Draft Order in Council laid before Parliament, the Northern Ireland Assembly, the Scottish Parliament and Senedd Cymru under paragraph 11 of Schedule 3 to the Climate Change Act 2008 for approval by resolution of each House of Parliament, the Northern Ireland Assembly, the Scottish Parliament and Senedd Cymru.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2025 No. 0000

CLIMATE CHANGE

The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2025

Made - - - - 2025

Coming into force in accordance with article 2

At the Court at Buckingham Palace, the 000 day of 000 2025

Present,

The King's Most Excellent Majesty in Council

This Order is made in exercise of the powers conferred by sections 44, 54 and 90(3) of, and Schedule 2 and paragraph 9 of Schedule 3 to, the Climate Change Act 2008(**a**).

In accordance with paragraph 10 of Schedule 3 to that Act, before the recommendation to His Majesty in Council to make this Order was made—

(a) the advice of the Committee on Climate Change was obtained and taken into account; and

(b) such persons likely to be affected by the Order as the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers considered appropriate were consulted.

In accordance with paragraph 11 of that Schedule, a draft of the instrument containing this Order was laid before Parliament, the Northern Ireland Assembly, the Scottish Parliament and Senedd Cymru and approved by resolution of each House of Parliament, the Northern Ireland Assembly, the Scottish Parliament and Senedd Cymru.

Accordingly, His Majesty, by and with the advice of His Privy Council, makes the following Order:

(**a**) 2008 c. 27. The amendment made to paragraph 30 of Schedule 2 of that Act by S.I. 2022/500 is not relevant to this Order.

PART 1

Preliminary

Citation

1. This Order may be cited as the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2025.

Commencement

2.—(1) Articles 8(2)(b)(i), (5)(c) and (6) and 13 come into force on 1st January 2026.

(2) The rest of this Order comes into force on the day after the day on which it is made.

Extent

3. This Order extends to the whole of the United Kingdom.

PART 2

Greenhouse Gas Emissions Trading Scheme Order 2020 amended

Greenhouse Gas Emissions Trading Scheme Order 2020 amended

4. The Greenhouse Gas Emissions Trading Scheme Order 2020(**a**) is amended in accordance with this Part.

Article 4 amended (interpretation)

5.—(1) Article 4 is amended as follows.

(2) For paragraph (3) substitute—

> "(3) For the purposes of this Order, an installation has ceased operation if all regulated activities have permanently ceased to be carried out at the installation (see paragraph 10A of Schedule 6 (installation to be treated as ceasing operation: regulator's notice) for circumstances in which an installation must be treated as having ceased operation).".

Article 34C amended (allocation tables: updates)

6.—(1) Article 34C is amended as follows.

(2) Omit paragraph (1)(e).

Article 70 amended (right of appeal)

7.—(1) Article 70 is amended as follows.

(2) In paragraph (2)—

(a) after sub-paragraph (i) insert—

"(ia) paragraph 10A(2) of Schedule 6 (installation to be treated as ceasing operation: regulator's notice);";

(b) after sub-paragraph (n) insert—

(**a**) S.I. 2020/1265, amended by S.I. 2020/1557, 2021/1455, 2022/454, 2022/1173, 2022/1336, 2023/850, 2023/1267, 2023/1387 and 2024/192.

"(na) Article 2a(2) of the Activity Level Changes Regulation(**a**) (sub-installation to be treated as ceasing operation: regulator's notice);".

Schedule 6 amended (permits)

8.—(1) Schedule 6 is amended as follows.

Paragraph 4 amended (greenhouse gas emissions permits: content of permit)

(2) In paragraph 4—

(a) after sub-paragraph (1)(hb) insert—

"(hc) the cessation condition (see sub-paragraph (8));";

(b) in sub-paragraph (6)—

(i) in the opening words after "FA installation" insert "and, in relation to the condition in paragraph (b)(i) only, to an installation referred to in Article 3(1a) of the Activity Level Changes Regulation";

(ii) omit paragraph (c);

(c) after sub-paragraph (7) insert—

"(8) The cessation condition is a condition requiring the operator, where all regulated activities authorised by the permit have ceased to be carried out at the installation in a scheme year, to notify the regulator of the following on or before the cessation condition notification date—

(a) the date of the cessation;

(b) whether or not the operator intends for one or more of the regulated activities authorised by the permit to resume at the installation;

(c) where the operator does intend for one or more of the regulated activities authorised by the permit to resume at the installation, each of the following—

(i) the date by which the operator expects those regulated activities to resume;

(ii) whether either—

(aa) the installation is technically capable of resuming those regulated activities without physical changes being made; or

(bb) the operator intends for the technical capability required for those regulated activities to resume to be restored at the installation.

(9) But the cessation condition does not apply where either of the following conditions is met—

(a) the operator has applied to surrender the permit under paragraph 11;

(b) all regulated activities authorised by the permit have resumed prior to the cessation condition notification date.

(10) For the purposes of this paragraph, the "cessation condition notification date" is the later of —

(a) the last day of the period of 1 month beginning with the day on which all regulated activities authorised by the permit ceased to be carried out at the installation; and

(b) the 31st December in the scheme year within which the cessation occurs.".

Paragraph 7 amended (transfer of permits: contents of application)

(3) In paragraph 7(3) for "that has ceased operation" substitute "in circumstances in which the transferred activities have ceased to be carried out unless the transferring operator is satisfied that the new operator intends to resume those activities".

(**a**) EUR 2019/1842, amended by S.I. 2020/1557, 2022/1173, 2023/850, 2023/1387 and this Order. Article 4(1) of S.I. 2020/1265 defines "Activity Level Changes Regulation" as Commission Implementing Regulation (EU) 2019/1842 of 31 October 2019, as it forms part of domestic law.

Paragraph 10A inserted

(4) After paragraph 10 insert—

"**Installation to be treated as ceasing operation: regulator's notice**

10A.—(1) Where the regulator gives a notice under sub-paragraph (2) to the operator of an installation at which all regulated activities authorised by the permit have ceased to be carried out, the installation must be treated as having ceased operation for the purposes of both this Order and the Activity Level Changes Regulation on the last day on which a regulated activity was carried out at the installation.

(2) A notice under this sub-paragraph is a notice that states that the regulator considers that all regulated activities authorised by the permit have permanently ceased to be carried out at the installation.

(3) The regulator may give a notice under sub-paragraph (2) if, at any time during which all regulated activities authorised by the permit have ceased to be carried out at an installation, the operator fails to satisfy the regulator (whether in accordance with the cessation condition referred to in paragraph 4(8) or otherwise) that each of the following conditions is met in respect of the installation—

(a) the operator intends for one or more of the regulated activities authorised by the permit to resume at the installation;

(b) either—

(i) the installation is technically capable of resuming those regulated activities without physical changes being made; or

(ii) the operator intends for the technical capability required for those regulated activities to resume to be restored at the installation.

(4) To avoid doubt, nothing in this paragraph prevents the regulator from giving a notice under sub-paragraph (2) in circumstances in which the regulator has previously confirmed that the regulator was, at that time, satisfied that the conditions referred to in sub-paragraph (3) were met in respect of the installation.

(5) The regulator may withdraw a notice under sub-paragraph (2) at any time by giving notice of the withdrawal to the operator.".

Paragraph 11 amended (surrender of permits)

(5) In paragraph 11—

(a) for sub-paragraph (1) substitute—

"(1) Where a permit authorises a regulated activity to be carried out at an installation which has ceased operation, the operator must apply to the regulator to surrender the permit on or before—

(a) the relevant surrender date; or

(b) such later date as may be agreed by the regulator.

(1A) For the purposes of sub-paragraph (1), the "relevant surrender date" is—

(a) where the regulator has given a notice to the operator of the installation under paragraph 10A(2) (installation to be treated as ceasing operation), the last day of the period of 1 month beginning with the date on which the notice is given;

(b) in any other case, the latest of—

(i) the last day of the period of 1 month beginning with the date on which the installation ceased operation;

(ii) the last day of the period of 1 month beginning with the date on which the operator no longer intends for one or more of the regulated activities authorised by the permit to be resumed at the installation; and

(iii) the last day of the period of 1 month beginning with the day after the date on which the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2025 is made.";

(b) for sub-paragraph (2) substitute—

"(2) Subject to sub-paragraph (1), an operator may apply to the regulator to surrender a permit if at any time all regulated activities authorised to be carried out by that permit have ceased to be carried out.";

(c) omit sub-paragraph (8).

Paragraph 12 amended (revocation of permits)

(6) Omit paragraph 12(8A).

Schedule 7 amended (hospitals and small emitters)

9.—(1) Schedule 7 is amended as follows.

Paragraph 11 amended (hospital or small emitter permits: content of permit)

(2) After paragraph 11(1)(h) insert—

"(ha) the cessation condition referred to in paragraph 4(8) of Schedule 6;".

PART 3

Activity Level Changes Regulation amended

Activity Level Changes Regulation amended

10. Commission Implementing Regulation (EU) 2019/1842 is amended in accordance with this Part.

Article 2 (definitions)

11.—(1) Article 2 is amended as follows.

(2) For paragraph 3 substitute—

"3. For the purposes of this Regulation, a sub-installation has ceased operation if all operations have permanently ceased at the sub-installation (see Article 2a (sub-installation to be treated as ceasing operation: regulator's notice) for circumstances in which a sub-installation must be treated as having ceased operation).".

Article 2a inserted

12. After Article 2 insert—

"Article 2a

Sub-installation to be treated as ceasing operation: regulator's notice

1. Where the regulator gives a notice under paragraph 2 to the operator of an installation that includes a sub-installation at which all operations have ceased, the sub-installation must be treated as having ceased operation for the purposes of this Regulation on the last day on which operations were carried out at the sub-installation.

2. A notice under this paragraph is a notice that states that the regulator considers that all operations have permanently ceased at the sub-installation.

3. The regulator may give a notice under paragraph 2 if, at any time during which all operations have ceased at a sub-installation, the operator fails to satisfy the regulator

(whether in accordance with Article 3(9) or otherwise) that each of the following conditions is met in respect of the sub-installation:

(a) the operator intends for operations to resume at the sub-installation;

(b) either:

(i) the sub-installation is technically capable of resuming those operations without physical changes being made; or

(ii) the operator intends for the technical capability required for those operations to resume to be restored at the sub-installation.

4. To avoid doubt, nothing in this Article prevents the regulator from giving a notice under paragraph 2 in circumstances in which the regulator has previously confirmed that the regulator was, at that time, satisfied that the conditions referred to in paragraph 3 were met in respect of the sub-installation.

5. The regulator may withdraw a notice under paragraph 2 at any time by giving notice of the withdrawal to the operator.".

Article 3 amended (reporting requirements)

13.—(1) Article 3 is amended as follows.

(2) After paragraph 1 insert—

"1a. Where an installation is an FA installation(**a**) at the date on which a sub-installation of the installation ceases operation, the operator of the installation must report on the activity level of each sub-installation of the installation in the scheme year of cessation (even if the installation is not an FA installation after the end of that scheme year).".

(3) In paragraph 2 for "contain information on whether any sub-installation has ceased operation" substitute ", where all operations have ceased at a sub-installation, contain the information referred to in paragraph 9".

(4) After paragraph 8 insert—

"9. Where at the date on which the activity level report is prepared all operations have ceased at a sub-installation, the information that the activity level report is required to contain is the following:

(a) the date of the cessation;

(b) whether or not the operator intends for operations to resume at the sub-installation;

(c) where the operator does intend for operations to resume at the sub-installation, each of the following:

(i) the date by which the operator expects those operations to resume;

(ii) whether :

(aa) the sub-installation is technically capable of resuming those operations without physical changes being made; or

(bb) the operator intends for the technical capability required for those operations to resume to be restored at the sub-installation.".

Articles 3za to 3zc inserted

14. After Article 3 insert—

(**a**) See article 4A of S.I. 2020/1265 for the definition of "FA installation".

"*Article 3za*

Ceasing operation: free allocation for last year of operation based on activity level in last year, etc.

1. This Article applies where:

(a) an FA installation ceases operation in a scheme year (the "last FA year");

(b) except where the installation has ceased operation in a previous scheme year, the surrender or revocation of an FA installation's greenhouse gas emissions permit takes effect in a scheme year (the "last FA year"); or

(c) a sub-installation of an FA installation ceases operation in a scheme year (the "last FA year") but the FA installation as a whole does not.

2. The regulator must:

(a) based on the report on activity levels in the last FA year, determine the activity level in that year:

(i) where paragraph 1(a) or (b) applies, of each sub-installation of the installation;

(ii) where paragraph 1(c) applies, of the sub-installation referred to in that point; and

(b) in respect of each sub-installation referred to in point (a):

(i) where the historical activity level of the sub-installation has previously been determined, calculate:

(aa) an adjustment to free allocation for the last FA year by recalculating the preliminary and final annual number of allowances to be allocated in respect of the sub-installation using the activity level determined under point (a) instead of the historical activity level of the sub-installation; and

(bb) an adjustment to free allocation so that it is zero for the scheme years following the last FA year;

(ii) where the historical activity level of the sub-installation has not previously been determined, calculate the preliminary and final annual number of allowances to be allocated in respect of the sub-installation for the last FA year in accordance with Article 3a(3)(b) and (c) using the activity level determined under point (a) of this paragraph.

3. Where paragraph 2 requires the regulator to determine a sub-installation's activity level in the last FA year, Articles 3a to 6 do not apply in relation to that sub-installation (but, where relevant, those Articles continue to apply in relation to any other sub-installation of the installation upon submission of the report on activity levels in the last FA year).

4. This Article is subject to Article 3zb (which provides that in certain circumstances the adjustment referred to in paragraph 2(b)(i)(aa) must not be calculated).

Article 3zb

Decarbonisation condition: application for no adjustment to last FA year's allocation where product benchmark sub-installation ceases operation

1. This Article applies where:

(a) a product benchmark sub-installation (the "old PB sub-installation") of an FA installation has ceased operation in a scheme year (the "last FA year");

(b) the report on activity levels in the last FA year is accompanied by:

(i) an application for there to be no adjustment to the free allocation of the old PB sub-installation for the last FA year under Article 3za on the grounds that the decarbonisation condition will be met in relation to the old PB sub-installation on or before the date stated in the application (the "restart date");

(ii) evidence that the decarbonisation condition will be met in relation to the old PB sub-installation on or before the restart date; and

(c) the permit for the installation has not been surrendered or revoked.

2. The decarbonisation condition is met in relation to the old PB sub-installation if:

(a) the old PB sub-installation has ceased operation;

(b) new infrastructure has been installed at the installation resulting in a new sub-installation (other than a product benchmark sub-installation with the same product benchmark as the old PB sub-installation) or a change to the system boundaries of an existing sub-installation (other than a product benchmark sub-installation);

(c) there has been no material reduction in the overall level of production of pre-cessation products produced at the installation (whether or not there is a change to the proportion of the products which make up that overall level of production); and

(d) the installation of the new infrastructure referred to in point (b) has resulted in a material reduction in the specified emissions per unit of production of those pre-cessation products which continue to be produced at the installation.

3. For the purposes of paragraph 2(c), a product is a "pre-cessation product" if it was produced at the installation involving a process within the system boundaries of the old PB sub-installation prior to the installation of the new infrastructure referred to in paragraph 2(b).

4. After receiving the application, the regulator must, as soon as reasonably practicable:

(a) assess whether or not the decarbonisation condition will be met in relation to the old PB sub-installation on or before the restart date; and

(b) send the evidence, the regulator's assessment and the reasons for it to the UK ETS authority(**a**).

5. The UK ETS authority must, after considering the evidence and the regulator's assessment and reasons:

(a) determine whether or not the decarbonisation condition will be met in relation to the old PB sub-installation on or before the restart date;

(b) notify the regulator of the determination;

(c) if the UK ETS authority determines that the decarbonisation condition will be met in relation to the old PB sub-installation on or before the restart date, notify the regulator of any matters in respect of which the UK ETS authority will need evidence in order to determine whether or not the decarbonisation condition has been met (in addition to reports of the installation's reportable emissions and activity levels).

6. If the UK ETS authority determines under paragraph 5 that the decarbonisation condition will not be met in relation to the old PB sub-installation on or before the restart date:

(a) the regulator must notify the operator of the determination;

(b) Article 3za applies to the old PB sub-installation without the qualification referred to in paragraph 7(b) (and an adjustment is to be made to free allocation for the last FA year).

7. If the UK ETS authority determines under paragraph 5 that the decarbonisation condition will be met in relation to the old PB sub-installation on or before the restart date:

(a) the regulator must notify the operator of the determination and of any matters referred to in paragraph 5(c);

(**a**) See article 14 of S.I. 2020/1265 for the definition of "UK ETS authority".

(b) Article 3za applies to the old PB sub-installation, but the adjustment referred to in paragraph 2(b)(i)(aa) of that Article must not be calculated (and no adjustment is to be made to free allocation for the last FA year on submission of the report on activity levels in the last FA year);

(c) the operator must notify the regulator of the date (which must be a date on or before the relevant date) on which the operator considers that the decarbonisation condition has been met in relation to the old PB sub-installation;

(d) the regulator must notify the UK ETS authority where:

(i) the operator fails on or before the relevant date to notify the regulator of a date under point (c); or

(ii) the installation's permit is surrendered or revoked on or before the relevant date.

8. Where the operator notifies the regulator of a date under paragraph 7(c):

(a) the first activity level report submitted under Article 3 that contains data for a period of at least 6 months before that date must include the information referred to in section 3 of Annex 4 to the Free Allocation Regulation(**a**) and must be accompanied by evidence of any matters referred to in paragraph 5(c);

(b) as soon as reasonably practicable after receiving the activity level report and any accompanying evidence, the regulator must:

(i) assess whether the decarbonisation condition has been met in relation to the old PB sub-installation on or before the relevant date;

(ii) send the assessment, activity level report and any accompanying evidence to the UK ETS authority;

(c) on receiving the assessment, activity level report and any accompanying evidence, the UK ETS authority must:

(i) determine whether or not the decarbonisation condition has been met in relation to the old PB sub-installation on or before the relevant date;

(ii) notify the regulator of the determination;

(d) the regulator must notify the operator of a determination under point (c).

9. Despite paragraph 7(b), if any of the following occurs, Article 3za applies to the old PB sub-installation without the qualification referred to in paragraph 7(b) (and an adjustment is to be made to free allocation for the last FA year):

(a) the UK ETS authority determines that the decarbonisation condition has not been met in relation to the old PB sub-installation on or before the relevant date;

(b) the operator fails on or before the relevant date to notify the regulator of a date under paragraph 7(c);

(c) the installation's permit is surrendered or revoked on or before the relevant date.

10. In this Article, the "relevant date" is the restart date or, where the UK ETS authority determines under Article 3zc that the decarbonisation condition will be met in relation to the old PB sub-installation on or before the extended date referred to in paragraph 3 of that Article, the extended date.

Article 3zc

Application for extension of time to meet decarbonisation condition

1. This Article has effect for the purposes of Article 3zb.

(**a**) EUR 2019/331, amended by S.I. 2020/1557, 2021/1455, 2022/1173, 2023/850, 2023/1387, 2024/192 and this Order. See article 4(1) of S.I. 2020/1265 for the definition of "Free Allocation Regulation".

2. At least 6 months before the restart date, the operator may on one occasion only apply to the regulator to extend the date on or before which the decarbonisation condition will be met in relation to the old PB sub-installation.

3. An application must be accompanied by:

(a) the operator's explanation of the reason why the decarbonisation condition will not be met in relation to the old PB sub-installation on or before the restart date and any evidence to support the explanation;

(b) evidence that the decarbonisation condition will be met in relation to the old PB sub-installation on or before a further date (the "extended date").

4. After receiving the application, the regulator must, as soon as reasonably practicable:

(a) assess whether or not the decarbonisation condition will be met in relation to the old PB sub-installation on or before the extended date; and

(b) send the explanation, evidence, the regulator's assessment and the reasons for it to the UK ETS authority.

5. The UK ETS authority must after considering the explanation, evidence and the regulator's assessment and reasons:

(a) determine whether or not the decarbonisation condition will be met in relation to the old PB sub-installation on or before the extended date;

(b) notify the regulator of the determination.

6. The regulator must notify the operator of the determination.".

Article 5 amended (adjustments to free allocation due to activity level changes)

15.—(1) Article 5 is amended as follows.

(2) Omit paragraph 4.

Articles 5a to 5c omitted

16. Omit Articles 5a to 5c.

Article 6a amended (approval of changes by UK ETS authority)

17.—(1) Article 6a is amended as follows.

(2) In paragraph 1—

(a) in point (a) for "Article 3a" substitute "Article 3za or 3a";

(b) in point (b) for "Article 5 or 6" substitute "Article 3za, 5 or 6".

PART 4

Other

Free Allocation Regulation amended

18.—(1) Commission Delegated Regulation (EU) 2019/331 is amended as follows.

(2) Omit Article 26.

Variation of permits to add cessation condition

19.—(1) As soon as reasonably practicable after this article comes into force, the regulator must, in accordance with paragraph 6 of Schedule 6 to the UK ETS Order, vary the permit of every

installation to take account of the amendments made by this Order to paragraph 4 of Schedule 6, and paragraph 11 of Schedule 7, to that Order (addition of cessation condition).

(2) This article and article 20 must be interpreted as if they were part of the UK ETS Order.

(3) In this article, "UK ETS Order" means the Greenhouse Gas Emissions Trading Scheme Order 2020.

Transitional provision

20.—(1) Article 3za of the Activity Level Changes Regulation (inserted by article 14 of this Order) does not apply in relation to—

(a) an FA installation at which all regulated activities permanently ceased to be carried out prior to the date on which Article 3za of the Activity Level Changes Regulation comes into force;

(b) a sub-installation at which all operations permanently ceased to be carried out prior to the date on which Article 3za of the Activity Level Changes Regulation comes into force;

(c) the surrender of an FA installation's greenhouse gas emissions permit which takes effect as a result of an application to surrender which was made prior to the date on which Article 3za of the Activity Level Changes Regulation comes into force;

(d) the revocation of an FA installation's greenhouse gas emissions permit which takes effect prior to the date on which Article 3za of the Activity Level Changes Regulation comes into force.

(2) Where Article 3za of the Activity Level Changes Regulation does not apply in respect of an installation or sub-installation by virtue of paragraph (1), the Activity Level Changes Regulation and the Free Allocation Regulation apply in respect of that installation or sub-installation as if the amendments made by articles 6, 15 and 18 of this Order had not been made.

(3) In this article, "sub-installation" has the same meaning as in the Activity Level Changes Regulation.

Name
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

The United Kingdom Emissions Trading Scheme (the "UK ETS") was established by the Greenhouse Gas Emissions Trading Scheme Order 2020 (the "UK ETS Order"). Operators of certain industrial "installations" that engage in a "regulated activity" are required to monitor, report on, and surrender "allowances" equivalent to, their greenhouse gas emissions in each "scheme year". Allowances are sold at auction, but some participants receive an allocation of allowances free of charge each scheme year, the number depending on the installation's activity levels from year to year. For installations that meet the eligibility criteria, there are two schemes in addition to the main scheme, one for "hospitals or small emitters", the other for "ultra-small emitters". Operators of installations in the main scheme and in the hospital and small emitters scheme are required to have a permit.

This Order amends the UK ETS Order, Commission Delegated Regulation (EU) 2019/331 (the "Free Allocation Regulation") and Commission Implementing Regulation (EU) 2019/1842 (the "Activity Level Changes Regulation"). The main changes are as follows.

The definition of when an installation "ceases operation" is changed to refer to the permanent cessation of regulated activities (see substituted paragraph (3) of article 4 of the UK ETS Order).

Operators of installations with a permit are required to notify the regulator if all regulated activities authorised by the permit have ceased at the installation (see new sub-paragraph (8) of paragraph 4 of Schedule 6 to the UK ETS Order and article 19 of this Order). The regulator is given the power to determine when a cessation is permanent for UK ETS purposes (see new paragraph 10A of Schedule 6 to the UK ETS Order).

Similar provision is made in relation to "sub-installations", which are relevant to installations that receive free allocation (see substituted paragraph 3 of Article 2, new Article 2a and new paragraph 9 of Article 3 of the Activity Level Changes Regulation).

The operator of an installation in receipt of free allocation must submit a report on activity levels in the year in which the installation ceases operation (see new paragraph 1a of Article 3 of the Activity Level Changes Regulation). For such installations, and where an individual sub-installation has ceased operation in a scheme year, free allocation for the scheme year will be recalculated to reflect actual activity level in the scheme year (see new Article 3za), and the operator may be required to return any previous overallocation for that year in accordance with existing scheme rules. Exceptionally, where a product benchmark sub-installation ceases operation and is replaced by new infrastructure that results in the decarbonisation of production at an installation, the operator may apply to retain the final year's free allocation without adjustment (provided that there has been no material reduction in the overall level of production at the installation) (see new Articles 3zb and 3zc).

This Order also omits some provisions of the Activity Level Changes Regulation that are now spent.

No impact assessment has been produced for this instrument. However, the impact of this instrument on business, charities or voluntary bodies is set out in an analytical annex which is available from the Industrial Decarbonisation and Emissions Trading Directorate, Department for Energy Security and Net Zero, 3-8 Whitehall Place, London SW1A 2JP and which has been published alongside the Government Response to the 2023 consultation 'UK Emissions Trading Scheme: free allocation review' published on 28 November 2024 at https://www.gov.uk/government/consultations/uk-emissions-trading-scheme-free-allocation-review.

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