

**EXPLANATORY MEMORANDUM TO**  
**THE GREENHOUSE GAS EMISSIONS TRADING SCHEME (AMENDMENT)**  
**ORDER 2024**

**2024 No. 192**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument moves back by a year the window for applying for the free allocation of allowances in the 2026-2030 allocation period of the UK Emissions Trading Scheme (“UK ETS”), for applying to be part of the Hospitals and Small Emitters (“HSE”) or Ultra Small Emitter (“USE”) schemes in that period, and for operators not applying for free allocations to provide information. The proposed new window will be 1 April 2025 – 30 June 2025.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

**4. Extent and Territorial Application**

- 4.1 The extent of this instrument is the whole of the United Kingdom  
4.2 The territorial application of this instrument is the whole United Kingdom

**5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**6. Legislative Context**

- 6.1 The UK ETS was established under the Climate Change Act 2008 by the Greenhouse Gas Emissions Trading Scheme Order 2020 (the “2020 Order”) as a UK-wide greenhouse gas emissions trading scheme to encourage cost-effective emissions reductions which will contribute to the UK’s emissions reduction targets and net zero goals. The UK ETS Authority operate the UK ETS, comprising the UK Government, Scottish Government, Welsh Government and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland. The scheme is regulated by the Environment Agency, the Scottish Environment Protection Agency, Natural Resources Wales, the Northern Ireland Environment Agency, and the Offshore Petroleum Regulator for Environment and Decommissioning.
- 6.2 The UK ETS requires operators of installations covered by the scheme to surrender allowances in respect of their greenhouse gas emissions, with one allowance representing one tonne of CO<sub>2</sub>e emitted. In the UK ETS, participating operators at risk of carbon leakage are given a proportion of their UK ETS allowances for free.

This helps to manage their exposure to the carbon price and manages the risk that UK business' decarbonisation efforts could be undermined by higher-carbon imports. Operators seeking free allocation for the second allocation period of the UK ETS (2026-2030) must apply in advance, so that the UK ETS Authority can determine their eligibility.

- 6.3 The next application window for free allocations is currently 1 April – 30 June 2024 (for free allocations for the period 2026 – 2030). The same window applies to applications for the Hospital Small Emitter (HSE) and Ultra Small Emitter (USE) schemes, which offer a reduced compliance burden on eligible participants. Operators not applying for free allocations must also provide information to the UK ETS Authority during this window.
- 6.4 The UK ETS Authority has [recently opened a consultation](#) on changes to free allocation policy. We will set out the final decision on future changes to free allocation policy in a response to this consultation by the end of 2024.

## **7. Policy background**

### *Why is it being changed?*

- 7.1 This change will provide certainty to UK ETS operators about what the free allocation rules will be during the second allocation period from 2026-2030 before they apply. If the application window were left unchanged, applications would have to be made and determined when policy for the 2026-2030 allocation period has not yet been finalised.

### *What will it do now?*

- 7.2 Moving the application windows back by one year, to 1 April 2025 – 30 June 2025 will enable the UK ETS Authority to put forward final proposals on future free allocation rules, allowing operators to determine their eligibility, what free allocations they are applying for, which data to submit, and to decide whether they should apply under the HSE or USE schemes.

## **8. European Union Withdrawal and Future**

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 but relates to the withdrawal of the United Kingdom from the European Union because the UK ETS is a policy replacement for the UK's participation in the EU ETS.

## **9. Consolidation**

- 9.1 There are no plans to consolidate the legislation amended by this instrument.

## **10. Consultation outcome**

- 10.1 The UK ETS Authority consulted operators who are part of the scheme and received six responses pertaining to the proposal. Of these, four respondents agreed with the proposal and two neither agreed nor disagreed. The main reason given by respondents who agreed was a recognition that moving the application windows would avoid unnecessary reporting burden and having to make decisions before completion of the free allocation review. Respondents welcomed the opportunity to apply for free allocation with clarity on the rules of the scheme. The Committee on Climate

Change's views (CCC) on the policy proposals in this instrument were also sought, and they did not raise any concerns.

## **11. Guidance**

- 11.1 The UK ETS guidance has been published and is available at: <https://www.gov.uk/government/publications/participating-in-the-uk-ets/participating-in-the-uk-ets>. Guidance will be updated regularly, and updates will take account of relevant changes to legislation, as necessary.

## **12. Impact**

- 12.1 Businesses will gain an additional year to collect evidence and to make their applications for the scheme and will have greater certainty of the free allocation rules before they make their applications. These proposals will, however, mean a delay for businesses knowing whether their applications have been successful. We do not anticipate these proposals will lead to a delay in the distribution of free allocation in 2026.
- 12.2 A regulatory impact assessment of the effect of the UK ETS on the costs of business, the voluntary sector and the public sector was published in June 2020. A further impact assessment was published alongside the Main UK ETS Authority Response to the Developing the UK ETS Consultation in July 2023, in which the UK ETS Authority announced changes to the scheme. These are available from the Industrial Decarbonisation and Emissions Trading Directorate, Department for Energy Security and Net Zero, 3-8 Whitehall Place, London, SW1A 2EG and are also available alongside the 2020 Order and subsequent amendments on [www.legislation.gov.uk](http://www.legislation.gov.uk).
- 12.3 There is no, or no significant, impact on the public sector.
- 12.4 There is no, or no significant impact on charities or voluntary bodies because this SI only relates to participants in the UK ETS.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 To minimise the impact of the requirements of the UK ETS on small businesses, operators with relatively low levels of emissions are either not caught by the scheme or participate in the HSE or USE schemes, which have lower compliance burdens than the main UK ETS.

## **14. Monitoring & review**

- 14.1 Article 17 of the 2020 Order requires the UK ETS authority to review the operation of the UK ETS in 2023 and in 2028. The UK ETS Authority published [the 2023 scheme review](#) in December 2023.
- 14.2 The instrument does not include a statutory review clause. The requirement under section 28(2) of the Small Business, Enterprise, and Employment Act 2015 to make provision for review does not apply to this instrument as it falls within an exception in section 28(3) of that Act.

## **15. Contact**

- 15.1 Hugh Crawshaw at the Department for Energy Security and Net Zero email: [Hugh.Crawshaw@energysecurity.gov.uk](mailto:Hugh.Crawshaw@energysecurity.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Seamus Gallagher, Deputy Director for the UK Emissions Trading Scheme at the Department for Energy Security and Net Zero, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Callanan, Minister for Energy Efficiency and Green Finance at the Department for Energy Security and Net Zero can confirm that this Explanatory Memorandum meets the required standard.