EXPLANATORY MEMORANDUM TO

THE GREENHOUSE GAS EMISSIONS TRADING SCHEME (AMENDMENT) (NO. 2) ORDER 2024

2024 No. XXXX

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.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Sarah Jones MP, Minister for Industry at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

2.2 Charlie Lewis, Deputy Director for the UK Emissions Trading Scheme, at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Sophie West at the Department for Energy Security and Net Zero. Telephone: 07754056291 or email: Sophie.west@energysecurity.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes various changes to the UK Emissions Trading Scheme (the "UK ETS") including expanding the scope of the scheme to carbon dioxide venting in the upstream oil and gas sector, introducing a new type of enforcement notice called a 'deficit notice', and making technical changes to the scheme's penalties. In addition, this instrument will ensure legislative consistency by implementing changes that were previously unable to be made on a UK-wide basis under the Climate Change Act 2008 (CCA) in the absence of a sitting Northern Ireland Assembly. It will bring the scheme's cap, as set in legislation, in line with a net zero trajectory (already partially effected by changes to the Greenhouse Gas Emissions Trading Auctioning Regulations 2021 (the "Auctioning Regulations") made in late 2023 which reduced the number of allowances to be auctioned from 2024). This instrument will also implement the announced reduction in the total number of allowances available for free allocation (as part of that same process of aligning the UK ETS with a net zero trajectory) and expand the scope of the scheme to flights from Northern Ireland to Switzerland.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument is the whole of the United Kingdom.

4.3 The territorial application of this instrument is the whole of the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The UK ETS is a UK-wide greenhouse gas trading scheme to incentivise emissions reductions in line with the UK's net zero targets. The UK ETS replaced the UK's participation in the EU Emissions Trading System from 1st January 2021.

5.2 The scheme is governed by the UK ETS Authority, comprising UK Government, Scottish Government, Welsh Government and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, hereinafter "the Authority". The UK ETS is regulated by the Environment Agency, the Scottish Environment Protection Agency, Natural Resources Wales, the Chief Inspector of the Northern Ireland Environment Agency and the Secretary of State (Offshore Petroleum Regulator for Environment and Decommissioning), hereinafter "the Regulators".

5.3 Under the UK ETS, participants are required to monitor, report on, and surrender allowances in respect of their greenhouse gas emissions. Participating operators at risk of carbon leakage[1] are given a certain number of UK ETS allowances for free, to manage their exposure to the carbon price and the risk that business' decarbonisation efforts could be undermined by higher-carbon imports. Participants can also buy emission allowances at auction and in secondary markets.

5.4 The UK ETS has opt-out schemes for Hospital and Small Emitter ("HSE") installations and Ultra Small Emitter ("USE") installations, as they either provide services to hospitals or are installations emitting less than 25,000 and 2,500 tonnes respectively of carbon dioxide equivalent (CO2eq) per year. Installations eligible for these schemes do not have to surrender allowances in respect of their emissions.

5.5 *Carbon dioxide venting in the upstream oil and gas sector:* In the initial phases of oil and gas production, installations may be required to carry out localised processing to remove excess CO2 from hydrocarbon oil and gas. These controlled processes are essential for safety purposes and are also used in situations where the hydrocarbon oil and gas are unable to be used, exported, or re-injected without the CO2 being removed. The removed CO2 can then be released in the processes of flaring, where waste gas including the stripped-out CO2 as well as combustible elements is ignited, and venting, where unignited gas is released through a vent. In 2020, 2.81Mt of CO2 was released during flaring. We estimate 0.4Mt of CO2 is vented and thus in scope of this legislation.

5.6 Under current legislation, CO2 released through flaring is included in the UK ETS as it is within the scope of the regulated activity of combustion (whether that is "combustion of fuels on a site where combustion with a maximum total rated thermal input exceeding 20 megawatts" or the combustion of fuels in a combustion unit operated on a site carrying out any other regulated activity). As a result, carbon emitted through flaring is already subject to the carbon price. In contrast, venting is not a regulated activity within the UK ETS and, as a result, operators have a perverse incentive to vent gas containing carbon dioxide that, if flared, would constitute reportable emissions for the purposes of the scheme. This instrument introduces CO2 venting into the scope of the UK ETS for installations already covered by the scheme because they exceed the combustion threshold, thereby removing this perverse

[1] Carbon leakage is the movement of production and associated emissions from one country to another due to different levels of decarbonisation effort through carbon pricing and climate regulation.

incentive. This instrument also introduces a new activity group for the verification of carbon dioxide venting emissions. The UK ETS Authority will ensure that arrangements are made to ensure there are sufficient UK ETS accredited verifiers to be able to verify emissions monitoring and reporting for carbon dioxide venting.

5.7 *Enforcement:* The Regulators are responsible for enforcing compliance, including operational functions such as issuing penalties. This instrument introduces two new penalties, and makes several changes to existing penalties in order to ensure that a proportionate and consistent approach is maintained across the UK ETS.

5.8 *Deficit notice and penalty:* Where installations and aircraft operators fail to surrender allowances to cover their reportable or aviation emissions by the relevant deadline, this instrument provides for a "deficit notice" to be issued by their UK ETS regulator as an additional means of enforcing the obligation. Should the operator not comply with the deficit notice, they will be liable to a penalty equivalent to the carbon price for each allowance they are in deficit for, multiplied by a factor of 1.5. Operators who continue to not pay this may be liable for a daily penalty.

5.9 *Penalty to enforce article 27A:* This instrument provides a new penalty whereby operators who fail to submit information in line with the notification requirements in article 27A will, at the discretion of the regulator, be liable to a penalty of £5,000 in addition to a daily penalty if they continue to fail to comply. Article 27A applies to operators of installations in scope of the scheme that have not submitted applications to become an HSE, a USE or for free allocation for the 2026-2030 allocation period.

5.10 *Amendments to penalties in* articles *53, 56, 57 and 60:* The article 53 penalty (for failure to transfer or surrender allowances where under-reporting of allowances is discovered after a permit transfer) is amended to make it consistent with the newly introduced deficit penalty, as outlined in section 5.8. The article 56 penalty (for HSEs who have under-reported their emissions) is amended to make it more consistent and proportionate with article 52, which is an equivalent penalty for main scheme participants. The article 57 penalty (for HSEs who fail to notify when they cease to meet the HSE criteria) and article 60 penalty (for USEs that fail to notify the regulator where their reportable emissions exceed the maximum amount) are amended to make them more consistent and proportionate with the article 50 penalty (for operators carrying out a regulated activity without a permit).

5.11 *Amendments to the cap:* The UK ETS cap sets a limit on how many allowances can be created over the trading period and in each year (subject to certain exceptions); this level reduces over time to drive down total emissions. This legislation implements the decisions taken in the Developing the UK ETS Authority response (https://www.gov.uk/government/consultations/developing-the-uk-emissions-trading-scheme-uk-ets) to reset the cap for the trading period, which runs from 2021-2030, in line with the top of the net zero consistent range. The number of allowances auctioned from 2024 onwards has already been reduced in line with this new cap through amendments made to Auctioning Regulations in late 2023. This reduction of around 30% in the cap for the trading period supports a smooth transition for the scheme's participants whilst sending a strong signal to decarbonise.

5.12 *Amendments to the industry cap and creating a flexible reserve:* The amendments made by this instrument reduce the industry cap (the total number of allowances which can be made available to incumbent installations for free). Accounting for the reduction in the overall cap for the trading period, the share of allowances set aside for this purpose will increase from 37% to 40%. Making a higher proportion of a reduced cap's allowances available for free allocation mitigates carbon leakage risk across

participating sectors while still maintaining an effective incentive to decarbonise. The amendments also create a flexible reserve of allowances stocked with allowances specifically created for flexible reserve purposes. Unallocated free allowances from the industry cap and designated free allowances that are returned by operators due to changes in participant eligibility or activity level reductions will also flow into the flexible reserve. This instrument provides for the flexible reserve to be used for the Cost Containment Mechanism to increase the volume of allowances that are auctioned (a discretionary market stability intervention available to the UK ETS Authority only when certain conditions are met) or to mitigate the Cross Sectoral Correction Factor (a mechanism which can apply a uniform reduction to incumbent participants' free allocation entitlements in the event that the eligibility for free allocation in an allocation period exceeds the industry cap).

5.13 *Expanding the scope to* flights *from Northern Ireland to Switzerland:* After our departure from the European Union, flights between the UK and Switzerland were not covered in either the UK ETS or the Swiss Emissions Trading System. In 2022, a memorandum of understanding between the UK Government and the Swiss Government was signed, setting out the intention to include flights from the UK to Switzerland in the UK ETS. Flights from Great Britain to Switzerland were brought into the UK ETS scope on 1st January 2023 by the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 3) Order 2022. This instrument extends the scope of the UK ETS to cover flights departing from an aerodrome in Northern Ireland and arriving to an aerodrome in Switzerland. This requires the recalculation of entitlements to free allocation of UK allowances for aircraft operators to take account of this new category of historic aviation activity. Aircraft operators who have not previously applied for free allocation will be entitled to make an application on the basis of this new category of historic aviation activity. The inclusion of flights from Northern Ireland to Switzerland will bring an additional 100 flights per year into the scope of the UK ETS (rounded to the nearest 10 flights), covering 1250 tCO2e of emissions per year (rounded to the nearest 10tCO2e).[2]

5.14 *Extending other amendments to Northern Ireland:* In line with the original policy intention, this instrument extends legislative amendments made by the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023 to Northern Ireland. The effect of this instrument is to ensure that the policy implementation is the same across all jurisdictions. Those amendments include capping aviation free allocation at 100% of emissions, clarifying the treatment of Carbon Capture and Storage (CCS) plants and amendments to free allocation rules for electricity generation. The full policy detail can be found in the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023 Explanatory Memorandum (https://www.legislation.gov.uk/uksi/2023/1387/memorandum/contents).

5.15 *Corrections:* This instrument makes a number of corrections and clarifications. An amendment to article 52(11) of the 2020 Order corrects the inflation factor for the purpose of calculating the relevant civil penalty. The penalty in article 51 (for installations failing to comply with the conditions of a permit) is corrected to add the article 57 penalty referred to in section 5.10 to its exclusions list, since the obligation is already covered by permit conditions.

[2] This is calculated using the 2019 and 2023 Northern Ireland to Switzerland flight data, (omitting 2020-2022 due to the impact of COVID).

What was the previous policy, how is this different?

5.16 *Carbon dioxide venting in the upstream oil and gas sector:* Carbon dioxide venting was not previously included as a UK ETS regulated activity. The inclusion of venting in the UK ETS through this instrument removes any perverse incentive for operators to vent rather than flare carbon dioxide in order to avoid surrendering UK allowances for these emissions.

5.17 *Deficit notice and penalty*: When an operator or aircraft operator failed to surrender allowances by the surrender deadline, they were subject to an inflation-adjusted penalty of £100 per allowance not surrendered. The deficit in surrendered allowances was then added to the operator's reportable emissions or the aircraft operator's aviation emissions for the next scheme year to determine their surrender obligations, which could be enforced by the existing enforcement notice. This instrument introduces a new targeted form of notice and an associated penalty, which allows regulators to set a specific date for the surrender of these allowances and impose an associated penalty if operators do not comply.

5.18 *Introduction of a penalty to enforce article 27A*: This instrument provides a new penalty related to failure to comply with the existing obligation on certain operators to submit information between 1 April 2025 and 30 June 2025. There was previously no specific penalty for failure to submit information in this period.

5.19 *Amendments to penalties in articles 53, 56, 57 and 60:* These penalties were previously either inconsistent or no longer considered to be proportionate. The Article 53 penalty (failure to transfer or surrender allowances where under-reporting of allowances is discovered after a permit transfer) has been amended to make it consistent with the new deficit notice penalty, including the introduction of a carbon price calculation factor and discretionary daily penalty. The Article 56 penalty (Hospital and small emitters: under-reporting of emissions) is amended to bring the basis on which it is calculated more closely in line with Article 52 (Failure to surrender allowances) which is the equivalent penalty for an operators in the main scheme. The article 57 penalty (Hospital and small emitters: failure to notify when ceasing to meet criteria) and article 60 penalty (Ultra-small emitters: failure to notify where reportable emissions exceed maximum amount) were disproportionate in light of the existing article 50 penalty (Installations carrying out a regulated activity without a permit). They have been reduced accordingly.

5.20 *Amendments to articles 51 and 52 to effect corrections*: Previously, both the article 51 and 57 penalties could be applied in the case of a breach of permit conditions under article 47. This is corrected so that only the article 57 penalty will be applied in those circumstances. Previously, the calculation of inflation factor outlined in article 52 did not allow penalties to grow with inflation based on the Consumer Price Index. This is corrected with a more appropriate calculation.

5.21 *Amendments to the cap:* The cap for the legislated trading period of the UK ETS (2021-2030) was set at 5% below the UK's expected notional share of the European Union Emissions Trading System's cap for Phase IV of the EU ETS (2021-2030). However, this was not consistent with the UK's net zero trajectory for the traded sector. Amendments to the Auctioning Regulations made in late 2023 reduced the number of allowances auctioned from 2024 onwards in with line a new net-zero consistent cap. This instrument brings the overall UK ETS cap in line with these targets under the CCA.

5.22 *Industry cap:* The industry cap is the number of allowances which can be made available to incumbent installations for free. This was previously set at 37% of the cap

but will now be set at 40% of the new and lower net zero consistent cap. This reduces the absolute level of the industry cap while increasing its proportion of the cap in order to mitigate carbon leakage risk across participating sectors while still maintaining an effective incentive to decarbonise.

6. Legislative and Legal Context

How has the law changed?

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"). The 2020 Order applies EU rules on the monitoring, reporting and verification of emissions with modifications to ensure that they are appropriate for the UK ETS. In addition, UK ETS legislation includes assimilated law relating to the free allocation of allowances, which has similarly been amended to apply it to the UK ETS.

6.2 The Auctioning Regulations (made under the Finance Act 2020) established the rules for auctioning allowances and mechanisms to support market stability.

6.3 An amendment to include flights from Great Britain to Switzerland within the scope of the UK ETS from 1 January 2023 (made by the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 3) Order 2022) extended to Great Britain only. Flights from Northern Ireland to Switzerland could not be included in the same instrument, because the Northern Ireland Assembly was not sitting. In the Initial Response to Developing the UK ETS consultation, the UK ETS Authority stated that legislation to expand the scope of UK ETS aviation activity to include flights from Northern Ireland to Switzerland would be laid as soon as the Northern Ireland Assembly was able to progress legislation.

6.4 As well as implementing other decisions, this instrument is part of a package of legislation to implement the policy decisions in the Main UK ETS Authority Response to the Developing the UK ETS Consultation. Other instruments which implement the decisions are the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023, the Greenhouse Gas Emissions Trading Scheme (Amendment) (No.2) Order 2023 and the Greenhouse Gas Emissions Trading Scheme Auctioning (Amendment) Regulations 2023.

6.5 The Greenhouse Gas Emissions Trading Scheme (Amendment) (No.2) Order 2023 provided for the capping of aviation free allocation at 100% of an aviation operator's emissions for the 2024 and 2025 scheme years, clarified the treatment of Carbon Capture and Storage plants, and made changes to the free allocation rules for electricity generation. The instrument similarly had a Great Britain-only extent because the Northern Ireland Assembly was not sitting at the time that it was made. This instrument extends those amendments to Northern Ireland.

6.6 In the Main UK ETS Authority Response to the Developing the UK ETS Consultation the UK ETS Authority stated its intention to set a net zero consistent cap for the UK ETS, which this instrument implements.

6.7 The Greenhouse Gas Emissions Trading Scheme Auctioning (Amendment) Regulations 2023 made by the Treasury reset the auction share, and therefore the number of allowances that enter circulation through auction from 2024 onwards, in line with the net zero consistent cap. This instrument implements a net zero consistent cap for the UK ETS as a whole. It also increases the proportion of the reduced cap's allowances available for free allocation.

6.8 This instrument also implements the policy decisions in the Main UK ETS Authority Response to the Developing the UK ETS Consultation to provide an additional means of enforcing the requirement to surrender allowances by means of a "deficit notice", provide a specific penalty to enforce the requirement set out in article 27A of the 2020 Order and adjust existing penalties for breaches of certain UK ETS obligations.

Why was this approach taken to change the law?

6.9 Amendments to the Auctioning Regulations made in late 2023 reduced the number of allowances to be auctioned from 2024 in order to bring the UK ETS scheme in line with net zero targets.

6.10 This instrument, which amends the 2020 Order to align the overarching UK ETS cap with a net zero trajectory (and amends the level of the industry cap as a proportion of the overall cap), could not be made at that time in absence of a sitting Northern Ireland Assembly.

6.11 As this instrument extends to the UK as a whole it is necessary for it to be made jointly by the Secretary of State and the devolved administrations.

7. Consultation

Summary of consultation outcome and methodology

7.1 Between 25 March 2022 and 17 June 2022, the UK Government, Scottish Government, Welsh Government and Department for Agriculture Environment, and Rural Affairs, Northern Ireland (DAERA), ran a public consultation on a package of proposals, titled 'Developing the UK Emissions Trading Scheme'. These proposals covered the policy content referred to in sections 5.5-5.9 and 5.11-5.14.

7.2 Alongside the consultation, the advice of the Committee on Climate Change (CCC) on the associated policy proposals in this instrument was sought. On the net zero consistent cap, the CCC agreed with the approach and its alignment with the overarching Net Zero Strategy. The CCC reviewed the policy content of the other proposals and only had clarification questions and no further comments.

7.3 The consultation received responses from over 300 organisations, representing a wide range of stakeholders from a variety of sectors, such as the energy, industrial and aviation sectors, as well as Non-Government Organisations (NGOs), Think Tanks, Local Authorities, trade associations, academia and advocacy groups.

7.4 The Authority Response to this consultation was published in two parts. The Initial UK ETS Authority Response to this consultation was published on 31 August 2022 setting our intention to legislate for the policy areas set out in section 5.13. The majority of respondents agreed with the proposal to expand the scope of the UK ETS to capture emissions from flights departing the UK and arriving in Switzerland from 2023. The Main UK ETS Authority Response to this consultation was published on 3 July 2023 and stated our intent to implement the policies set out in sections 5.5-5.9, 5.11-5.12 and 5.14. The majority of respondents agreed with the UK ETS Authority proposals on creating a flexible share reserve of allowances, on bringing venting in the upstream oil and gas sector into the scope of the ETS and on the addition of a new penalty and deficit notice. Several respondents expressed concern regarding the reduction of the cap and the changes to the industry cap; an assessment of these responses informed the final policy decisions, detailed in 5.11 and 5.12.

7.5 Full details of this consultation and the two subsequent Authority Responses can be found at: https://www.gov.uk/government/consultations/developing-the-uk-emissions-trading-scheme-uk-ets.

7.6 Between 23 February 2024 and 8 March 2024, the UK ETS Authority ran a targeted consultation on the minor penalty amendments referred to in section 5.10. This consultation was distributed by regulators to operators directly (the affected parties).

7.7 This consultation received three responses, all of which were in broad agreement with the proposals or noted that they were not affected by them. The CCC reviewed the proposed penalty amendments and provided a nil response.

7.8 The Authority Response to this targeted consultation was issued on 30 September 2024, in advance of the laying of this instrument. This can be found at: Authority_response_to_consultation_on_amendments_to_existing_civil_penalties.pdf (https://assets.publishing.service.gov.uk/media/66faae2f30536cb92748299f/Authority_response_to_consultation_on_amendments_to_existing_civil_penalties.pdf).

7.9 A number of amendments (referred to in section 5.15) make minor corrections or clarifications to legislation. The Department takes the view that the policy represented by some of these amendments is within the scope of the consultations previously carried out (including previous advice from the CCC) and is covered by the Government Responses to those consultations. For amendments not within the scope of previous consultations, these are deemed clarificatory or correctional in nature. The scheme regulators were consulted on the amendments, and advice from the CCC was also separately sought. Neither exercise raised concern.

8. Applicable Guidance

8.1 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.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it is not a regulatory provision.

9.2 Although not required, 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.

9.3 The Impact Assessment published in July 2023 covers policy changes being legislated for in this instrument relating to the UK ETS Cap and carbon dioxide venting, covered at sections 5.5 and 5.11-12.

9.4 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. The 2020 Impact Assessment is also available alongside the 2020 Order on www.legislation.gov.uk. The July 2023 Impact Assessment is available alongside The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 on www.legislation.gov.uk and alongside this SI.

Impact on businesses, charities and voluntary bodies

9.5 The impact on business, charities or voluntary bodies relating to the net zero consistent cap, inclusion of CO2 venting are outlined in the Impact Assessment. This was published alongside the Main UK ETS Authority Response to the Developing the UK ETS Consultation, in which the UK ETS Authority announced the changes to the UK ETS made in this legislation.

9.6 The legislation does impact small or micro businesses.

9.7 To minimise the impact of the requirements on small or micro businesses (employing up to 50 people), 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.

9.8 There is no significant impact on the public sector. Hospitals participate in the HSE scheme, which has lower compliance burdens than the main UK ETS.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is set out in the 2020 Order. 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 https://www.gov.uk/government/publications/uk-emissions-trading-scheme-review-2023.

10.2 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.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

11.1 A number of provisions of this instrument - those relating to the setting of a net zero consistent cap, the reduction of the "industry cap" and the creation of the flexible reserve - come into force on the day after the date on which the instrument is made. These provisions do not impose obligations on UK ETS participants. Accordingly, the Department does not consider that a later commencement date is necessary.

11.2 As set out in section 7, this instrument makes a number of corrections and clarifications to the 2020 Order, (including to amendments to the 2020 Order made by the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020). The Department has therefore applied the free issue procedure. In accordance with paragraph 4.7.6 of *Statutory Instrument Practice*, the Department has consulted the SI Registrar.

12. European Convention on Human Rights

12.1 The Minister for Industry at the Department for Energy Security and Net Zero has made the following statement regarding Human Rights:

"In my view the provisions of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts"). It does however relate 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.