

SL(6)115 - The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2021

Background and Purpose

The UK Emissions Trading Scheme ("ETS") was established by the Greenhouse Gas Emissions Trading Scheme Order 2020 ("the principal Order") as a UK-wide greenhouse gas emissions trading scheme, to encourage cost-effective emissions reductions from the power, industry and aviation sectors. It was designed jointly by the Governments of the UK, Scotland and Wales and the Northern Ireland Executive. It contributes to the UK's emissions reduction targets and net zero goal, as well as the emissions reduction pathway we have in Wales.

The ETS requires operators of certain industrial installations and certain aircraft operators to monitor, report on, and surrender "allowances" equivalent to their greenhouse gas emissions in each scheme year. Allowances are held in accounts in the UK ETS registry, and there is a cap on the number of allowances that may be created. For installations that meet the eligibility criteria, there are two opt-out schemes, one for "hospital or small emitters" ("HSE"), the other for "ultra-small emitters" ("USE"). Such installations are not required to surrender allowances.

The main changes made by this [Order](#) include:

- allowing installations that are currently within the HSE opt-out scheme to apply to increase their emissions targets if their emissions are anticipated to increase following capacity growth;
- introducing interim policy measures while a wider biofuels policy is being developed;
- allowing a person who has not yet become an aircraft operator to be able to apply for an emissions monitoring plan;
- resolving an error in the methodology for calculating the UK ETS aviation free allocation entitlement for applicants who qualify as fast growers under the European Union ETS;
- exempting the UK ETS authority and the registry administrator from liability in damages when undertaking functions (but the exclusion from liability does not apply to acts or omissions in "bad faith");
- enabling the regulator to reject an installation's monitoring plan and for the operator of the installation to appeal that rejection.

Procedure

Made Negative.



The Order is an Order in Council that was made by Her Majesty before being laid before Senedd Cymru, the United Kingdom Parliament, the Scottish Parliament and the Northern Ireland Assembly.

The Senedd can annul the Order within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date it was laid before the Senedd. The other three legislatures can also annul the Order, in accordance with the rules for annulment that apply to each of those legislatures.

Technical Scrutiny

One point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(ix) – that it is not made or to be made in both English and Welsh

The Order has been laid before Senedd Cymru, the United Kingdom Parliament, the Scottish Parliament and the Northern Ireland Assembly. Therefore the Order has been made in English only.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

11 January 2022



Senedd Cymru
Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad
—
Welsh Parliament
Legislation, Justice and Constitution Committee