any withdrawal or modifications thereof;
- (c) any queries relating to sub-paragraphs (a) or (b).

(3) All other oral or written communication by the appointed auction platform to applicants for admission to bid, persons admitted to bid or bidders participating in an auction, must be made in English.

Changes to legislation: There are currently no known outstanding effects for the The Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021, PART 14. (See end of Document for details)

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Commencement Information

I4 Reg. 46 in force at 22.4.2021, see [reg. 1\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021, PART 14.