



The Scottish Parliament
Pàrlamaid na h-Alba

Published 7 February 2022
SP Paper 105
1st report, 2022 (Session 6)

Net Zero, Energy and Transport Committee

The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2022



Published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish
Parliament website at:
[http://www.parliament.scot/abouttheparliament/
91279.aspx](http://www.parliament.scot/abouttheparliament/91279.aspx)

For information on the Scottish Parliament contact
Public Information on:
Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

Contents

Introduction	1
Delegated Powers and Law Reform Committee consideration	3
Consideration by the Committee	4
Conclusion	5

Net Zero, Energy and Transport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Net Zero, Energy and Transport.



netzero.committee@parliament.scot

Committee Membership



Convener
Dean Lockhart
Scottish Conservative
and Unionist Party



Deputy Convener
Fiona Hyslop
Scottish National Party



Natalie Don
Scottish National Party



Jackie Dunbar
Scottish National Party



Liam Kerr
Scottish Conservative
and Unionist Party



Monica Lennon
Scottish Labour



Mark Ruskell
Scottish Green Party

Introduction

1. The Net Zero, Energy and Transport Committee reports to the Parliament as follows-
2. [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2022](#) was laid before the Parliament on 16 December 2021 and is subject to the affirmative procedure. The instrument was referred to the Net Zero, Energy and Transport Committee for consideration.
3. This is a joint instrument between the four administrations (Scottish, UK, and Welsh Governments, and the Northern Ireland Executive). It amends the UK-wide Emissions Trading Scheme (“UK ETS”) established by the Greenhouse Gas Emissions Trading Scheme Order 2020.
4. The UK ETS was established as a policy replacement for the UK’s participation in the EU ETS by the four administrations in 2021. This instrument is not made under the European Union (Withdrawal) Act 2018 but relates to the withdrawal of the United Kingdom from the European Union.
5. The instrument is to be made in exercise of the powers conferred on all the four administrations by sections 44, 54 and 90(3), schedule 2 and paragraph 9 of schedule 3 of the Climate Change Act 2008.
6. The UK ETS is a key policy for meeting Scotland’s emissions targets. The scheme is a cap and trade system that is designed to limit overall emissions in the covered sectors and incentivise cost-effective decarbonisation.
7. This instrument makes various technical and operational amendments to the UK ETS. These amendments are intended to ensure consistent and effective enforcement of scheme rules through the strengthening and clarification of provisions relating to scheme penalties and notices to enforce scheme rules, and of powers of entry and inspection for the scheme regulators.
8. Under the UK ETS, operators of certain industrial installations and certain aircraft operators are required to monitor, report on, and surrender allowances equivalent to, their greenhouse gas emissions in each scheme year. Some operators receive an allocation of allowances free of charge. 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, the other for ultra-small emitters, who are not required to surrender allowances.
9. This instrument will introduce amendments to enable the scheme regulators to:
 - impose civil penalties on operators that fail to return allowances to which they are not entitled; to enable the registry administrator to exercise certain powers of enforcement (for example, to give enforcement notices);
 - make it an offence to intentionally obstruct a regulator or an authorised person as they gain entry to premises for the purposes of inspection; and

- provide for operators of installations whose greenhouse gas emissions permits are surrendered or revoked to be treated, in relation to the surrender of any deficit of allowances, in the same way as operators of installations who remain in the UK ETS.
10. The Explanatory Note provides further detail on the instrument and is available [here](#).

Delegated Powers and Law Reform Committee consideration

11. The Delegated Powers and Law Reform Committee considered this instrument at its meeting on [18 January 2022](#) and determined that it did not need to draw the attention of Parliament to the instrument on any grounds within its remit. [Read the official report for the meeting on 18 January 2022.](#)

Consideration by the Committee

12. At its meeting on [1 February 2022](#), the Net Zero, Energy and Transport Committee took evidence on the instrument from Michael Matheson, the Cabinet Secretary for Net Zero, Energy and Transport.

13. In the Cabinet Secretary's opening statement, he highlighted that:

” ...the provisions in the affirmative instrument are designed to support the continued smooth operation of the UK ETS and to deliver the existing policy intentions rather than to fundamentally change the way in which it functions or applies in Scotland.

14. The Committee asked the Cabinet Secretary if the UK ETS is performing as initially envisioned, and whether there has been any discussions with the UK Government on the UK Government's earlier plans to introduce a carbon tax. The Cabinet Secretary responded:

” The UK ETS is performing as it was intended to. There have been discussions between the four nations in recent months to consider whether there ought to be some adjustments to the ETS. The four nations decided not to make any adjustments to the capping levels, given some of the energy price pressures that sectors are experiencing. By and large, the ETS is operating as was intended.

On the carbon tax question, the Cabinet Secretary added:

” I am not aware of how far the UK Government has got on the implementation of a carbon tax, which would have implications for the ETS. In the discussions that we have had with the Department for Business, Energy and Industrial Strategy about the future of the ETS, there has been no suggestion at any point that a carbon tax might be brought in that would render the ETS no longer viable. Our discussions with the UK Government have given no indication of the implementation of a tax regime that would replace the existing ETS. The order that we are discussing will align us more closely with the European Union emissions trading scheme.

15. The Cabinet Secretary then moved Motion—S6M-02605—That the Net Zero, Energy and Transport Committee recommends that the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2022 [draft] be approved.

16. The motion was agreed to without division.

Conclusion

17. The Net Zero, Energy and Transport Committee recommends that the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2022 [draft] be approved.

