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 (c. 27), for approval by resolution of each House of Parliament, the Northern Ireland Assembly, the Scottish Parliament and Senedd Cymru.

DRAFT STATUTORY INSTRUMENTS

2026 No. XXXX

CLIMATE CHANGE

The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2026

Made - - - - ***

Coming into force in accordance with article 2

At the Court at Buckingham Palace, the day of

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 Scottish Ministers, the Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs 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.

PART 1

Preliminary

Citation

1. This Order may be cited as the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2026.

Commencement

2. This Order comes into force on the day after the day on which it is made.

Extent

3. This Order extends to England and Wales, Scotland and Northern Ireland.

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 23A amended (flexible reserve)

5.—(1) Article 23A is amended as follows.

(2) After paragraph (3)(b) insert—

> "(c) E is recalculated as soon as reasonably practicable after the UK ETS authority has approved the recalculation under Article 16b(6) of the Free Allocation Regulation of the final number of allowances to be allocated for a scheme year in the 2027-2030 allocation period, and the flexible reserve is updated on the basis of this recalculated E.".

Article 34A amended (allocation tables for the 2021-2025 and 2027-2030 allocation periods)

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

(2) In paragraph (1)(b) after "of that Regulation" insert "subject to paragraph (1A)".

(3) After paragraph (1) insert—

> "(1A) Where Article 16(1a) of the Free Allocation Regulation applies the UK ETS authority must—
>
> (a) as soon as reasonably practicable after approval under Article 16b of the Free Allocation Regulation of the final annual number of allowances to be allocated in 2027, compile an allocation table for the 2027-2030 allocation period which contains entries for the 2027 scheme year only; and

(**a**) S.I. 2020/1265, amended by S.I. 2020/1557, 2021/1455, 2022/454, 2022/1173, 2023/850, 2023/1267, 2023/1387, 2024/192, 2024/1366, 2025/100 and 2025/124.

(b) as soon as reasonably practicable after approval under Article 16b of the Free Allocation Regulation of the final annual number of allowances to be allocated in the 2028, 2029 and 2030 scheme years, update the allocation table for the 2027-2030 allocation period to include entries for the 2028, 2029 and 2030 scheme years.".

(4) In paragraph (8)(b), at the beginning, for "for" substitute "subject to paragraph (1A), for".

Article 34C amended (allocation tables: updates)

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

(2) After paragraph (1)(k) insert—

"(l) where Article 16(15) of the Free Allocation Regulation applies (including as applied by Article 16(17)), Article 16b of that Regulation (incumbent installations).".

Article 34D amended (allocation tables: publication, etc.)

8.—(1) Article 34D is amended as follows.

(2) In paragraph (3), at the beginning, for "The" substitute "Subject to paragraph (3A), the".

(3) After paragraph (3) insert—

"(3A) Where article 34A(1A) applies, the UK ETS authority must publish—

(a) the allocation table referred to in article 34A(1A)(a) as soon as reasonably practicable after it is compiled and in any event before 1st January 2027; and

(b) the updated allocation table referred to in article 34A(1A)(b) as soon as reasonably practicable after it is compiled and in any event before 1st January 2028.".

Article 34S amended (return of allowances: installations)

9.—(1) Article 34S is amended as follows.

(2) In paragraph (1)(b) for "article 34C(1)(b) to (f) or (j)" substitute "article 34C(1)(a) to (f), (j) or (l)".

Schedule 6 amended (permits)

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

(2) After paragraph 6(1)(b) insert—

"(c) must apply to the regulator to vary the installation's permit in consequence of the requirement in Article 9(2a) of the Free Allocation Regulation to modify the monitoring methodology plan.".

Schedule 8A amended (free allocation for former hospital or small emitters and ultra-small emitters)

11.—(1) Schedule 8A is amended as follows.

(2) In paragraph 4(2)(a) after "eligible scheme year" insert ", subject to paragraph 4(9) and (10)".

(3) After paragraph 4(8) insert—

"(9) Where the benchmarks for the 2028, 2029 and 2030 scheme years have not been adopted under Article 16(13)(b)(ii) or 18(9)(b)(ii) of the Free Allocation Regulation on or before 30 September 2026—

(a) the calculation referred to in paragraph 4(2)(a) of the final annual number of allowances to be allocated for any of the 2028, 2029 and 2030 scheme years must be undertaken by the regulator on or after 1st October 2027; and

(b) where the UK ETS authority approved the final number of allowances to be allocated in respect of the installation for the 2027 scheme year and an ALC adjustment applies to a sub-installation of the installation for the 2027 scheme year, the regulator must—

(i) make an equivalent adjustment to the final number of allowances to be allocated in respect of that sub-installation for the 2028, 2029 and 2030 scheme years; and

(ii) reflect this adjustment in the final number of allowances to be allocated in respect of the installation which the sub-installation forms part of.

(10) Where—

(a) the regulator has calculated the final annual number of allowances to be allocated in respect of the installation and each sub-installation for any scheme year in the 2027-2030 allocation period under paragraph 4(2)(a);

(b) the installation has at least one UK CBAM sub-installation within the meaning of Article 2(27) of the Free Allocation Regulation; and

(c) either—

(i) a different factor is provided for under Article 16(14) of the Free Allocation Regulation; or

(ii) the product benchmark or PRODCOM code of the product produced in a sub-installation that is not a UK CBAM sub-installation for the 2027-2030 allocation period is subsequently added to the relevant table in Annex 9 to the Free Allocation Regulation;

the regulator must recalculate the final number of allowances to be allocated in the relevant period in respect of that installation in accordance with paragraph 4(3) or (4), and (5).

(11) Where paragraph 4(10) applies and an ALC adjustment applies to the UK CBAM sub-installation for the scheme year immediately preceding the relevant period, the regulator must—

(a) make an equivalent adjustment to the final number of allowances to be allocated in the relevant period for the UK CBAM sub-installation; and

(b) reflect this adjustment in the final annual number of allowances to be allocated in the relevant period in respect of the installation which that UK CBAM sub-installation forms part of.

(12) Subject to paragraph 4(13), in paragraph 4(10) and (11), "relevant period" means—

(a) in the case of paragraph (10)(c)(i)—

(i) the period beginning with the scheme year for which the factor has changed under Article 16(14) of the Free Allocation Regulation and ending with the 2030 scheme year; or

(ii) where the scheme year for which the factor has changed is 2030, the 2030 scheme year;

(b) in the case of paragraph (10)(c)(ii)—

(i) the period beginning with the scheme year after the scheme year in which the product benchmark or PRODCOM code was added to the relevant table in Annex 9 to the Free Allocation Regulation and ending with the 2030 scheme year; or

(ii) where the scheme year after the scheme year in which the product benchmark or PRODCOM code was added to the relevant table is 2030, the 2030 scheme year.

(13) Where paragraph 4(9) applies and either of the following circumstances apply "relevant period" means the 2027 scheme year—

(a) the scheme year for which the factor has changed under Article 16(14) of the Free Allocation Regulation is 2027; or

(b) the scheme year after the scheme year in which the product benchmark or PRODCOM code was added to the relevant table in Annex 9 to the Free Allocation Regulation is 2027.

(14) In paragraph 4(9)(b) and (11) an "ALC adjustment" means an adjustment to free allocation under the Activity Level Changes Regulation approved by the UK ETS authority under Article 6a of that Regulation.".

PART 3

Free Allocation Regulation amended

Free Allocation Regulation amended

12. Commission Delegated Regulation (EU) 2019/331 is amended in accordance with this Part.

Article 2 amended (definitions)

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

(2) In paragraph 1 after point (26) insert—

"(27)"UK CBAM sub-installation" means a sub-installation identified as a result of the requirement in Article 10(4a) which has a process that serves the production of a UK CBAM good.".

(3) For paragraph 4 substitute—

"4. References in this Regulation to benchmarks for an allocation period or scheme year are to be construed in accordance with Articles 16(13) and 18(9); but if no benchmarks for the 2028, 2029 and 2030 scheme years are adopted by way of an order under Part 3 of the Climate Change Act 2008(**a**) before the regulator is required to calculate the preliminary annual number of allowances to be allocated for the 2028, 2029 and 2030 scheme years, the benchmarks for the 2027 scheme year are to be used for the calculation.".

(**a**) 2008 c. 27.

Article 4 amended (application for free allocation in 2027-2030 allocation period by operators of incumbent installations)

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

(2) For paragraph 1a(b) substitute—

"(b) the second stage is that in the period beginning with 1 April 2026 and ending with 30 June 2026, the operator must:

(i) notify the regulator in writing that the operator wishes the application to proceed;

(ii) notify the regulator in writing which of their sub-installations are UK CBAM sub-installations and which of their sub-installations are not UK CBAM sub-installations; and

(iii) where requested by the regulator, resubmit the documents referred to in paragraph 2.".

(3) After paragraph 1b insert—

"1c. As part of the second stage under paragraph 1a(b), where the operator has any relevant product benchmark sub-installation, any relevant heat benchmark sub-installation, any relevant fuel benchmark sub-installation or any relevant process emissions sub-installation, the operator must during the second stage resubmit the documents referred to in paragraph 2(a) and 2(c) reflecting the division required by Article 10(4a). Submission of these documents satisfies the requirement in paragraph 1a(b)(ii).

1d. As part of the second stage under paragraph 1a(b), the operator may notify the regulator that the data submitted in their baseline data report for a sub-installation or installation covering the 2020 scheme year, or both the 2020 and 2021 scheme years, is to be excluded from the calculation under Article 15 of historical activity levels for that sub-installation or installation.

1e. The regulator must request corrections by the operator of any non-conformities or any errors made by the operator during the second stage under paragraph 1a(b) which impact on the determination of the historical activity levels or the calculation of free allocation.".

(4) In paragraph 7 for "paragraph 1a(b)(ii)" substitute "paragraph 1a(b)(iii) or 1c".

(5) After paragraph 7 insert—

"7a. Where, as part of the second stage under paragraph 1a(b), the operator makes a notification under paragraph 1d:

(a) Article 15 applies again in relation to the application, but any reference to baseline period must be read as excluding the 2020 scheme year or the 2020 and 2021 scheme years;

(b) Article 15a(2) and (3) apply again in relation to the application, with the following modifications:

(i) any reference to historical activity levels must be read as a reference to any historical activity levels redetermined under Article 15 as so applied;

(ii) Article 15a(2)(b) applies as if for "30 September 2025" there were substituted "30 September 2026";

(c) for the purpose of paragraph 6(b), Article 15a(4) and (5) apply in relation to the application taking account of the historical activity levels redetermined under Article 15 as so applied.".

(6) After paragraph 8 insert—

"9. In this Article:

(a) an operator has a "relevant product benchmark sub-installation" where:

(i) the operator's stage one baseline data report included a product benchmark sub-installation; and

(ii) as a result of the requirement in Article 10(4a), the inputs, outputs and emissions that were assigned to that product benchmark sub-installation at stage one have subsequently been assigned to two or more product benchmark sub-installations;

(b) an operator has a "relevant heat benchmark sub-installation" where:

(i) the operator's stage one baseline data report included a heat benchmark sub-installation; and

(ii) as a result of the requirement in Article 10(4a), the inputs, outputs and emissions that were assigned to that heat benchmark sub-installation at stage one have subsequently been assigned to two or more heat benchmark sub-installations;

(c) an operator has a "relevant fuel benchmark sub-installation" where:

(i) the operator's stage one baseline data report included a fuel benchmark sub-installation; and

(ii) as a result of the requirement in Article 10(4a), the inputs, outputs and emissions that were assigned to that fuel benchmark sub-installation at stage one have subsequently been assigned to two or more fuel benchmark sub-installations;

(d) an operator has a "relevant process emissions sub-installation" where:

(i) the operator's stage one baseline data report included a process emissions sub-installation; and

(ii) as a result of the requirement in Article 10(4a), the inputs, outputs and emissions that were assigned to that process emissions sub-installation at stage one have subsequently been assigned to two or more process emissions sub-installations.".

Article 6 amended (general obligation to monitor)

15.—(1) Article 6 is amended as follows.

(2) Omit "to be submitted".

Article 9 amended (changes to the monitoring methodology plan)

16.—(1) Article 9 is amended as follows.

(2) After paragraph 2 insert—

"2a. Where the operator has any relevant product benchmark sub-installation, relevant heat benchmark sub-installation, relevant fuel benchmark sub-installation or any relevant process emissions sub-installation within the meaning of Article 4(9), the operator must modify the monitoring methodology plan to reflect the boundaries of the sub-installation that apply as a result of the requirement in Article 10(4a).".

(3) After paragraph 5 insert—

"5a. Paragraphs 3, 4 and 5 do not apply to a modification made to a monitoring methodology plan pursuant to paragraph 2a. Instead:

(a) the operator must notify the regulator of the modification of the monitoring methodology plan on or before 30th September 2026;

(b) the modification of the monitoring methodology plan is subject to approval by the regulator;

(c) once approved, the modification will take effect on 1st January 2027.".

(4) In paragraph 6(d)—

(a) after "paragraph 3" insert "or 5a";

(b) after "paragraph 4" insert "or the date of the approval referred to in paragraph 5a(b)".

Article 10 amended (division into sub-installations)

17.—(1) Article 10 is amended as follows.

(2) After paragraph 4 insert—

"4a. For product benchmark sub-installations, heat benchmark sub-installations, fuel benchmark sub-installations and process emissions sub-installations, the operator must, after following the relevant steps in paragraphs 3 and 4, clearly distinguish on the basis of the product benchmarks and PRODCOM codes listed in Annex 9 whether or not the relevant process serves the production of a UK CBAM good. The operator must provide evidence to the satisfaction of the regulator that the relevant process serves or does not serve the production of a UK CBAM good.

Where at least 95 % of the activity level of the product benchmark sub-installations, of the heat benchmark sub-installations, of the fuel benchmark sub-installations or of the process emissions sub-installations, serve the production of a UK CBAM good or where at least 95 % of the activity level of the product benchmark sub-installations, of the heat benchmark sub-installations, of the fuel benchmark sub-installations or of the process emissions sub-installations do not serve the production of a UK CBAM good, the operator is exempted from providing data allowing for the distinction in terms of UK CBAM status.

Where at least 95 % of the activity level of the heat benchmark sub-installations are attributable to one of these sub-installations, the operator may attribute the total activity level of these sub-installations to the one with the highest activity level.

4b. Paragraph 4a applies in respect of the data monitoring and reporting required by this Regulation and the Activity Level Changes Regulation in circumstances where an operator applies for or receives free allocation in the 2027-2030 allocation period.".

Article 15a amended (assessment of applications for free allocation by operators of incumbent installations)

18.—(1) Article 15a is amended as follows.

(2) In paragraph 1(b) for "paragraphs 6 and 7" substitute "paragraphs 6, 7 and 7a".

Article 16 amended (preliminary allocation at installation level for incumbent installations)

19.—(1) Article 16 is amended as follows.

(2) In paragraph 1(b) after "the regulator must" insert ", subject to paragraph 1a,".

(3) After paragraph 1 insert—

"1a. Where the benchmarks for the 2028, 2029 and 2030 scheme years have not been adopted under paragraph 13(b)(ii) on or before 30 September 2026, the regulator must:

(a) calculate the preliminary annual number of allowances to be allocated in respect of the installation for the 2027 scheme year; and

(b) no earlier than 1 October 2027, calculate the preliminary annual number of allowances to be allocated in respect of the installation for the 2028, 2029 and 2030 scheme years.".

(4) In points (a) to (d) of paragraph 2—

(a) after "for the relevant" insert "scheme year or" in each place that those words appear;

(b) omit "set out in Annex 8" in each place that those words appear.

(5) After paragraph 2 insert—

"2a. The factors determined in paragraph 14 must be applied to the preliminary annual number of emission allowances allocated free of charge determined for each sub-installation pursuant to paragraph 2 for the year concerned where that sub-installation is a UK CBAM sub-installation.

2b. Where the sub-installation is not a UK CBAM sub-installation, a factor of 1 must be applied to the preliminary annual number of emission allowances allocated free of charge determined for each sub-installation pursuant to paragraph 2 for the year concerned.".

(6) In paragraph 3 for "pursuant to paragraph 2 of this Article" substitute "following the calculation at paragraph 2a or 2b".

(7) In paragraph 4 after "the factor to be applied" insert "to the preliminary annual number of emission allowances allocated free of charge determined for each sub-installation following the calculation at paragraph 2a or 2b".

(8) In the first sentence of paragraph 5—

(a) after "for the relevant period" insert "scheme year or";

(b) omit "set out in Annex 8".

(9) After paragraph 12 insert—

"13. In paragraphs 2 and 5, references to a product benchmark, heat benchmark or fuel benchmark are to:

(a) for 2026 incumbents within the meaning of article 5 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025(**a**), in respect of the calculation of the preliminary annual number of allowances for the 2026 scheme year, the benchmarks set out in Annex 8;

(b) for incumbent installations applying for free allocation in the 2027-2030 allocation period:

(i) in respect of the calculation of the preliminary annual number of allowances for the 2027 scheme year, the benchmarks set out in Annex 8; and

(ii) in respect of the calculation of the preliminary annual number of allowances for the 2028, 2029 and 2030 scheme years, the benchmarks adopted by way of an order under Part 3 of the Climate Change Act 2008(**b**).

14. The factor to be applied in the 2027-2030 allocation period is:

(a) for scheme year 2027, unless otherwise provided for on or before 31 December 2026 by way of an order under Part 3 of the Climate Change Act 2008, 0.975;

(b) for scheme year 2028, unless otherwise provided for on or before 31 December 2027 by way of an order under Part 3 of the Climate Change Act 2008, 0.95;

(c) for scheme year 2029, unless otherwise provided for on or before 31 December 2028 by way of an order under Part 3 of the Climate Change Act 2008, 0.9;

(d) for scheme year 2030, unless otherwise provided for on or before 31 December 2029 by way of an order under Part 3 of the Climate Change Act 2008, 0.775.

15. Where the regulator has calculated the preliminary annual number of emissions allowances to be allocated free of charge for each UK CBAM sub-installation and a different factor is subsequently provided for under paragraph 14, the regulator must as soon as reasonably practicable after a different factor for a scheme year is provided for:

(a) recalculate the preliminary annual number of emissions allowances allocated free of charge for each UK CBAM sub-installation in respect of the relevant period in accordance with paragraphs 2 to 9;

(b) send the recalculated preliminary annual number of allowances calculated in respect of each installation and each sub-installation of each installation to the UK ETS authority; and

(c) make any corrections to the calculation required by the UK ETS authority.

16. In paragraph 15 the "relevant period" begins with the scheme year for which the factor has changed under paragraph 14 and ends with the 2030 scheme year; but:

(a) where paragraph 1a applies and the scheme year for which the factor has changed is 2027, the relevant period refers to the 2027 scheme year; or

(b) where the scheme year for which the factor has changed is 2030, the relevant period refers to the 2030 scheme year.

(**a**) S.I. 2025/124.
(**b**) 2008 c. 27.

17. Where the product benchmark or the PRODCOM code of the product produced in a sub-installation that is not a UK CBAM sub-installation for the 2027-2030 allocation period is subsequently added to the relevant table in Annex 9, the regulator must carry out a recalculation in respect of the sub-installation as if paragraph 15 applies, except that:

    (a) the regulator must carry out the functions listed in paragraph 15 as soon as reasonably practicable after the product benchmark or PRODCOM code is added to the relevant table;

    (b) the relevant period is to be read as beginning with the scheme year after the scheme year in which the product benchmark or PRODCOM code was added to the relevant table in Annex 9 and ending with the 2030 scheme year; but:

        (i) where paragraph 1a applies and the scheme year after the scheme year in which the product benchmark or PRODCOM code was added to the relevant table is 2027, the relevant period refers to the 2027 scheme year; or

        (ii) where the scheme year after the scheme year in which the product benchmark or PRODCOM code was added to the relevant table is 2030, the relevant period refers to the 2030 scheme year.

18. For the purpose of the regulator calculating (or recalculating where paragraph 15 applies) the preliminary annual number of emissions allowances to be allocated free of charge, the regulator must use the factor provided for under paragraph 14 that is in force at the time the regulator carries out the calculation (or recalculation where paragraph 15 applies).".

Article 16a amended (cross-sectoral correction factors)

20.—(1) Article 16a is amended as follows.

(2) After paragraph 5 insert—

"5a. In respect of the 2027-2030 allocation period, where the benchmarks for the 2028, 2029 and 2030 scheme years have not been adopted under Article 16(13)(b)(ii) on or before 30 September 2026:

    (a) the calculation referred to in paragraphs 2 to 4 must occur on or after 1 November 2027;

    (b) the UK ETS authority must, as soon as reasonably practicable after 1 November 2027, publish the matters referred to in paragraph 5; and

    (c) as soon as reasonably practicable after 30 September 2026, the UK ETS authority must issue a statement that the cross-sectoral correction factor calculation for the 2027-2030 allocation period will take place on or after 1 November 2027.".

Article 16b amended (final allocation at installation level for incumbent installations)

21.—(1) Article 16b is amended as follows.

(2) In paragraph 1(a)(ii) after "scheme year in the 2027-2030 allocation period" insert "subject to paragraph 1a".

(3) After paragraph 1 insert—

"1a. Where Article 16(1a) applies the regulator must in the case of an application for free allocation in the 2027-2030 allocation period under Article 4:

(a) as soon as reasonably practicable after the issue of the statement referred to in Article 16a(5a)(c):

(i) calculate the final annual number of allowances to be allocated in respect of each installation and each sub-installation of each installation for the 2027 scheme year; and

(ii) send the calculation to the UK ETS authority;

(b) as soon as reasonably practicable after the publication of the matters referred to in Article 16a(5a)(b):

(i) calculate the final annual number of allowances to be allocated in respect of each installation and each sub-installation of each installation for the 2028, 2029 and 2030 scheme years;

(ii) where an ALC adjustment applies to the sub-installation for the 2027 scheme year, make an equivalent adjustment to the final number of allowances to be allocated in respect of that sub-installation for the 2028, 2029 and 2030 scheme years and reflect this adjustment in the final number of allowances to be allocated in respect of the installation which the sub-installation forms part of; and

(iii) send the calculation to the UK ETS authority.".

(4) After paragraph 5 insert—

"6. Where Article 16(15) applies (including as applied by Article 16(17)):

(a) the regulator must:

(i) recalculate the final annual number of allowances to be allocated in the relevant period in respect of each UK CBAM sub-installation in accordance with paragraph 2;

(ii) where an ALC adjustment applies to the UK CBAM sub-installation for the scheme year immediately preceding the relevant period, make an equivalent adjustment to the final number of allowances referenced in point (a)(i);

(iii) recalculate the final annual number of allowances to be allocated in the relevant period in respect of each installation that has at least one UK CBAM sub-installation, taking into account any adjustment required by point (a)(ii); and

(iv) send the recalculation to the UK ETS authority;

(b) after the UK ETS authority receives the recalculation, paragraph 4 applies.

7. In this Article:

(a) in paragraphs 1a(b) and 6 an "ALC adjustment" means an adjustment to free allocation under the Activity Level Changes Regulation approved by the UK ETS authority under Article 6a of that Regulation;

(b) in paragraph 6 "relevant period" has the same meaning as provided for in Article 16(16), unless Article 16(17) applies in which case it has the same meaning provided for in Article 16(17).".

Article 18 amended (preliminary allocation to new entrants)

22.—(1) Article 18 is amended as follows.

(2) In paragraph 1(a) after "for the relevant" insert "scheme year or".

(3) In the second sentence of paragraph 1—

(a) for "Article 16(3), (4), (5) and (7)" substitute "Article 16(2a), (2b), (3), (4), (5) and (7)";

(b) after "and paragraph 2" insert ", but Article 16(15) to (17) does not apply to this calculation".

(4) After paragraph 2A insert—

"2B. Where the benchmarks for the 2028, 2029 and 2030 scheme years have not been adopted under paragraph 9(b)(ii) on or before 30 September 2026, the calculation referred to in paragraph 1 and 2 of preliminary annual number of allowances to be allocated free of charge for the 2028, 2029 and 2030 scheme years must be undertaken by the regulator on or after 1 October 2027.

2C. Where the regulator has calculated the preliminary annual number of allowances to be allocated free of charge for a UK CBAM sub-installation for a scheme year and a different factor is subsequently provided for under Article 16(14), the regulator must recalculate the preliminary annual number of emissions allowances allocated free of charge in respect of the relevant period for the UK CBAM sub-installation in accordance with paragraph 1 or 2.

2D. In paragraph 2C "relevant period" begins with the scheme year for which the factor has changed under Article 16(14) and ends with the 2030 scheme year; but:

(a) where paragraph 2B applies and the scheme year for which the factor has changed is 2027, the relevant period refers to the 2027 scheme year; or

(b) where the scheme year for which the factor has changed is 2030, the relevant period refers to the 2030 scheme year.

2E. Where the product benchmark or the PRODCOM code of the product produced in a sub-installation that is not a UK CBAM sub-installation for the 2027-2030 allocation period is subsequently added to the relevant table in Annex 9, the regulator must carry out a recalculation in respect of the sub-installation as if paragraph 2C applied, except that the relevant period is to be read as beginning with the scheme year after the scheme year in which the product benchmark or PRODCOM code was added to the relevant table in Annex 9 and ending with the 2030 scheme year; but:

(a) where paragraph 2B applies and the scheme year after the scheme year in which the product benchmark or PRODCOM code was added to the relevant table is 2027, the relevant period refers to the 2027 scheme year; or

(b) where the scheme year after the scheme year in which the product benchmark or PRODCOM code was added to the relevant table is 2030, the relevant period refers to the 2030 scheme year.".

(5) After paragraph 8 insert—

"9. In paragraphs 1 and 2, reference to benchmarks is to:

(a) for new entrants applying for free allocation in the 2025 scheme year, 2026 scheme year or both, in respect of the calculation of preliminary annual number of allowances for the 2025 and 2026 scheme years, the benchmarks set out in Annex 8;

(b) for new entrants applying for free allocation in the 2027-2030 allocation period:

(i) in respect of the calculation of preliminary annual number of allowances for the 2027 scheme year, the benchmarks set out in Annex 8; and

(ii) in respect of the calculation of preliminary annual number of allowances for the 2028, 2029 and 2030 scheme years, the benchmarks adopted by way of an order under Part 3 of the Climate Change Act 2008(**a**).".

Article 18a amended (assessment of applications and final allocation at installation level for new entrants)

23.—(1) Article 18a is amended as follows.

(2) In paragraph 1 after "reasonably practicable" insert "after completing the calculation required by Article 18 or the recalculation required by paragraph 4b".

(3) In points (f)(ii) and (g) of paragraph 2 after "the relevant allocation period" insert ", unless this calculation has not yet taken place by virtue of the requirement in paragraph 4a" in each place that those words appear.

(4) After paragraph 4 insert—

"4a. Where the benchmarks for the 2028, 2029 and 2030 scheme years have not been adopted under Article 18(9)(b)(ii) on or before 30 September 2026:

(a) the calculation of the final number of allowances to be allocated in respect of each installation and each sub-installation for the 2028, 2029 and 2030 scheme years must be undertaken by the regulator on or after 1 October 2027;

(b) where an ALC adjustment applies to the sub-installation for the 2027 scheme year, the regulator must:

(i) make an equivalent adjustment to the final number of allowances to be allocated in respect of that sub-installation for the 2028, 2029 and 2030 scheme years; and

(ii) reflect this adjustment in the final number of allowances to be allocated in respect of the installation which the sub-installation forms part of.

4b. Where Article 18(2C) applies (including as applied by Article 18(2E)), the regulator must:

(a) recalculate the final number of allowances to be allocated in the relevant period in respect of the UK CBAM sub-installation in accordance with paragraph 3;

(b) where an ALC adjustment applies to the UK CBAM sub-installation for the scheme year immediately preceding the relevant period, make an equivalent adjustment to the final number of allowances referenced in point (a); and

(c) recalculate the final annual number of allowances to be allocated in the relevant period in respect of each installation that has at least one UK CBAM sub-installation, taking into account any adjustment required by point (b).

4c. In this Article:

(a) in paragraphs 4a and 4b "ALC adjustment" has the same meaning as provided for in Article 16b(7)(a);

(**a**) 2008 c. 27.

(b) in paragraph 4b "relevant period" has the same meaning as provided for in Article 18(2D), unless Article 18(2E) applies in which case it has the same meaning provided for in Article 18(2E).".

Annex VI amended (minimum content of monitoring methodology plan)

24.—(1) Annex VI is amended as follows.

(2) In the fourth bullet point under paragraph (d) of point 1 after "based on NACE rev. 2 or PRODCOM" insert ", and for the 2027-2030 allocation period identifying which sub-installations are UK CBAM sub-installations and which are not UK CBAM sub-installations".

Annex VIII amended (benchmarks)

25.—(1) Annex VIII is amended as follows.

(2) In Table A, B and C—

(a) in the heading for each Table for "and 2026 allocation period" substitute ", 2026 allocation period and 2027 scheme year";

(b) in the benchmark value column of each Table for "and 2026 allocation period" substitute ", 2026 allocation period and 2027 scheme year".

Annex 9 inserted (identifying UK CBAM status under Article 10(4a))

26. After Annex VIII insert—

"ANNEX 9

Identifying UK CBAM status under Article 10(4a)

Five tables are provided below and are split by sector covering the following sectors: cement, fertilisers, iron and steel, aluminium and hydrogen. Under Article 10(4a), a process serves the production of a UK CBAM good where the PRODCOM code of the product produced is listed in column B of the relevant table, or where the product produced is covered by the definition of a product benchmark listed in column C of the relevant table, or both, excluding any exceptions provided for in the table. In this Annex, references to "PRODCOM code" are to the PRODCOM codes listed in the Annex to Commission Regulation (EU) No 860/2010(**a**); and references to "product benchmark" are to the product benchmarks listed in Annex I to this Regulation.

Cement sector

1. The table relevant to the cement sector is below.

UK CBAM aggregated goods category (column A)	PRODCOM code (column B)	Product benchmark (column C)
Calcined clay	08.12.21.60	None
Cement clinker	23.51.11.00	Grey cement clinker

(**a**) Commission Regulation (EU) No 860/2010 of 10 September 2010 establishing for 2010 the 'Prodcom list' of industrial products provided for by Council Regulation (EEC) No 3924/91 (OJ No. L 262, 5.10.2010, pp. 1–258).

		White cement clinker
Cement	23.51.12.10	None
Cement	23.51.12.90	None
Aluminous cement	23.51.12.90	None

Fertilisers sector

2. The table relevant to the fertilisers sector is below.

UK CBAM aggregated goods category (column A)	PRODCOM code (column B)	Product benchmark (column C)
Nitric acid	20.15.10.50	Nitric acid
Ammonia	20.15.10.75	Ammonia
Ammonia	20.15.10.77	None
Mixed fertilisers	20.15.76.00	None
Mixed fertilisers	20.15.3-.- -	None
Mixed fertilisers	20.15.7-.- - Except 20.15.76.00	None

Iron and steel sector

3. The table relevant to the iron and steel sector is below.

UK CBAM aggregated goods category (column A)	PRODCOM code (column B)	Product benchmark (column C)
Sintered ore	07.10.10.00	Sintered ore
Pig iron	24.10.11.00	Hot metal
Pig iron	24.10.14.10	Hot metal
Ferro-alloys	24.10.12.15	None
Ferro-alloys	24.10.12.60	None
Ferro-alloys	24.10.12.90	None
DRI69	24.10.13.00	Hot metal
Crude steel	24.10.21.Z0 24.10.21.10	Hot metal EAF carbon steel
Crude steel	24.10.22.Z0 24.10.22.10	EAF high alloy steel

Crude steel	24.10.23.Z0 24.10.23.10	EAF high alloy steel
Iron or steel products	24.10.14.10	None
Iron or steel products	24.10.31.- - 24.10.41.- - 24.10.51.- - 24.10.32.- - 24.32.10.- - 24.32.20.- - 24.10.T3.30 24.10.61.- - 24.10.62.- - 24.31.10.- - 24.10.71.- - 24.33.11.- - 24.33.20.00 24.31.10.60 24.34.11.- - 24.10.33.- - 24.10.42.00 24.10.34.- - 24.32.10.Z2 24.10.63.00 24.10.64.- - 24.31.30.00 24.10.72.- - 24.33.12.00 24.34.12.00 24.10.53.- - 24.10.35.- - 24.10.43.00 24.10.52.- -	None
Iron or steel products	24.10.54.- - 24.10.55.- - 24.10.36.00 24.32.10.Z1 24.32.10.30 24.32.10.40 24.32.10.50 24.10.65.- - 24.10.66.- - 24.31.20.- - 24.10.73.00 24.10.67.00 24.34.13.00 24.10.74.- - 24.10.75.00 24.51.20.00	Iron casting

	24.20.11.- - 24.20.12.- - 24.20.13.- - 24.20.14.- - 24.20.2-.- - 24.20.3-.- - 24.20.4-.- - 24.51.3-.- - 24.52.3-.- - 25.11.21.00 25.11.22.00 25.11.23.10 25.11.23.30 25.11.23.50 23.11.23.60 25.12.10.30 24.33.30.00 25.29.11.10 25.29.11.20 25.29.11.30 25.29.11.50 25.91.- -.- - 25.92.11.- - 25.29.12.00 25.94.11.- - 25.94.12.- - 25.99.29.22 25.99.29.25 25.99.29.27 25.99.29.3- 25.99.29.4-	

Aluminium sector

4. The table relevant to the aluminium sector is below.

UK CBAM aggregated goods category (column A)	PRODCOM code (column B)	Product benchmark (column C)
Unwrought aluminium	24.42.11.- -	Aluminium
Aluminium products, except unwrought aluminium	24.42.21.- -	None
Aluminium products, except unwrought aluminium	24.42.22.- -	None
Aluminium products, except unwrought aluminium	24.42.23.- -	None
Aluminium products, except unwrought aluminium	24.42.24.- -	None

Aluminium products, except unwrought aluminium	24.42.25.00	None
Aluminium products, except unwrought aluminium	24.42.26.30 24.42.26.50	None
Aluminium products, except unwrought aluminium	24.42.26.70	None
Aluminium products, except unwrought aluminium	25.12.10.50 25.11.23.70	None
Aluminium products, except unwrought aluminium	25.29.11.70	None
Aluminium products, except unwrought aluminium	25.92.12.- -	None
Aluminium products, except unwrought aluminium	25.29.12.00	None
Aluminium products, except unwrought aluminium	25.93.12.70	None
Aluminium products, except unwrought aluminium	25.93.14.80 25.99.29.55	None

Hydrogen sector

5. The table relevant to the hydrogen sector is below.

UK CBAM aggregated goods category (column A)	PRODCOM code (column B)	Product benchmark (column C)
Hydrogen	20.11.11.50	Hydrogen Except the production of hydrogen within a refinery or organic chemical installation and where this hydrogen is exclusively used within that refinery or installation".

PART 4

Activity Level Changes Regulation amended

Activity Level Changes Regulation amended

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

Article 3 amended (reporting requirements)

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

(2) At the end of paragraph 1 insert "The requirement that in 2027 this report must include data for the 2 years preceding its submission also applies where the operator has any relevant product benchmark sub-installation, relevant heat benchmark sub-installation, relevant fuel benchmark sub-installation or any relevant process emissions sub-installation within the meaning of Article 4(9) of the Free Allocation Regulation, and this report must reflect the division required by Article 10(4a) of that Regulation".

(3) In paragraph 1a—

(a) for "a sub-installation of the installation ceases operation" substitute "the condition in either Article 3za(1)(a) or (1)(b) is satisfied";

(b) for "of cessation" substitute "in which that condition was satisfied".

Article 3a amended (sub-installations for which no historical activity level determined)

29.—(1) Article 3a is amended as follows.

(2) In paragraph 2(b) after "Article 18(1)" insert ", and (2B) where relevant,".

(3) In paragraph 3(b) after "Article 18(2)" insert ", and (2B) where relevant,".

(4) After paragraph 3 insert—

"3a. Where Article 18(2C) of the Free Allocation Regulation applies, the regulator must:

(a) in respect of sub-installations falling within paragraph 2, recalculate the preliminary and final number of allowances to be allocated in respect of those sub-installations in accordance with points (b) and (c) of that paragraph; and

(b) in respect of sub-installations falling within paragraph 3, recalculate the preliminary and final number of allowances to be allocated in respect of those sub-installations in accordance with points (b) and (c) of that paragraph.".

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

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

(2) After paragraph 2a insert—

"2b. Where the UK ETS authority has approved the recalculation under Article 16b(6)(a) or 18a(4b) of the Free Allocation Regulation of the final number of allowances to be allocated for a scheme year in the 2027-2030 allocation period, and paragraph 1 or 2 requires free allocation to be increased or decreased, it is the recalculated final number of allowances that are increased or decreased by the exact percentage change in the average activity level compared to the historical activity level initially used to determine the free allocation.".

(3) In paragraph 3 after "the Free Allocation Regulation" insert "(but where the UK ETS authority has approved the recalculation under Article 16b(6)(a) or 18a(4b) of the Free Allocation Regulation of the final number of allowances to be allocated for a scheme year in the 2027-2030 allocation period, the free allocation of allowances shall be equal to the approved recalculated allocation ignoring any adjustment required by Article 16b(6)(a)(ii) or 18a(4b)(b))".

Name
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order in Council)

The United Kingdom Emissions Trading Scheme (the "UK ETS") was established by the Greenhouse Gas Emissions Trading Scheme Order 2020 (S.I. 2020/1265). The UK ETS runs for 10 "scheme years", which is split into two "allocation periods" (the 2021-2025 allocation period and 2027-2030 allocation period) and one standalone scheme year (the 2026 scheme year). Operators of certain industrial installations are required to monitor, submit verified reports on, and surrender "allowances" equivalent to, their greenhouse gas emissions each scheme year. Allowances (which are tradable) are held in accounts in the UK ETS registry, and there is a cap on the number of allowances that may be created. Allowances are sold at auction, but some operators of installations receive an allocation of allowances free of charge ("free allocation") for each scheme year.

This Order amends Commission Delegated Regulation (EU) 2019/331 (the "Free Allocation Regulation") to make three main changes to the calculation of free allocation for the 2027-2030 allocation period. To implement these main changes across the UK ETS, amendments to the Greenhouse Gas Emissions Trading Scheme Order 2020 and Commission Implementing Regulation (EU) 2019/1842 (the "Activity Level Changes Regulation") are also made.

The first main change arises as a result of the introduction of the United Kingdom Carbon Border Adjustment Mechanism ("UK CBAM") from 2027. Industrial installations that operate in one of the five sectors covered by UK CBAM (cement, fertilisers, iron and steel, aluminium and hydrogen) will have their annual free allocation reduced by a set amount over the 2027-2030 allocation period (see articles 19(9) and 22(3) of this Order).

Operators of "incumbent" installations will specify during the second stage of their application for free allocation in the 2027-2030 period whether they operate in any of the five UK CBAM sectors (see article 14(2) of this Order) and some operators may be required to resubmit the data they submitted in their stage one application (see article 14(3) and (6) of this Order). The operators required to resubmit will also be required to modify their monitoring methodology plan and vary their permit (see articles 10 and 16 of this Order) - these operators will later have to resubmit in 2027 the "activity level report" they submitted in 2026 (see article 28(2) of this Order). If an incumbent installation operates in a UK CBAM sector, a UK CBAM reduction factor will be applied to the calculation of their free allocation in each of the 2027-2030 scheme years (see article 19(5) and (9) of this Order). The Secretary of State, the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department (collectively referred to as the "UK ETS Authority") may change the UK CBAM reduction factor that applies in a scheme year via secondary legislation using powers provided for in Part 3 of the Climate Change Act 2008 (c. 27) (see article 19(9) of this Order).

Similarly, "new entrants" are required to inform the regulator, when they apply for free allocation in the 2027-2030 allocation period, if they operate in any of the five UK CBAM sectors (see Article 5(4) and (5) of the Free Allocation Regulation) and if they do, a UK CBAM reduction factor will be applied to the calculation of their free allocation in each of the relevant 2027-2030 scheme years (see article 22(3) of this Order). As above, the UK ETS Authority may make changes to the UK CBAM reduction factor that applies in a scheme year via secondary legislation using powers provided for in Part 3 of the Climate Change Act 2008 (see article 22(4) of this Order).

The second main change is to enable operators of incumbent installations to have their 2020, or 2020 and 2021, scheme year data excluded from the calculation of their "historical activity levels" (the arithmetic mean of their activity levels in the 2019-2023 scheme years) upon which their free allocation entitlement is calculated. This is in recognition of the impact of COVID-19 on activity levels in the 2020, or 2020 and 2021, scheme year/s resulting in historical activity levels that do not represent an installation's typical activity. Where an operator seeks to have this data excluded, they must inform the regulator during the second stage of their application for free allocation in the 2027-2030 allocation period (see article 14(3) of this Order). Where an operator informs the regulator of this, their historical activity levels are recalculated excluding this data and free allocation for the 2027-2030 allocation period is based on this recalculated historical activity level (see article 14(5) of this Order).

The third main change is to provide that existing "benchmarks" (which reflect an average emissions intensity per unit of product of the most efficient installations in each sector) in Annex 8 to the Free Allocation Regulation will be used to calculate free allocation in the 2027 scheme year (an installation's historical activity level is multiplied by the relevant benchmark as part of the calculation), and that the UK ETS Authority will subsequently adopt updated benchmarks for the 2028, 2029 and 2030 scheme years via secondary legislation using powers provided for in Part 3 of the Climate Change Act 2008 (see articles 19(9) and 22(5) of this Order). Where the UK ETS Authority does not adopt updated benchmarks for the 2028, 2029 and 2030 scheme years by 30 September 2027, the existing Annex 8 benchmarks will apply (see article 13(3) of this Order).

This Order also makes an amendment to the Activity Level Changes Regulation to clarify that the reporting requirement in Article 3(1a) (which will come into force on 1st January 2026) applies in all circumstances in which Article 3za applies (recalculation of FA entitlements) even if the installation is not an "FA installation" at the end of the relevant scheme year (see article 28(3) of this Order).

An impact assessment 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 is available alongside this Order on www.legislation.gov.uk.

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