

STATUTORY INSTRUMENTS

**2019 No. 1440**

**The Greenhouse Gas Emissions Trading  
Scheme (Amendment) (No. 3) Regulations 2019**

**Amendment of Schedule 5**

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

(2) In the heading, at the end, insert “ : Article 27 installations ”.

(3) In paragraph 1(4), omit the definition of “emissions target”.

(4) In paragraph 2—

(a) in sub-paragraphs (1) and (2)(a), for “excluded” substitute “ Article 27 ”;

(b) in sub-paragraph (2)(b), for “88(6)” substitute “ 88(2) or (4) ”;

(c) in sub-paragraph (3), for “2013” substitute “ 2021 ”.

(5) In paragraph 3<sup>M1</sup>—

(a) for “excluded”, in each place it occurs, including in the heading of that paragraph, substitute “ Article 27 ”;

(b) in sub-paragraph (1)(e), for “prior to 2021” substitute “ over the first or second allocation period, as the case may be ”;

(c) in sub-paragraph (3)—

(i) in the words before paragraph (a), after “subsequent scheme year”, insert “ over the allocation period to which the direction relates ”;

(ii) for paragraph (b) substitute—

“(b) any relevant changes to the determinations in respect of the sectors and subsectors made by the European Commission pursuant to Article 10b(5)<sup>M2</sup> of the Directive;”;

(d) in sub-paragraph (7), at the end, insert “ 2018 ”;

(e) in sub-paragraph (8), after “Monitoring and Reporting Regulation”, in each places it occurs, insert “ 2018 ”.

<sup>F1</sup>(6) .....

(7) In paragraph 5, for “excluded” substitute “ Article 27 ”.

(8) In paragraph 6<sup>M3</sup>—

(a) in the heading, for “excluded” substitute “ Article 27 ”;

(b) for sub-paragraph (1) substitute—

“(1) Where a capacity increase has occurred at an Article 27 installation after 30th June 2019, the operator may apply to the regulator for an increase in the emissions targets for the installation for the subsequent scheme years within the first allocation period.”;

(c) in sub-paragraph (2)(b), for “2013”, in both places it occurs, substitute “ 2021 ”;

(d) after sub-paragraph (2), insert—

“(2A) Where a capacity increase occurs at an Article 27 installation after 30th June 2024, the operator may apply to the regulator for an increase in the emissions targets for the installation for the subsequent scheme years within the second allocation period.

(2B) An application under sub-paragraph (2A) must be made—

- (a) by 31st December in the year during which the capacity increase occurred or within 3 months of the date of the capacity increase, whichever is later; or
- (b) where the capacity increase occurred before 1st January 2026, by 30th June 2026.”;

(e) in sub-paragraph (3), for “The application” substitute “ An application under sub-paragraph (1) or (2A) ”;

(f) in sub-paragraph (4)—

- (i) after “sub-paragraph (1)”, insert “ or (2A) ”;
- (ii) at the end, insert “ within the allocation period to which the application relates ”;

<sup>F2</sup>(g) .....

(h) in sub-paragraph (8)(a), after “sub-paragraph (1)”, insert “ or (2A) ”;

(i) in sub-paragraph (9)—

(i) for paragraphs (b) and (c) substitute—

“(b) “installed capacity” means—

- (i) for the purpose of calculating new emission targets for the first allocation period, the [<sup>F3</sup>installation’s] installed capacity on 30th June 2019;
- (ii) for the purpose of calculating new emission targets for the second allocation period, the [<sup>F3</sup>installation’s] installed capacity on 30th June 2024;
- (iii) in the case of an installation which has had a capacity increase either since 30th June 2019, or since 30th June 2024, as the case may be, the installed capacity of the [<sup>F3</sup>installation] following the last capacity increase;

<sup>F4</sup>(c) .....”;

(ii) omit paragraph (d).

(9) In paragraph 7—

<sup>F5</sup>(a) .....

(b) in sub-paragraph (4), for “sub-paragraph (5)” substitute “ sub-paragraphs (5) and (8) ”;

<sup>F6</sup>(c) .....

(d) in sub-paragraph (7), for “Where”, substitute “ Subject to paragraph (8), where ”;

(e) after sub-paragraph (7), insert—

“(8) The regulator may not vary an emissions target under sub-paragraph (4)(a) or (7) (a) for a scheme year which begins after the end of the allocation period during which any increase has occurred.”.

(10) In paragraph 8—

(a) for “excluded” in each place it occurs, substitute “ Article 27 ”;

(b) in sub-paragraphs (2)(b) and (5)(b), at the end, insert “ for the remainder of the allocation period during which the notice is given ”;

(c) After sub-paragraph (6), insert—

“(6A) Where regulation 15(C1) applies, the regulator must vary the excluded installation emissions permit, with effect from 1st January 2026, so that the provisions of the permit that satisfy the requirements of paragraph 3 of this Schedule are replaced by provisions satisfying the requirements of paragraph 2 of Schedule 4.”.

(11) Omit paragraph 9.

#### Textual Amendments

- F1** Reg. 29(6) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Withdrawal Agreement\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1369\)](#), regs. 1(2), **44(h)(i)**
- F2** Reg. 29(8)(g) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Withdrawal Agreement\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1369\)](#), regs. 1(2), **44(h)(ii)**
- F3** Word in reg. 29(8)(i) substituted (31.12.2020 immediately before IP completion day) by [The Greenhouse Gas Emissions Trading Scheme \(Withdrawal Agreement\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1369\)](#), regs. 1(2), **44(h)(iii)(aa)**
- F4** Words in reg. 29(8)(i) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Withdrawal Agreement\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1369\)](#), regs. 1(2), **44(h)(iii)(bb)**
- F5** Reg. 29(9)(a) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Withdrawal Agreement\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1369\)](#), regs. 1(2), **44(h)(iv)**
- F6** Reg. 29(9)(c) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Withdrawal Agreement\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1369\)](#), regs. 1(2), **44(h)(iv)**

#### Commencement Information

- I1** Reg. 29(1)-(4)(5)(c)-(e)(6)(7)(9)-(11) in force at 1.1.2021, see [reg. 1\(4\)](#)
- I2** Reg. 29(5)(a)(b)(8) in force at 1.2.2020 for specified purposes, see [reg. 1\(2B\)\(d\)\(e\)](#)
- I3** Reg. 29(5)(a)(b)(8) in force at 1.1.2021 in so far as not already in force, see [reg. 1\(4\)](#)

#### Marginal Citations

- M1** Paragraph 3 was amended by [S.I. 2013/755 \(W. 90\)](#) and 2013/3135.
- M2** Paragraph 5 was substituted by Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 and amending Directive 2003/87/EC to enhance cost-effective emission reduction and low-carbon investments, and Decision (EU) 2015/1814 (OJ L No 76, 19.03.2018, p. 3).
- M3** Paragraph 6 was amended by [S.I. 2013/755 \(W. 90\)](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 3) Regulations 2019, Section 29.