
STATUTORY INSTRUMENTS

2022 No. 1336

**The Greenhouse Gas Emissions Trading
Scheme (Amendment) (No. 3) Order 2022**

Free allocation entitlement

- 4.—(1) In article 34L (application for aviation free allocation entitlement)(1)—
- (a) in paragraph (6), for “An application” substitute “Unless paragraph (7) applies, an application”;
 - (b) after paragraph (6), insert—
 - “(7) A person who did not submit an application under this article on or before 31st March 2021 but who may be entitled to a free allocation of allowances on the basis of historical aviation activity level due to aviation activity within paragraph 1(1)(c) of Schedule 1 may submit an application under this article for a free allocation of allowances on or before 31st March 2023.
 - (8) An application made under paragraph (7) may not be made on the basis of historical aviation activity level due to any aviation activity other than aviation activity within paragraph 1(1)(c) of Schedule 1.”.
- (2) In article 34M (processing of applications and calculation of aviation free allocation entitlement)—
- (a) in paragraph (1), for sub-paragraph (b), substitute—
 - “(b) a calculation of the applicant’s aviation free allocation—
 - (i) for each scheme year in the 2021-2025 allocation period, or
 - (ii) where the application is made in accordance with article 34L(7), for the 2023, 2024 and 2025 scheme years in that allocation period,applying paragraphs (2) to (6);”;
 - (b) in paragraph (3)(a), after “2021” insert “in relation to flights departing from Great Britain and arriving in an aerodrome in Switzerland before that date”;
 - (c) after paragraph (6), insert—
 - “(6A) The regulator must recalculate the aviation free allocation entitlement for the 2023, 2024 and 2025 scheme years in relation to each person who had made an application under article 34L (“A”) before article 34L(7) came into force, to take into account any historical aviation activity level attributable to A due to aviation activity within paragraph 1(1)(c) of Schedule 1 immediately before 1st January 2021.
 - (6B) The regulator may, by notice submitted to A, request A to produce such information specified in the notice, within the reasonable period so specified, as may be necessary to enable the regulator to make the recalculation required under paragraph (6A).

(6C) The regulator must, as soon as reasonably practicable and in any event before 30th June 2023, submit the recalculation made under paragraph (6A) to the UK ETS authority, with—

- (a) sufficient information to identify A; and
- (b) any other information related to the recalculation which the regulator holds.

(6D) Paragraph (6C) does not apply if A fails, without reasonable excuse, to provide any information requested under paragraph (6B) within the period specified in the notice, or such later period as may be agreed with the regulator.”;

(d) in paragraph (7)(a)—

- (i) after “entitlement” insert “or an increase in that entitlement following recalculation under paragraph (6A)”, and
- (ii) after “paragraph (1)(b)” insert “or the recalculation referred to in paragraph (6A)”.

(3) In article 34N (aviation allocation table for 2021-2025 allocation period), for paragraph (4), substitute—

“(4) The UK ETS authority must update the aviation allocation table to take account of any approval of the UK ETS authority under—

- (a) article 34M(7)—
 - (i) of the applicant’s aviation free allocation entitlement following an application made in reliance on article 34L(7);
 - (ii) of an increase in a person’s aviation free allocation following a recalculation by the regulator under article 34M(6A); or
- (b) article 34Q (transfers of allocations) or article 34R (errors in aviation allocation table).”.