
STATUTORY INSTRUMENTS

2021 No. 917

**The Greenhouse Gas Emissions Trading Scheme
Auctioning (Amendment) (No. 2) Regulations 2021**

Regulation 12 amended (cost containment mechanism)

7.—(1) Regulation 12 is amended as follows.

(2) In paragraph (1) after sub-paragraph (b)(iii) insert—

“(iv) if the industry cap for a scheme year (determined in accordance with Article 16a(6)(a) of the Free Allocation Regulation⁽¹⁾) exceeds the actual allocation for the scheme year (determined in accordance with paragraph (1A)), by the release for auction of allowances not exceeding the difference;

(v) by the release for auction of up to 40,984,970 allowances (the flexible share).”.

(3) After paragraph (1) insert—

“(1A) The actual allocation for a scheme year is A–B, where—

- (a) A is the final annual number of allowances to be allocated for the scheme year in respect of all installations approved under Article 16b of the Free Allocation Regulation (final allocation at installation level for incumbent installations);
- (b) B is the total of any of that number that, although approved as mentioned in sub-paragraph (a), were not in fact so allocated (or, if allocated, were subsequently returned) by reason of a reduction in the allocation for the scheme year in consequence of any approval of the UK ETS authority under a provision referred to in article 34C(1)(b), (c), (e) and (f) of the Trading Scheme Order⁽²⁾ (activity level changes, renunciation, cessation and errors).

(1B) In paragraph (1A), a reference to the final annual number of allowances approved under Article 16b of the Free Allocation Regulation to be allocated in respect of all installations includes the number that would have been so approved but for any error in an application for free allocation made under that Regulation or of the regulator or the UK ETS authority in the exercise of functions under that Regulation in consequence of which the UK ETS authority approves, under article 34H(6) of the Trading Scheme Order, an increase to the final annual number of allowances originally approved under Article 16b.

(1C) In paragraphs (1A) and (1B), “installation” does not include an installation referred to—

- (a) if the scheme year is in the 2021-2025 allocation period, in article 34A(4)(b) and (c) of the Trading Scheme Order (installations that ceased operation, or whose permit was revoked, on or before 31st December 2020);

(1) [EUR 2019/331](#), amended by [S.I. 2020/1557](#). “Free Allocation Regulation” is defined in article 4(1) of [S.I. 2020/1265](#). Regulation 2(3) of [S.I. 2021/484](#) provides that terms used in both [S.I. 2021/484](#) and [S.I. 2020/1265](#) and not defined in the former have the same meaning as in the latter.

(2) The Greenhouse Gas Emissions Trading Scheme Order 2020 ([S.I. 2020/1265](#), amended by [S.I. 2020/1557](#)). “Trading Scheme Order” is defined in regulation 2(1) of [S.I. 2021/484](#).

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- (b) if the scheme year is in the 2026-2030 allocation period, in article 34A(7)(b) and (c) of the Trading Scheme Order (installations that ceased operation, or whose permit was revoked, on or before 31st December 2025).”.
- (4) In paragraph (5) for the defined term “EU emissions allowance” substitute “EU allowance”.