

SL(6)704 – The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2026

Background and Purpose

The UK Emissions Trading Scheme (“ETS”) was established by the Greenhouse Gas Emissions Trading Scheme Order 2020 (“the 2020 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 four governments in the United Kingdom who jointly operate the ETS as the UK ETS Authority (“the Authority”), replacing the UK’s participation in the EU ETS. It contributes to the UK’s emissions reduction targets and net zero goal, as well as the emissions reduction pathway in Wales.

The ETS incentivises decarbonisation by requiring operators to purchase allowances, which they must monitor, report on and surrender. The ETS runs for 10 years and is split across two allocation periods, being 2021-2025, 2027-2030, and one standalone scheme year (the 2026 scheme year). During those periods, some operators are eligible for free allocation of allowances for greenhouse gas emissions.

In 2023, the Authority consulted on a “Free Allocation Review”. This was followed by a further consultation in 2024 on “Carbon Leakage”. The final policy decisions in the Authority Response to these consultations were developed in line with the UK Government announcement that a UK Carbon Border Adjustment Mechanism (UK CBAM) will be introduced in 2027. They also reflect the agreement between the UK and EU to work towards linking the UK ETS and the EU ETS. The proposed amendment to be made by this Order incorporates these into the ETS legislation on a four nation basis.

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 2020 Order and Commission Implementing Regulation (EU) 2019/1842 are also made.

Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

The following two points are identified for reporting under Standing Order 21.2 in respect of this instrument.



1. Standing Order 21.2 (v) - that for any particular reason its form or meaning needs further explanation

Article 19(8) of this Order amends article 16 of the Free Allocation Regulation (2019/331). The Order aims to insert text in the first sentence of paragraph 5, after the phrase "*for the relevant period*". However, this phrase does not appear in the first sentence of paragraph 5. The phrases "*relevant baseline periods*" and "*relevant allocation period*" both appear. Further explanation is required as to where the text referred to in article 19(8)(a) should be inserted.

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

We note that paragraph 2.1 of the Explanatory Memorandum states:

"As the Order in Council will be subject to UK, Scottish and Northern Irish Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually."

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 required in relation to the first reporting point.

Government Response: *The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2026*

Technical Scrutiny point 1:

We are grateful to the Committee for bringing this to our attention. We accept the point raised. We are working alongside the other Governments who form the UK Emissions Trading Scheme Authority to determine the best option for addressing this issue, and aim to remedy the error at the earliest opportunity.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 26 January 2026 and reports to the Senedd in line with the reporting points above.

