STATUTORY INSTRUMENTS

# 2025 No. 124

# CLIMATE CHANGE

## The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025

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| *Made - - - -* | *5th February 2025* |
| *Laid before Parliament* | *12th February 2025* |
| *Laid before the Northern Ireland Assembly* | *12th February 2025* |
| *Laid before the Scottish Parliament* | *12th February 2025* |
| *Laid before Senedd Cymru* | *12th February 2025* |
| *Coming into force* | *31st March 2025* |

At the Court at Buckingham Palace, the 5th day of February 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 Article 36(4) of Regulation (EU) 2016/679 of the European Parliament and of the Council(**b**), the Information Commissioner was consulted during the preparation of the proposal for this Order.

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.
(**b**) EUR 2016/679. Article 36(4) is amended by S.I. 2019/419.

# PART 1

## Preliminary

### Citation

**1.** This Order may be cited as the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025.

### Commencement

**2.** This Order comes into force on 31st March 2025.

### Extent

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

# PART 2

## Free allocation in 2026 allocation period

### Interpretation

**4.**—(1) In this Part—

"2026 incumbent" has the meaning given in article 5;

"Article 4 application" means an application for free allocation in the 2027-2030 allocation period under Article 4 of the Free Allocation Regulation(**a**); and a reference to the first stage of such an application must be construed in accordance with that Article;

"sub-installation" has the same meaning as in the Free Allocation Regulation;

"type 1 2026 incumbent" must be construed in accordance with article 5;

"type 2 2026 incumbent" must be construed in accordance with article 5;

"UK ETS Order" means the Greenhouse Gas Emissions Trading Scheme Order 2020(**b**).

(2) This Part must be interpreted as if it were part of the UK ETS Order.

### Meaning of "2026 incumbent", etc.

**5.**—(1) An installation is a "2026 incumbent" if—

(a) the installation is either—

(i) an FA installation for the 2021-2025 allocation period(**c**); or

(ii) an installation other than an FA installation for the 2021-2025 allocation period whose operator completes the first stage of an Article 4 application;

(b) the installation is not included in the hospital and small emitter list for 2026-2030 or the ultra-small emitter list for 2026-2030;

(c) the operator has not given a renunciation notice under Article 24 of the Free Allocation Regulation in respect of the installation as a whole; and

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(**a**) EUR 2019/331, amended by S.I. 2020/1557, 2021/1455, 2022/1173, 2023/850, 2023/1387, 2024/192, 2024/1366, 2025/100 and this Order. Article 4(1) of S.I. 2020/1265 defines "Free Allocation Regulation" as Commission Delegated Regulation (EU) 2019/331 of 19 December 2018, as it forms part of domestic law.

(**b**) 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 this Order.

(**c**) See article 4A of S.I. 2020/1265 for the definition of "FA installation for the 2021-2025 allocation period".

(d) the operator does not give a renunciation notice under article 9 of this Order on or before 30th June 2025.

(2) A 2026 incumbent referred to in paragraph (1)(a)(i) is a "type 1 2026 incumbent".

(3) A 2026 incumbent referred to in paragraph (1)(a)(ii) is a "type 2 2026 incumbent".

(4) Despite paragraph (2), a 2026 incumbent referred to in paragraph (1)(a)(i) that is an electricity generator (as defined in Article 2c(2) of the Free Allocation Regulation) is a "type 2 2026 incumbent" if—

(a) the operator of the installation completes the first stage of an Article 4 application; and

(b) paragraph (5) or (6) applies.

(5) This paragraph applies if—

(a) the documents submitted as part of the first stage of the Article 4 application are accompanied by a statement that the operator wishes the installation's eligibility for free allocation in the 2026 allocation period to be assessed on the basis that the installation is not an electricity generator (as defined in Article 2c(3) of the Free Allocation Regulation); and

(b) the installation is not such an electricity generator.

(6) This paragraph applies if—

(a) the documents submitted as part of the first stage of the Article 4 application are accompanied by a statement that the condition in Article 2b(2) of the Free Allocation Regulation will be met; and

(b) by virtue of paragraph 3(b) of that Article, the application must be treated as made in respect of an installation that is not an electricity generator (as defined in Article 2c(3) of that Regulation) because the UK ETS authority considers that the condition will be met.

(7) For the purpose of this Part, the question of whether an installation is an FA installation for the 2021-2025 allocation period must be determined as if article 4A(3)(a) of the UK ETS Order were omitted.

**Free allocation in 2026 allocation period: type 1 2026 incumbents**

**6.**—(1) This article applies to an installation that is a type 1 2026 incumbent after the question of whether any adjustment to free allocation under the Activity Level Changes Regulation(**a**) is required in consequence of the 2025 ALC obligation has been considered.

(2) The regulator must—

(a) calculate the preliminary and final annual number of allowances to be allocated in respect of each sub-installation of the installation for the 2026 scheme year;

(b) where any ALC adjustment results in a recalculation of the final annual number of allowances to be allocated in respect of the sub-installation for the 2025 scheme year, recalculate the final annual number of allowances to be allocated in respect of the sub-installation for the 2026 scheme year calculated under sub-paragraph (a) by making an equivalent adjustment to that number;

(c) calculate the final annual number of allowances to be allocated in respect of the installation.

(3) For the purpose of paragraph (2)(a), the preliminary annual number of allowances to be allocated in respect of a sub-installation for the 2026 scheme year is the same as the preliminary annual number of allowances to be allocated in respect of the sub-installation for the 2025 scheme year calculated for the purpose of the UK ETS.

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(**a**) EUR 2019/1842, amended by S.I. 2020/1557, 2022/1173, 2023/850, 2023/1387, 2025/100 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.

(4) For the purpose of paragraph (2)(a), the final annual number of allowances to be allocated in respect of a sub-installation for the 2026 scheme year is the same as the final annual number of allowances that was approved for the purpose of the UK ETS to be allocated in respect of the sub-installation for the 2025 scheme year (before any ALC adjustment) or, where relevant, would have been so approved if—

(a) the reduction factor set out in column 3 of table A in Article 16a(6) of the Free Allocation Regulation (reduction factor for incumbent electricity generators) had been 0.7462 (and not 0.7682);

(b) the reduction factor set out in column 2 of table B in Article 18a(11) of the Free Allocation Regulation (reduction factor for new entrants) had been 1 (and not 0.912).

(5) For the purpose of paragraph (2)(c), the final annual number of allowances to be allocated in respect of an installation for the 2026 scheme year is the sum of the final annual number of allowances to be allocated in respect of each sub-installation of the installation for the 2026 scheme year, taking account of any recalculation referred to in paragraph (2)(b).

(6) The regulator must as soon as reasonably practicable send the calculations and adjustments referred to in paragraph (2) to the UK ETS authority.

(7) The UK ETS authority must—

(a) approve the final annual number of allowances to be allocated in respect of the installation for the 2026 scheme year, making any corrections to the preliminary and final annual number of allowances that the UK ETS authority considers appropriate;

(b) inform the regulator accordingly.

(8) For the purpose of the calculations referred to in this article, the number of allowances to be allocated in respect of sub-installations and installations must be expressed as the nearest integer, taking 0.5 as nearest to the previous integer.

(9) In this article—

"2025 ALC obligation" means the obligation in Article 3 of the Activity Level Changes Regulation to report on 2024 activity levels on or before 31st March 2025;

"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 in consequence of the obligation in Article 3 of that Regulation to report on activity levels up to and including activity levels in 2024;

"sub-installation" does not include a sub-installation for which no historical activity level has been determined under the Free Allocation Regulation or the Activity Level Changes Regulation.

**Free allocation in 2026 allocation period: type 2 2026 incumbents**

**7.**—(1) This article applies to an installation that is a type 2 2026 incumbent.

(2) The regulator must determine, in accordance with Article 15 of the Free Allocation Regulation, the historical activity level of each sub-installation of the installation on the basis of the baseline data report and verification report submitted as part of the first stage of the Article 4 application; and for the purpose of this article, Article 15 applies as if—

(a) the only data in the reports related to the period beginning with 1st January 2023 and ending with 31st December 2023;

(b) the start of normal operation of a sub-installation whose start of normal operation is before 1st January 2023 were 1st January 2023.

(3) The regulator must calculate, in accordance with Articles 16 and 19 to 22 of, and Annex 3 to, the Free Allocation Regulation, the preliminary annual number of allowances to be allocated in respect of each sub-installation of the installation for the 2026 scheme year; and for the purpose of this article, Articles 16 and 19 to 22 and Annex 3 apply as if a reference in those provisions to—

(a) the relevant allocation period were a reference to the 2026 allocation period;

(b) the historical activity level of the sub-installation were a reference to the historical activity level of the sub-installation determined under paragraph (2);

(c) the baseline period referred to in Article 15(2) were a reference to the period beginning with 1st January 2023 and ending with 31st December 2023.

(4) The regulator must calculate the final annual number of allowances to be allocated in respect of the installation, and of each sub-installation of the installation, for the 2026 scheme year.

(5) For the purpose of paragraph (4), the final annual number of allowances to be allocated for the 2026 scheme year in respect of a sub-installation is the same as the preliminary annual number of allowances calculated under paragraph (3); but in the case of a sub-installation of an installation that is an electricity generator (as defined in Article 2c(3) of the Free Allocation Regulation), the final annual number of allowances is the preliminary annual number of allowances multiplied by 0.7462 (reduction factor for 2026 scheme year).

(6) For the purpose of paragraph (4), the final annual number of allowances to be allocated in respect of an installation for the 2026 scheme year is the sum of the final annual number of allowances to be allocated in respect of each sub-installation of the installation for the 2026 scheme year.

(7) Paragraphs (3) and (4) do not apply to a sub-installation if the regulator has not, by virtue of Article 15(2) or (7) of the Free Allocation Regulation, as applied by paragraph (2) of this article, determined the historical activity level of the sub-installation.

(8) The regulator must send the following information to the UK ETS authority as soon as reasonably practicable—

(a) details of the installation, including details of any permit in force;

(b) the information contained in the baseline data report submitted as part of the first stage of the Article 4 application;

(c) the historical activity levels (if any) of each sub-installation determined under paragraph (2), the preliminary annual number of allowances to be allocated in respect of each sub-installation calculated under paragraph (3) and the final annual number of allowances to be allocated in respect of the installation and of each sub-installation calculated under paragraph (4);

(d) where the regulator has not, by virtue of Article 15(2) of the Free Allocation Regulation, determined the historical activity level of a sub-installation, the regulator's explanation.

(9) The UK ETS authority must, as soon as reasonably practicable—

(a) assess the documents submitted as part of the first stage of the Article 4 application and, where relevant, the regulator's explanation under paragraph (8)(d);

(b) inform the regulator whether or not the application is valid.

(10) Where the Article 4 application is valid, the UK ETS authority must also—

(a) approve the final annual number of allowances to be allocated in respect of the installation for the 2026 scheme year, making any corrections to the historical activity levels and the preliminary and final annual number of allowances that the UK ETS authority considers appropriate;

(b) inform the regulator accordingly.

(11) Where the Article 4 application is not valid, the regulator must give notice to the operator of the installation of that fact and the reasons for it.

(12) For the purpose of the calculations referred to in this article, the number of allowances to be allocated in respect of sub-installations and installations must be expressed as the nearest integer, taking 0.5 as nearest to the previous integer.

(13) For the purpose of this article—

(a) an Article 4 application is valid if the first stage of the application is in accordance with the Free Allocation Regulation;

(b) "start of normal operation" has the meaning given in Article 2(1)(12) of the Free Allocation Regulation.

**2026 incumbents; allocation from flexible reserve if industry cap exceeded**

**8.** If the total final annual number of allowances approved by the UK ETS authority under this Part to be allocated for the 2026 scheme year in respect of all 2026 incumbents exceeds 31,623,876 (industry cap for 2026 scheme year(**a**)), the difference must be allocated from the flexible reserve (see article 23A of the UK ETS Order).

**Renunciation of free allocation in 2026 allocation period**

**9.**—(1) The operator of the following installations may renounce free allocation in the 2026 allocation period by giving notice (a "renunciation notice") to the regulator—

(a) an FA installation for the 2021-2025 allocation period;

(b) an installation other than an FA installation for the 2021-2025 allocation period whose operator completes the first stage of an Article 4 application.

(2) A renunciation notice must be given on or before 30th June 2025.

(3) The regulator must notify the UK ETS authority of each renunciation notice given.

**Free allocation in 2026 allocation period: lime and malt extract**

**10.** For the purpose of calculating the preliminary annual number of allowances to be allocated in respect of sub-installations for the 2026 scheme year under this Part, Article 18 of the Free Allocation Regulation or Article 3a of the Activity Level Changes Regulation, the Free Allocation Regulation applies as if—

(a) the product benchmark for lime were 0.798 (and not 0.725);

(b) the manufacture of malt extract(**b**) were included in the list of sectors and subsectors set out in the Annex to Commission Delegated Decision (EU) 2019/708(**c**).

# PART 3

## Greenhouse Gas Emissions Trading Scheme Order 2020 amended

**Greenhouse Gas Emissions Trading Scheme Order 2020 amended**

**11.** The Greenhouse Gas Emissions Trading Scheme Order 2020 is amended in accordance with this Part.

**Article 4 amended (interpretation)**

**12.**—(1) Article 4 is amended as follows.

(2) In paragraph (1)—

(a) after the definition of "2021-2025 allocation period" insert—

""2026-2030 period" means the period beginning with 1st January 2026 and ending with 31st December 2030;";

(b) for the definition of "2026-2030 allocation period" substitute—

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(**a**) The industry cap for the 2026 scheme year is set out in table A in Article 16a(6) of the Free Allocation Regulation, as amended by S.I. 2024/1366.

(**b**) PRODCOM code 10.89.19.25.

(**c**) EUD 2019/708. For sectors and subsectors deemed at risk of carbon leakage set out in the Annex to the Decision, free allocation is not reduced by the factors set out in Annex 5 to the Free Allocation Regulation.

““2026 allocation period” means the 2026 scheme year;

“2027-2030 allocation period” means the 2027, 2028, 2029 and 2030 scheme years;”;

(c) for the definition of “allocation period” substitute—

““allocation period” means the 2021-2025 allocation period, the 2026 allocation period or the 2027-2030 allocation period;”;

(d) for the definition of “allocation table” substitute—

““allocation table” means an allocation table for the 2021-2025 allocation period, the 2026 allocation period or the 2027-2030 allocation period referred to in article 34A or 34AA;”;

(e) in the entry beginning “FA installation” for ““FA installation for the 2026-2030 allocation period”” substitute ““FA installation for the 2026 and 2027-2030 allocation periods””.

**Article 4A amended (meaning of FA installation, etc.)**

**13.**—(1) Article 4A is amended as follows.

(2) For paragraph (1)(b) substitute—

“(b) an FA installation for the 2026 and 2027-2030 allocation periods.”.

(3) Omit paragraph (3)(b).

(4) In paragraph (4)—

(a) in the words before sub-paragraph (a) for “FA installation for the 2026-2030 allocation period” substitute “FA installation for the 2026 and 2027-2030 allocation periods”;

(b) in sub-paragraph (a) for “2026-2030” substitute “2026 allocation period or the 2027-2030”;

(c) omit sub-paragraph (aa);

(d) in sub-paragraph (b) in the words before paragraph (i) for “2026-2030” substitute “2026 allocation period or the 2027-2030”.

(5) In paragraph (5)—

(a) in the words before sub-paragraph (a) for “FA installation for the 2026-2030 allocation period” substitute “FA installation for the 2026 and 2027-2030 allocation periods”;

(b) in sub-paragraph (b) for “2025” substitute “2027”;

(c) in sub-paragraph (c) for “FA installation for the 2026-2030 allocation period” substitute “FA installation for the 2026 and 2027-2030 allocation periods”;

(d) in sub-paragraph (f)—

(i) for “2026-2030 allocation period in error” substitute “2026 allocation period or the 2027-2030 allocation period in error”;

(ii) for “FA installation for the 2026-2030 allocation period” substitute “FA installation for the 2026 and 2027-2030 allocation periods”;

(e) omit sub-paragraph (g);

(f) after sub-paragraph (f) insert—

“(h) if the allocation table for the 2026 allocation period includes an entry for the installation but the allocation table for the 2027-2030 allocation period does not, the end of the 2026 scheme year.”.

**Article 12 amended (aircraft operator: change in regulator)**

**14.**—(1) Article 12 is amended as follows.

(2) In paragraph (2) in the words after sub-paragraph (c) for “the beginning of the 2026-2030 allocation period” substitute “1st January 2026”.

**Article 13 amended (aircraft operator: change in registered office)**

**15.**—(1) Article 13 is amended as follows.

(2) In paragraph (1) in the words after sub-paragraph (b) for "the beginning of the 2026-2030 allocation period" substitute "1st January 2026".

(3) In paragraph (2) in the words after sub-paragraph (b) for "the beginning of the 2026-2030 allocation period" substitute "1st January 2026".

**Article 20 amended (cap for scheme years)**

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

(2) In paragraph (1)(a)(ii) omit "allocation".

**Article 23A amended (flexible reserve)**

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

(2) In paragraph (2)(b)—

(a) in paragraph (i)(aa) omit "allocation period";

(b) in paragraph (ii)—

(i) after "Free Allocation Regulation" insert "or Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025";

(ii) for "2026-2030 allocation period" substitute "2026 allocation period and the 2027-2030 allocation period".

(3) In paragraph (4)(a) after "Free Allocation Regulation)" insert "or in accordance with article 8 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025".

**Article 27A amended (installations: information to be submitted on or before 30 June 2025 where no application for free allocation, etc. is made)**

**18.**—(1) Article 27A is amended as follows.

(2) In the heading for "before 2026-2030 allocation period" substitute "on or before 30 June 2025".

(3) In paragraph (1)—

(a) in the words before sub-paragraph (a) for "any of the following" substitute "either of the following provisions or complete the first stage of an application under Article 4 of the Free Allocation Regulation (free allocation in 2027-2030 allocation period)";

(b) in sub-paragraph (a) omit "allocation";

(c) in sub-paragraph (b) omit "allocation";

(d) omit sub-paragraph (c).

(4) In paragraph (3)(d) for "2026-2030" substitute "2027-2030".

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

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

(2) In the heading after "Allocation tables" insert "for 2021-2025 and 2027-2030 allocation periods".

(3) In paragraph (1)—

(a) in the words before sub-paragraph (a) for "each allocation period" substitute "the 2021-2025 allocation period and the 2027-2030 allocation period";

(b) in sub-paragraph (b) for "2026-2030" in both places substitute "2027-2030".

(4) In paragraph (5) for "2026-2030" substitute "2027-2030".

(5) In paragraph (6)—

(a) in sub-paragraph (a)—

(i) for "2026-2030" substitute "2027-2030";

(ii) after "valid" insert "under Article 15a(4) of the Free Allocation Regulation";

(b) in sub-paragraph (b) for "2026-2030" substitute "2027-2030".

(6) In paragraph (7)(b) for "2025" substitute "2026".

**Article 34AA inserted**

**20.** After article 34A insert—

**"Allocation table for 2026 allocation period**

**34AA.**—(1) The UK ETS authority must compile an allocation table for the 2026 allocation period.

(2) The allocation table must contain an entry for each relevant installation.

(3) For the purpose of paragraph (2), an installation is a "relevant" installation if—

(a) the installation is a type 1 2026 incumbent;

(b) in the case of an installation that is a type 2 2026 incumbent, an application for free allocation in the 2027-2030 allocation period is made in respect of the installation under Article 4 of the Free Allocation Regulation that the UK ETS authority subsequently informs the regulator is valid under article 7(9) of the 2025 Order; or

(c) an application for free allocation in the 2026 allocation period is made in respect of the installation under Article 5(1)(b) of the Free Allocation Regulation that the UK ETS authority subsequently informs the regulator is valid.

(4) But an installation referred to in paragraph (3)(a) or (b) is not a "relevant" installation if—

(a) the installation ceases operation on or before 31st December 2025; or

(b) the installation's permit is revoked under paragraph 12 of Schedule 6 on or before that date.

(5) The entry for an installation must set out—

(a) the installation identifier used in the registry;

(b) the final annual number of allowances to be allocated in respect of the installation for the 2026 scheme year, in 3 columns as follows—

(i) column A (standard free allocation);

(ii) column B (new entrants' reserve);

(iii) column C (total).

(6) Where, in the case of an installation that is a type 1 2026 incumbent, the final annual number of allowances to be allocated in respect of the installation for the 2026 scheme year has not, at the date on which the allocation table is compiled, been approved under article 6 of the 2025 Order because the question of whether any adjustment to free allocation under the Activity Level Changes Regulation is required in consequence of the 2025 ALC obligation has not yet been considered, the entry for the installation must set out—

(a) the final annual number of allowances to be allocated in respect of the installation for the 2025 scheme year that would have been approved under article 6 of the 2025 Order if, in the definition of "ALC adjustment" in paragraph (9) of that article, "up to and including activity levels in 2024" were omitted;

(b) that the figure referred to in sub-paragraph (a) is provisional.

(7) If the entry for an installation in the allocation table includes a provisional figure under paragraph (6), where, after the date on which the allocation table is compiled, any

adjustment to free allocation that might be required under the Activity Level Changes Regulation in consequence of the 2025 ALC obligation falls to be considered—

(a) article 6 of the 2025 Order applies without the modification set out in paragraph (6) so as to require the final annual number of allowances to be allocated in respect of the installation for the 2026 scheme year to be calculated and approved for the purpose of inclusion in the entry for the installation in any updated allocation table in accordance with article 34C(1)(k) without the need to set out that the figure is provisional;

(b) the Activity Level Changes Regulation must be read as not requiring any adjustment to free allocation for the 2026 scheme year to be calculated or approved in consequence of the 2025 ALC obligation.

(8) In this article—

"2025 ALC obligation" means the obligation in Article 3 of the Activity Level Changes Regulation to report on 2024 activity levels on or before 31st March 2025;

"2025 Order" means the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025;

"type 1 2026 incumbent" and "type 2 2026 incumbent" have the same meanings as in Part 2 of the 2025 Order.".

**Article 34B amended (allocation tables: supplementary)**

**21.**—(1) Article 34B is amended as follows.

(2) In paragraph (1) after "article 34A(8)(b)" insert "or 34AA(5)(b)".

(3) In paragraph (2) after "Free Allocation Regulation" insert "or Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025".

(4) After paragraph (7) insert—

"(8) If an entry for an installation in the allocation table for the 2026 allocation period includes a provisional figure under article 34AA(6), that figure must be included in column C (and no figure is to be included in column A or B).".

**Article 34C amended (allocation tables: updates)**

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

(2) After paragraph (1)(j) insert—

"(k) Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025.".

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

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

(2) After paragraph (2) insert—

"(2A) The UK ETS authority must publish the allocation table for the 2026 allocation period as soon as reasonably practicable after it is compiled and in any event before 1st January 2026.".

(3) In paragraph (3)—

(a) for "2026-2030" substitute "2027-2030";

(b) for "28th February 2026" substitute "1st January 2027".

**Article 34H amended (installations: errors in applications for free allocation, etc)**

**24.**—(1) Article 34H is amended as follows.

(2) In paragraph (2)(c) after "(including under this article)," insert "Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025,".

(3) In paragraph (7)(c) for "the allocation period" substitute "the 2021-2025 allocation period or, as the case may be, an FA installation for the 2026 and 2027-2030 allocation periods".

**Article 59 amended (ultra-small emitters: reportable emissions exceeding maximum amount)**

**25.**—(1) Article 59 is amended as follows.

(2) In paragraph (3)—

(a) in sub-paragraph (a) for "an allocation period" substitute "the period beginning with 1st January 2021 and ending with 31st December 2025, or in the 2026-2030 period,";

(b) in sub-paragraph (b) omit "allocation".

**Article 75B amended (restriction on disclosing information)**

**26.**—(1) Article 75B is amended as follows.

(2) After paragraph (3)(b)(iii)(bb) insert—

"(cc) for the purpose of relevant policy development or implementation by a national authority(**a**), a Minister of the Crown (as defined in section 8(1) of the Ministers of the Crown Act 1975(**b**)), His Majesty's Revenue and Customs or a Northern Ireland department;

(dd) for the purpose of supporting the Committee on Climate Change in performing its functions under the Climate Change Act 2008, the Climate Change (Scotland) Act 2009(**c**), the Environment (Wales) Act 2016(**d**) or the Climate Change Act (Northern Ireland) 2022(**e**).".

(3) After paragraph (3) insert—

"(3A) In paragraph (3)(b)(iii)(cc), "relevant policy development or implementation" means the development or implementation of policies—

(a) to limit, or encourage activities that reduce or remove, greenhouse gas emissions;

(b) to counter carbon leakage;

(c) to mitigate the effects of climate change.

(3B) In paragraph (3A)(b), "carbon leakage" means the movement of production and associated emissions from the United Kingdom to another country due to differences in climate regulation between the United Kingdom and that other country.".

**Article 75C amended (national security)**

**27.**—(1) Article 75C is amended as follows.

(2) In paragraph (1) for "paragraph 31 of Schedule 5A (information about accounts)" substitute "paragraph 31 or 34 of Schedule 5A (information about accounts and transfers of allowances)".

**Schedule 3 amended (applications, notices, etc. submitted to regulators)**

**28.**—(1) Schedule 3 is amended as follows.

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(**a**) "National authority" is defined in section 95 of the Climate Change Act 2008.
(**b**) 1975 c. 26.
(**c**) 2009 asp 12.
(**d**) 2016 anaw 3.
(**e**) 2022 c. 31. (N.I.).

*Paragraph 2 amended (determination of applications by regulators)*

(2) In paragraph 2(5)—

(a) in paragraph (a) omit "allocation";

(b) in paragraph (b) omit "allocation".

**Schedule 5A amended (registry)**

**29.**—(1) Schedule 5A is amended as follows.

*Paragraph 34 amended (information about transfers of allowances)*

(2) In paragraph 34—

(a) for sub-paragraph (1) substitute—

"(1) The UK ETS authority must publish the information referred to in sub-paragraph (1A) about each completed transfer of allowances from one account to another (other than a transfer from a central account to another central account).

(1A) The information is—

(a) the name of the account holder, type of account and unique account identifier of the account from which the allowances are transferred;

(b) the name of the account holder, type of account and unique account identifier of the account to which the allowances are transferred;

(c) the number of allowances transferred;

(d) which one of the following categories the transfer falls into—

(i) a transfer from the allocation account (free allocation under Part 4A);

(ii) the reversal of a transfer from the allocation account (see paragraph 22(6));

(iii) the return of allowances to which a person is not entitled (as set out in article 34S(3) or 34T(3)) in accordance with a notice under article 34U or 34V or returned voluntarily without the need for such a notice to be given;

(iv) a transfer to the auction delivery account;

(v) the return of allowances transferred in error under the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021(**a**) (see regulation 48 of those Regulations);

(vi) a transfer of allowances following the grant of an application to transfer a greenhouse gas emissions permit (see paragraph 12);

(vii) a transfer to the deletion account (see paragraph 23);

(viii) the reversal of a transfer to the deletion account (see paragraph 22(2));

(ix) a transfer to the surrender account (see paragraph 24);

(x) the reversal of a transfer to the surrender account (see paragraph 22(3));

(xi) a transfer of allowances from an account to be closed (see paragraph 30);

(xii) any other transfer of allowances;

(e) the date and time when the transfer completed;

(f) the reference for the transfer used in the registry.

(1B) The unique account identifier of an account that is required to be published under sub-paragraph (1A) must not be the account number or an identifier from which the account number can be derived.";

(b) omit sub-paragraph (4);

(c) after sub-paragraph (3) insert—

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(**a**) S.I. 2021/484, amended by S.I. 2021/513, 2021/561, 2021/917, 2023/994 and 2024/1366.

"(5) This paragraph is subject to article 75C (national security).".

**Schedule 6 amended (permits)**

**30.**—(1) Schedule 6 is amended as follows.

*Paragraph 6 amended (variation of permits)*

(2) In paragraph 6(3)(b)(iv) omit "allocation".

**Schedule 7 amended (hospitals and small emitters)**

**31.**—(1) Schedule 7 is amended as follows.

*"2026-2030 period" substituted for "2026-2030 allocation period"*

(2) Except as provided in paragraph (7), for "2026-2030 allocation period" in each place (including in paragraph headings) substitute "2026-2030 period".

*Paragraph 1 amended (interpretation)*

(3) In paragraph 1(1) in the definition of "conversion notice" for "or 23A" substitute ", 23A or 23B".

*Paragraph 3 amended (hospital or small emitter status)*

(4) In paragraph 3(6) for "in the allocation period" substitute "in the period".

*Paragraph 18 amended (emissions targets: calculation of later targets where initial targets based on estimates)*

(5) In paragraph 18(1) for "an allocation period" substitute "the 2021-2025 allocation period or the 2026-2030 period".

*Paragraph 19A amended (capacity increases: application to increase emissions targets)*

(6) After paragraph 19A(5) insert—

"(6) Where an application is made to increase an installation's emissions targets for scheme years in the 2027-2030 allocation period, the regulator must not consider the application before 1st February 2026 unless, before that date, benchmarks for the 2027-2030 allocation period are set out in Annex 8 to the Free Allocation Regulation.".

*Paragraph 19G amended (capacity increases: interpretation)*

(7) In paragraph 19G(1) in the definition of "benchmark" in paragraph (a)—

(a) in sub-paragraph (i) for ", for scheme years in that allocation period" substitute "or the 2026 scheme year, for scheme years in that allocation period or that scheme year";

(b) in sub-paragraph (ii) for "2026-2030 allocation period" substitute "2027-2030 allocation period".

*Paragraph 22 amended (emissions targets: errors)*

(8) In paragraph 22—

(a) in sub-paragraph (1) for "an allocation period" substitute "the 2021-2025 allocation period or the 2026-2030 period";

(b) in sub-paragraph (2) omit "allocation";

(c) in sub-paragraph (3) omit "allocation".

*Paragraph 23B inserted*

(9) After paragraph 23A insert—

**"End of hospital or small emitter status: voluntary exit of status for 2027-2030 allocation period**

**23B.**—(1) This paragraph applies where the operator of an installation included in the hospital and small emitter list for 2026-2030 notifies the regulator on or before 30th June

2026 as part of the second stage of an application for free allocation in the 2027-2030 allocation period under Article 4(1a)(b)(i) of the Free Allocation Regulation that—

(a) the operator wishes the application to proceed because the operator does not wish the installation to be a hospital or small emitter for the scheme years in the 2027-2030 allocation period; and

(b) the UK ETS authority informs the regulator under Article 15a(4) of that Regulation that the application is valid.

(2) The regulator must, as soon as reasonably practicable, give a notice (a "conversion notice") to the operator.".

**Schedule 8 amended (ultra-small emitters)**

**32.**—(1) Schedule 8 is amended as follows.

*"2026-2030 period" substituted for "2026-2030 allocation period"*

(2) For "2026-2030 allocation period" in each place (including in paragraph headings) substitute "2026-2030 period".

*Paragraph 2 amended (ultra-small emitter status)*

(3) In paragraph 2(5)—

(a) after "paragraph 7(2)" insert "or 7A";

(b) for "in the allocation period" substitute "in the period".

*Paragraph 3 amended (obtaining ultra-small emitter status for 2026-2030 period)*

(4) For paragraph 3(4) substitute—

"(4) The relevant condition is that—

(a) a regulated activity begins to be carried out at the installation on or before 1st January 2024; and

(b) the installation's reportable emissions in each relevant scheme year do not exceed the maximum amount.

(4A) In sub-paragraph (4)(b), "relevant scheme year" means—

(a) if a regulated activity begins to be carried out at the installation on or before 1st January 2021, the 2021, 2022 and 2023 scheme years;

(b) if a regulated activity begins to be carried out at the installation in the period beginning with 2nd January 2021 and ending with 1st January 2022, the 2022, 2023 and 2024 scheme years;

(c) if a regulated activity begins to be carried out at the installation in the period beginning with 2nd January 2022 and ending with 1st January 2023, the 2023 and 2024 scheme years;

(d) if a regulated activity begins to be carried out at the installation in the period beginning with 2nd January 2023 and ending with 1st January 2024, the 2024 scheme year.".

*Paragraph 7 amended (end of ultra-small emitter status: ceasing to meet criteria)*

(5) In paragraph 7(7)—

(a) in paragraph (a) for "same allocation period" substitute "same period (that is to say, either the 2021-2025 allocation period or the 2026-2030 period)";

(b) in paragraph (b) omit "allocation" in both places.

*Paragraph 7A inserted*

(6) After paragraph 7 insert—

**"End of ultra-small emitter status: voluntary exit of status for 2027-2030 allocation period**

**7A.**—(1) This paragraph applies where the operator of an installation included in the ultra-small emitter list for 2026-2030 notifies the regulator on or before 30th June 2026 as part of the second stage of an application for free allocation in the 2027-2030 allocation period under Article 4(1a)(b)(i) of the Free Allocation Regulation that—

(a) the operator wishes the application to proceed because the operator does not wish the installation to be an ultra-small emitter for the scheme years in the 2027-2030 allocation period; and

(b) the UK ETS authority informs the regulator under Article 15a(4) of that Regulation that the application is valid.

(2) The regulator must, as soon as reasonably practicable, give a notice to the operator stating that—

(a) the installation is not an ultra-small emitter for the 2027 scheme year;

(b) the operator must apply for a greenhouse gas emissions permit and comply with the conditions of the permit from 1st January 2027.".

*Paragraph 8 amended (end of ultra-small emitter status: publication)*

(7) In paragraph 8(1)(a) after "paragraph 7(2)" insert "or 7A".

# PART 4

## Free Allocation Regulation amended

### Free Allocation Regulation amended

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

### Article 2 amended (definitions)

**34.**—(1) Article 2 is amended as follows.

(2) In paragraph 1—

(a) in point (1) (definition of "incumbent installation") for "2026-2030" substitute "2027-2030";

(b) in point (14)(b) (definition of "baseline period") for "2026-2030" substitute "2027-2030";

(c) after point (25) insert—

"(26) "first stage" and "second stage", in relation to an application under Article 4 for free allocation in the 2027-2030 allocation period, must be construed in accordance with that Article.".

(3) After paragraph 3 insert—

"4. References in this Regulation to benchmarks for an allocation period are references to the benchmarks for the allocation period set out in Annex 8; but if no benchmarks for the 2027-2030 allocation period are set out in Annex 8 before the regulator is required to calculate the preliminary annual number of allowances to be allocated for scheme years in that period, the benchmarks for the 2021-2025 allocation period and the 2026 allocation period are to be used for the calculation.".

### Article 2a amended (eligibility for free allocation)

**35.**—(1) Article 2a is amended as follows.

(2) In paragraph 2(a)(i) for "2026-2030" substitute "2027-2030".

(3) In paragraph 3—

(a) after "in relation to measurable heat" insert ", or the first stage of such an application under Article 4 may be completed,";

(b) after "date of the application" insert ", or of the completion of the first stage,".

(4) In paragraph 4 after "in relation to measurable heat" insert "or where the first stage of such an application under Article 4 is completed".

(5) In paragraph 5—

(a) in the words before point (a) for "and Articles 3a to 6a of the Activity Level Changes Regulation" substitute ", Articles 3a to 6a of the Activity Level Changes Regulation and Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025";

(b) in point (a) after "start of normal operation of the sub-installation" insert ", or in a case where the installation includes the heat benchmark sub-installation at the date of completion of the first stage of an application under Article 4".

**Article 2b amended (free allocation in 2026 and 2027-2030 allocation periods: applications by incumbent installations that will not produce electricity for sale for consumption outside the installation)**

**36.**—(1) Article 2b is amended as follows.

(2) In the heading for "2026-2030 allocation period" substitute "2026 and 2027-2030 allocation periods".

(3) In paragraph 1—

(a) for "2026-2030" substitute "2027-2030";

(b) for "the application is" substitute "the documents submitted as part of the first stage of the application are".

(4) In paragraph 2 after "the date of" insert "the submission of documents as part of the first stage of".

(5) In paragraph 3—

(a) in the words before point (a) for "such an application is" substitute "the documents submitted as part of the first stage of such an application are";

(b) in point (a) after "Article 15a(4)" insert "or, where relevant, under article 7(8) of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025 for assessment under article 7(9) of that Order".

(6) In paragraph 4(a)—

(a) for "2026-2030" substitute "2027-2030";

(b) after "Article 15a(4)" insert "or, in the case of a type 2 2026 incumbent (as defined in Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025), under article 7(9) of that Order".

(7) In paragraph 5—

(a) in point (a) after "Activity Level Changes Regulation" insert "or, in the case of a type 2 2026 incumbent, Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025";

(b) in point (b)—

(i) for "2026-2030" substitute "2026 allocation period and the 2027-2030";

(ii) for "and the Activity Level Changes Regulation" substitute ", the Activity Level Changes Regulation and Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025".

(8) In paragraph 6(a) for "2026-2030" substitute "2026 allocation period and the 2027-2030".

(9) In paragraph 10(a) after "the date of" insert "the submission of documents as part of the first stage of".

**Article 2c amended (meaning of "electricity generator" and "relevant CHP electricity")**

**37.**—(1) Article 2c is amended as follows.

(2) In paragraph 3 in the words before point (a) for "2026-2030 allocation period" substitute "2026 allocation period or the 2027-2030 allocation period".

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

**38.**—(1) Article 4 is amended as follows.

(2) In the heading for "2026-2030" substitute "2027-2030".

(3) In paragraph 1 in the words before point (a) for "2026-2030" substitute "2027-2030".

(4) For paragraph 1A substitute—

"1a. An application consists of 2 stages to be completed, as follows:

(a) the first stage is that in the period beginning with 1 April 2025 and ending with 30 June 2025, the operator must submit the documents referred to in paragraph 2 to the regulator;

(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; and

(ii) where relevant, resubmit the documents referred to in paragraph 2 with any amendments necessary to take account of any changes to free allocation rules for the 2027-2030 allocation period made after 31 March 2025 (for example, changes to the list of sectors and subsectors set out in the Annex to Commission Delegated Decision (EU) 2019/708).

1b. In the case of an operator of an installation included in the hospital and small emitter list for 2026-2030 or the ultra-small emitter list for 2026-2030, a notification under paragraph 1a(b)(i) that the operator wishes the application to proceed must also state whether the operator:

(a) does not wish the installation to be a hospital or small emitter or an ultra-small emitter for the scheme years in the 2027-2030 allocation period (see paragraph 23B of Schedule 7, and paragraph 7A of Schedule 8, to the UK ETS Order(**a**)); or

(b) wishes the application to proceed for the purpose of Schedule 8A to the UK ETS Order only (free allocation for former hospital or small emitters and ultra-small emitters).".

(5) In paragraph 2 in the words before point (a) for "An application for free allocation submitted pursuant to paragraph 1 shall be accompanied by the following particulars" substitute "The documents to be submitted are".

(6) In paragraph 4 omit "allocation" in both places.

(7) After paragraph 4 insert—

"5. Unless both the first and second stages of an application are completed, the application must be treated as never having been made.

(**a**) Article 2(1)(23) of the Free Allocation Regulation defines "UK ETS Order" as the Greenhouse Gas Emissions Trading Scheme Order 2020.

6. Despite paragraph 5, Articles 15 and 15a apply in relation to an application as follows:

(a) Articles 15 and 15a(2) and (3) apply after the first stage is completed; and for the purpose of those provisions, an "application" is an application in respect of which the first, but not the second, stage is completed;

(b) Article 15a(4) and (5) apply after both stages are completed; and for the purpose of those provisions, an "application" is an application in respect of which both stages are completed.

7. Where, as part of the second stage under paragraph 1a(b)(ii), the operator resubmits the documents referred to in paragraph 2:

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

(i) any reference to baseline data reports and verification reports must be read as a reference to the resubmitted documents;

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

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

(b) for the purpose of paragraph 6(b), Article 15a(4) and (5) apply in relation to the application taking account of the resubmitted documents.

8. The regulator must notify the UK ETS authority of every notification under paragraph 1a(b)(i) and every case where no such notification is received.".

**Article 5 amended (application for free allocation by new entrants)**

**39.**—(1) Article 5 is amended as follows.

(2) In paragraph 1(b) for "2026-2030" substitute "2026 allocation period and the 2027-2030".

**Article 8 amended (content and submission of the monitoring methodology plan)**

**40.**—(1) Article 8 is amended as follows.

(2) For paragraph 7(a) substitute—

"(a) where the monitoring methodology plan is submitted as part of the first stage of an application for free allocation in the 2027-2030 allocation period under Article 4:

(i) in the case of a type 2 2026 incumbent (as defined in Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025), on or before 31 December 2025;

(ii) in any other case, on or before 31 December 2026.".

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

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

(2) In paragraph 1—

(a) in the words before point (a) omit "where";

(b) in point (a) before "a deemed application" insert "where";

(c) for point (b) substitute—

"(b) in a case where the first and second stages of an application under Article 4 for free allocation in the 2027-2030 allocation period have been completed by the operator of an incumbent installation, as set out in paragraphs 6 and 7 of that Article.".

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

**42.**—(1) Article 16 is amended as follows.

(2) In paragraph 1(b) for "2026-2030" in both places substitute "2027-2030".

(3) In paragraph 5 in the second subparagraph for "2026-2030" substitute "2027-2030".

(4) In paragraph 10 omit the words from "after benchmarks for the 2026-2030 allocation period" to the end.

(5) For paragraph 12 substitute—

"12. In this Article and in Articles 19 to 22, as those Articles apply for the purpose of this Article, "relevant allocation period" means:

(a) in the case of a deemed application for free allocation in the 2021-2025 allocation period, the 2021-2025 allocation period;

(b) in the case of an application under Article 4 for free allocation in the 2027-2030 allocation period, the 2027-2030 allocation period.".

**Article 16a amended (cross-sectoral correction factors)**

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

(2) In paragraph 1 in the words before point (a) after "allocation period" insert "other than the 2026 allocation period".

(3) In paragraph 5 in the words before point (a) after "allocation period" insert "other than the 2026 allocation period".

(4) After paragraph 6 and table A insert—

"6a. But where the industry cap for the 2026 scheme year exceeds the total final annual number of allowances approved under Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025 to be allocated for the 2026 scheme year in respect of all 2026 incumbents (as defined in Part 2 of that Order), the industry cap for the 2027 scheme year must be treated as being increased by the difference.".

(5) For paragraph 7(b) substitute—

"(b) an application for free allocation in the 2027-2030 allocation period is made in respect of the installation under Article 4 and the installation is included in the hospital and small emitter list for 2026-2030 or the ultra-small emitter list for 2026-2030 unless, as part of the second stage of the application under Article 4(1a)(b)(i):

(i) the operator of the installation notifies the regulator on or before 30 June 2026 that the operator wishes the application to proceed because the operator does not wish the installation to be a hospital or small emitter or an ultra-small emitter for the scheme years in the 2027-2030 allocation period; and

(ii) the UK ETS authority informs the regulator under Article 15a(4) that the application is valid.".

(6) In paragraph 8 for "2026-2030 allocation period" substitute "2027-2030 allocation period".

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

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

(2) In paragraph 1(a)(ii) for "2026-2030" in both places substitute "2027-2030".

**Article 18 amended (preliminary allocation to new entrants)**

**45.**—(1) Article 18 is amended as follows.

(2) In paragraph 1(a)—

(a) for "relevant period multiplied" substitute "relevant allocation period multiplied";

(b) omit "and in this point "benchmark for the relevant period" means the benchmark for the relevant allocation period (as defined in Article 16(12)) set out in Annex 8".

(3) In paragraph 7—

(a) in the words before point (a) omit "(except as provided in paragraph 1(a))";

(b) in point (b) for "2026-2030 allocation period" substitute "2027-2030 allocation period or, where the start of normal operation of a new entrant is before 1st January 2027, a period consisting of the 2026 allocation period and the 2027-2030 allocation period".

(4) After paragraph 7 insert—

"8. But in paragraph 1(a) of this Article and in Articles 19 to 22, as those Articles apply for the purpose of this Article, "relevant allocation period" means the allocation period containing the scheme year for which the preliminary annual number of allowances is to be calculated.".

**Article 24 amended (renunciation of free allocation of allowances)**

**46.**—(1) Article 24 is amended as follows.

(2) For paragraph 2 substitute—

"2. Where an installation is an FA installation for the 2026 and 2027-2030 allocation periods, the operator of the installation may by giving notice (a "renunciation notice") to the regulator on or after 1st January 2027 renounce free allocation in respect of the remaining scheme years of the 2027-2030 allocation period beginning with the scheme year after the year in which the notice is given.".

**Article 25 amended (mergers and splits)**

**47.**—(1) Article 25 is amended as follows.

(2) For paragraph 9(b) substitute—

"(b) where the final annual number of allowances to be allocated in respect of a new installation:

(i) for each scheme year in the 2021-2025 allocation period beginning with the first recalculated scheme year is zero, that the installation is not an FA installation for the 2021-2025 allocation period;

(ii) for the 2026 scheme year is zero, or for each scheme year in the 2027-2030 allocation period beginning with the first recalculated scheme year is zero, that the installation is not an FA installation for the 2026 and 2027-2030 allocation periods.".

(3) In paragraph 10—

(a) for point (a)(ii) substitute—

"(ii) where any installation before the split or merger is an FA installation for the 2026 and 2027-2030 allocation periods:

(aa) with an entry in the allocation table for the 2026 allocation period, the 2026 allocation period;

(bb) with an entry in the allocation table for the 2027-2030 allocation period, the 2027-2030 allocation period;";

(b) after point (d) insert—

"(e) "incumbent installation" means:

(i) if the transfer date is before 31 March 2026, an installation in respect of which a deemed application for free allocation in the 2021-2025 allocation period is made;

(ii) if the transfer date is on or after 31 March 2026, an installation in respect of which an application under Article 4 for free allocation in the 2027-2030 allocation period is made.".

(4) After paragraph 10 insert—

"11. This paragraph applies, in the case of a merger, where:

(a) the transfer date is after the date on which the allocation table for the 2026 allocation period is published but before 31 March 2026; and

(b) the installations before the merger include a type 1 2026 incumbent (as defined in Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025) and a type 2 2026 incumbent (as defined in that Part).

12. Where paragraph 11 applies:

(a) this Article applies as if:

(i) a reference to the first relevant calendar year were a reference to 2024;

(ii) a reference to the first recalculated scheme year were a reference to the 2027 scheme year;

(b) the operator of the new installation must comply with the obligation in Article 3 of the Activity Level Changes Regulation to report on activity levels in 2025 as if the merger had not taken place;

(c) paragraph 12 of Schedule 5A to the UK ETS Order applies as if in sub-paragraph (8) "and the transfer date (as defined in paragraph 9(6) of Schedule 6 to this Order) is on or after 31st March in a scheme year" were omitted.".

**Annex 7 amended (data monitoring methods)**

**48.**—(1) Annex 7 is amended as follows.

*Section 4 amended (selection of determination methodologies and data sources representing highest achievable accuracy)*

(2) In section 4.2 (unreasonable costs) in the third paragraph in point (f) for "2026-2030" substitute "2027-2030".

**Annex 8 amended (benchmarks)**

**49.**—(1) Annex 8 is amended as follows.

(2) In the table headings and column headings after "2021-2025 allocation period" in each place insert "and 2026 allocation period".

(3) After table C omit the words from "Where no benchmarks" to the end.

# PART 5

## Activity Level Changes Regulation amended

**Activity Level Changes Regulation amended**

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

**Article 3 amended (reporting requirements)**

**51.**—(1) Article 3 is amended as follows.

(2) In paragraph 1 after "for 2024." insert "In 2027, this report must include data for the 2 years preceding its submission if the operator is not required under this Article to submit in 2026 a report including data for 2025.".

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

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

(2) In paragraph 1 after "(see Articles 15(7) and 17(2)) of that Regulation)" insert "including under Article 15 as applied by article 7(2) of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025".

(3) For paragraph 4 substitute—

"4. In this Article, "relevant allocation period" means:

(a) in the case of a sub-installation of an incumbent installation in respect of which a deemed application for free allocation in the 2021-2025 allocation period was made, a 2026 incumbent (as defined in Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025) or a new entrant in respect of which an application is made under Article 5 of the Free Allocation Regulation for free allocation in the 2021-2025 allocation period or the 2026 allocation period, a period consisting of the 2021-2025 allocation period and the 2026 allocation period;

(b) in the case of a sub-installation of an incumbent installation or a new entrant in respect of which an application for free allocation in the 2027-2030 allocation period is made under Article 4 or 5 of that Regulation, the 2027-2030 allocation period.".

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

**53.**—(1) Article 5 is amended as follows.

(2) After paragraph 2 insert—

"2a. In the case of a sub-installation of a type 1 2026 incumbent (as defined in Part 2 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2025), for the purpose of determining whether a "further" adjustment can take place under paragraph 2 in consequence of the obligation in Article 3 to report on activity levels in 2025 on or before 31 March 2026, the reference in paragraph 2 to an "allocation period" must be read as a reference to the period consisting of the 2021-2025 allocation period and the 2026 allocation period (and consequently, if an adjustment under paragraph 1 has been approved by the UK ETS authority in that period, a further adjustment can take place only in the circumstances set out in paragraph 2).".

*Richard Tilbrook*
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"). The UK ETS runs for 10 "scheme years", currently split into two 5-year "allocation periods". 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 and aircraft operators receive an allocation of allowances free of charge for each scheme year. For installations that meet the eligibility criteria, there are two schemes as an alternative to the main

scheme – the "HSE scheme" for "hospitals or small emitters" and the "USE scheme" for "ultra-small emitters".

As well as making free-standing provision in Part 2, 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 change made by this Order is to split the forthcoming 2026-2030 allocation period into a 1-year allocation period covering the 2026 scheme year – the "2026 allocation period" - and a 4-year allocation period covering the 2027-2030 scheme years – the "2027-2030 allocation period".

The process for "incumbent" installations to apply for free allocation in the 2027-2030 allocation period consists of two stages, to be completed between 1 April-30 June 2025 and 1 April-30 June 2026 (see amendments to Article 4 of the Free Allocation Regulation). During the first stage, operators are required to submit data. During the second stage, operators are required to confirm that they wish the application to proceed; and some operators may be required to resubmit data submitted as part of the first stage to take account of any changes to free allocation rules made after the first stage.

For installations that benefit from free allocation in the current 2021-2025 allocation period, free allocation in the 2026 allocation period will generally be based on data used to calculate free allocation for the current period without the need for a further application (see article 6 of this Order). Operators of other installations will receive free allocation in the 2026 allocation period based on data submitted as part of the first stage of an application for free allocation in the 2027-2030 allocation period (see article 7). If the initial allocation of allowances for the 2026 scheme year approved under Part 2 of this Order exceeds the "industry cap" for 2026, any allowances required for free allocation will be allocated from the flexible reserve referred to in article 23A of the UK ETS Order (see article 8).

The HSE and USE schemes for 2026-2030 are unchanged, except that installations that began operating between 2 January 2021 and 1 January 2024 are eligible to be in the USE scheme (see amendments to paragraph 3 of Schedule 8 to the UK ETS Order). Operators of installations continue to be able to apply to be in either the HSE or USE scheme, as well for free allocation as part of the main scheme. Installations that are in either the HSE or USE scheme for 2026-2030 will receive no free allocation in the 2026 allocation period, but operators may opt to join the main scheme for the 2027-2030 allocation period and receive free allocation for that allocation period in the event of a successful application for free allocation (see new paragraph 23B of Schedule 7, and new paragraph 7A of Schedule 8, to the UK ETS Order).

In addition, more detailed information about transfers of allowances between accounts in the UK ETS registry is required to be published (see amendments to paragraph 34 of Schedule 5A to the UK ETS Order); and the purposes for which a "national authority" may disclose information obtained under the UK ETS now include for developing policy relating to climate change, etc. and to assist the Committee on Climate Change (see amendments to article 75B of the UK ETS Order).

No impact assessment has been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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