

2023 No. 994

CLIMATE CHANGE

The Greenhouse Gas Emissions Trading Scheme Auctioning (Amendment) Regulations 2023

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| <i>Made</i> | <i>12th September 2023</i> |
| <i>Laid before the House of Commons</i> | <i>13th September 2023</i> |
| <i>Coming into force in accordance with regulation 1(2) and (3)</i> | |

The Treasury make these Regulations in exercise of the powers conferred by section 96 of the Finance Act 2020.

Extent

Preamble: United Kingdom

 Law In Force

1.— Citation, commencement and extent

- (1) These Regulations may be cited as the Greenhouse Gas Emissions Trading Scheme Auctioning (Amendment) Regulations 2023.
- (2) Except as provided in paragraph (3), these Regulations come into force on the 21st day after the day on which they are laid before the House of Commons.
- (3) Regulation 4(3) comes into force on 1st January 2024.
- (4) These Regulations extend to the whole of the United Kingdom.

Commencement

reg. 1(1)-(4): September 24, 2023

Extent

reg. 1(1)-(4): United Kingdom

✓ Law In Force

2. Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021 amended

The Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021¹ are amended as follows.

Notes

¹ Amended by S.I. 2021/513, 2021/561 and 2021/91711.

Commencement

reg. 2: September 24, 2023 (SI 2023/994 reg. 1(2))

Extent

reg. 2: United Kingdom

✓ Law In Force

3.— Regulation 9 amended (annual volumes of allowances)

(1) Regulation 9 is amended as follows.

(2) In paragraph (1)—

- (a) in the opening words after "+ BF)" insert "+ T";
- (b) for sub-paragraph (a) substitute—

"(a) AC for the calendar year is the base for that year determined in accordance with paragraph (10)(a) multiplied by—

- (i) in the case of a calendar year up to and including 2025, the 2021-2025 hospital and small emitter reduction factor calculated in accordance with article 21(2) of the Trading Scheme Order¹;
- (ii) in the case of a calendar year from 2026 up to and including 2030, the 2026-2030 hospital and small emitter reduction factor calculated in accordance with article 21(3) of the Trading Scheme Order;"

(c) in sub-paragraph (b) before "'AFA'" insert "in relation to a calendar year corresponding to a scheme year² in the 2021-2025 allocation period,";

(d) after sub-paragraph (b) insert—

"(ba) in relation to any other calendar year, AFA is zero;"

(e) for sub-paragraphs (c) to (e) substitute—

"(c) IC for the calendar year is the number of allowances determined in accordance with paragraph (10)(b);

(d) RFS for the calendar year is the number of allowances determined in accordance with paragraph (10)(c);

(e) NER for the calendar year is the number of allowances determined in accordance with paragraph (10)(d);"

(f) after sub-paragraph (f) insert—

"(g) T for the calendar year is the number of allowances determined in accordance with paragraph (10)(e).".

(3) In paragraph (9) in the table omit the 5 rows whose first entries are "2026", "2027", "2028", "2029" and "2030".

(4) For paragraph (10) substitute—

"(10) For the purposes of paragraph (1), for a calendar year referred to in column 1 of the following table—

- (a) the base is the number of allowances set out in the corresponding entry in column 2;
- (b) IC is the number of allowances set out in the corresponding entry in column 3;
- (c) RFS is the number of allowances set out in the corresponding entry in column 4;
- (d) NER is the number of allowances set out in the corresponding entry in column 5;
- (e) T is the number of allowances set out in the corresponding entry in column 6.

| <i>Column 1 Calendar scheme year</i> | <i>Column 2 or Base</i> | <i>Column 3 IC</i> | <i>Column 4 RFS</i> | <i>Column 5 NER</i> | <i>Column 6 T</i> |
|--|---------------------------------|------------------------|-------------------------|-------------------------|-----------------------|
| 2021 | 155,671,581 | 57,856,572 | 4,098,497 | 3,024,907 | 0 |
| 2022 | 151,437,134 | 56,273,432 | 4,098,497 | 3,024,907 | 0 |
| 2023 | 147,202,686 | 54,690,292 | 4,098,497 | 3,024,907 | 0 |
| 2024 | 92,062,882 | 36,825,153 | 2,255,107 | 1,664,388 | 23,316,495 |
| 2025 | 86,742,014 | 34,696,806 | 2,255,107 | 1,664,387 | 13,323,712 |
| 2026 | 79,059,690 | 31,623,876 | 2,255,107 | 1,664,387 | 9,992,784 |
| 2027 | 70,127,996 | 28,051,198 | 2,255,107 | 1,664,387 | 6,661,856 |
| 2028 | 53,498,502 | 21,399,401 | 2,255,106 | 1,664,387 | 0 |
| 2029 | 50,918,572 | 20,367,429 | 2,255,106 | 1,664,387 | 0 |
| 2030 | 49,320,164 | 19,728,066 | 2,255,106 | 1,664,387 | 0 |

Notes

¹ The Greenhouse Gas Emissions Trading Scheme Order 2020 (S.I. 2020/1265, amended by S.I. 2020/1557, S.I. 2021/1455, 2022/454, 2022/1173, 2022/1336 and (with effect from 1st January 2024) 2023/850). "Trading Scheme Order" is defined in regulation 2(1) of S.I. 2021/484.

² "Scheme year" and "2021-2025 allocation period" are defined in article 4(1) of S.I. 2020/1265. Regulation 2(3) of S.I. 2021/484 provides that terms used in both S.I. 2021/484 and S.I. 2020/1265 and not defined in the former have the same meaning as in the latter.

Commencement

reg. 3(1)-(4): September 24, 2023 (SI 2023/994 reg. 1(2))

Extent

reg. 3(1)-(4): United Kingdom



4.— Regulation 12 amended (cost containment mechanism)

(1) Regulation 12 is amended as follows.

(2) In paragraph (1)(b)—

(a) in paragraph (iv) for "if the industry cap for a scheme year (determined in accordance with Article 16a(6)(a) of the Free Allocation Regulation)" substitute "if, for a scheme year referred to in column 1 of the table in regulation 9(10), the number of allowances set out in the corresponding entry in column 3";

(b) in paragraph (v) for "40,984,970 allowances (the flexible share)" substitute "28,081,237 allowances".

(3) After paragraph (1C) insert—

"(1D) For the purposes of paragraph (1)(b)(iv)—

(a) the references in paragraphs (1A) and (1B) to the final annual number of allowances approved under Article 16b of the Free Allocation Regulation¹ must be read as including, in relation to allowances to be allocated for the 2024 and 2025 scheme years, a reference to any increase added to the amount included in column A of the allocation table under article 34B(3A) of the Trading Scheme Order (free allocation for 2024 and 2025 scheme years: lime and malt extract)²;

(b) the reference in paragraph (1B) to an error in an application for free allocation under the Free Allocation Regulation must be read as including a reference to an error in any information provided under article 20(4) of the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023;

(c) the reference in paragraph (1B) to the exercise of functions under the Free Allocation Regulation must be read as including a reference to the exercise of functions under article 20 of the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023."

Notes

¹ EUR 2019/331, amended by S.I. 2020/1557, 2021/1455, 2022/1173 and (with effect from 1st January 2024) S.I. 2023/850. "Free Allocation Regulation" is defined in article 4(1) of S.I. 2020/1265.

² Article 34B(3A) is inserted by S.I. 2023/850 with effect from 1st January 2024.

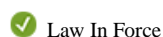
Commencement

reg. 4(1)-(2)(b): September 24, 2023 (SI 2023/994 reg. 1(2))

reg. 4(3): January 1, 2024 (SI 2023/994 reg. 1(3))

Extent

reg. 4(1)-(3): United Kingdom




Stuart Anderson
Andrew Stephenson
Two of the Lords Commissioners of His Majesty's Treasury

12th September 2023

EXPLANATORY NOTE

(This note is not part of the Regulations)

 Law In Force

The Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021 (the "Auctioning Regulations") provide for the auctioning of allowances used in the UK Emissions Trading Scheme, which was established by the Greenhouse Gas Emissions Trading Scheme Order 2020.

These Regulations amend the Auctioning Regulations. The number of allowances to be auctioned from 2024 onwards is reduced: see amendments to regulation 9 of the Auctioning Regulations. These include an amendment to reflect the fact that there is no free allocation for aviation from 2026 onwards. In addition, the number of allowances that may be used for the cost containment mechanism is adjusted: see amendments to regulation 12 of the Auctioning Regulations.

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 2EG or alongside these Regulations on www.legislation.gov.uk.

Commencement

para. 1: September 24, 2023 (SI 2023/994 reg. 1(2))

Extent

para. 1: United Kingdom

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