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STATUTORY INSTRUMENTS

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**2022 No. 1173**

The Greenhouse Gas Emissions Trading  
Scheme (Amendment) (No. 2) Order 2022

PART 3

Free Allocation Regulation amended

**Free Allocation Regulation amended**

**19.** Commission Delegated Regulation (EU) 2019/331<sup>(1)</sup> is amended in accordance with this Part.

**Article 5 amended (application for free allocation by new entrants)**

**20.**—(1) Article 5 is amended as follows.

(2) After paragraph 3 insert—

“**3a.** The operator of an electricity generator may not make an application for free allocation in relation to measurable heat produced by means of high-efficiency cogeneration unless the application is made after the installation has been operating for a full calendar year after the start of normal operation; and in this paragraph “high-efficiency cogeneration” has the same meaning as in Article 2a.”.

**Article 8 amended (content and submission of the monitoring methodology plan)**

**21.**—(1) Article 8 is amended as follows.

(2) In paragraph 1 omit “the installation and its sub-installations.”.

**Article 25 amended (mergers and splits)**

**22.**—(1) Article 25 is amended as follows.

(2) In paragraph 3(b) for “the activity level of each sub-installation of each new installation in the calendar year preceding the transfer date” substitute “the activity level (if any) of each sub-installation of each new installation in the first relevant calendar year”.

(3) In paragraph 6(b) for “scheme year after the year in which the transfer date occurs” substitute “first recalculated scheme year”.

(4) In paragraph 8(a) for “scheme year after the year in which the transfer date occurs” substitute “first recalculated scheme year”.

(5) In paragraph 9(b) for “after the scheme year in which the transfer date occurs” substitute “beginning with the first recalculated scheme year”.

(6) After paragraph 10(b) insert—

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(1) EUR 2019/331, amended by [S.I. 2020/1557](#) and [2021/1455](#).

- “(c) “first relevant calendar year” means—
  - (i) where the transfer date is before 31 March in a scheme year, the calendar year beginning 2 years before the scheme year in which the transfer date occurs;
  - (ii) where the transfer date is on or after 31 March in a scheme year, the calendar year before the scheme year in which the transfer date occurs;
- (d) “first recalculated scheme year” means—
  - (i) where the transfer date is before 31 March in a scheme year, the scheme year in which the transfer date occurs;
  - (ii) where the transfer date is on or after 31 March in a scheme year, the scheme year after the scheme year in which the transfer date occurs.”.

**Article 26 amended (cessation of operations of an installation)**

**23.**—(1) Article 26 is amended as follows.

(2) For paragraph 2 substitute—

“**2.** No allowances may be allocated in respect of the installation for the first non-entitled scheme year and all subsequent scheme years; and in this paragraph the “first non-entitled scheme year” means the earlier of:

- (a) the scheme year after the year in which the installation ceased operation; and
- (b) where paragraph 1(b) applies, the scheme year after the year in which the surrender or revocation of the permit takes effect.”.

**Annex 6 amended (minimum content of the monitoring methodology plan)**

**24.**—(1) Annex 6 is amended as follows.

(2) In paragraph 1—

- (a) omit point (c);
- (b) in point (d) for “A diagram which contains” substitute “A flow diagram and plan of the installation which allow an understanding of the main material and energy flows, containing”.