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Net Zero, Energy and Transport Committee

Net Zero, Energy and Transport Committee report on the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023 [draft]



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Net Zero, Energy and Transport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Net Zero and Just Transition, with the exception of matters relating to just transition; on matters relating to land reform, natural resources and peatland, Scottish Land Commission; Crown Estate Scotland, and Royal Botanic Garden within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands; and on matters relating to energy within the responsibility of the Cabinet Secretary for Wellbeing Economy, Fair Work and Energy.



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Introduction

1. [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023](#)[draft] was laid before Parliament on 19 September 2023 and is subject to the affirmative procedure. The draft instrument was referred to the Net Zero, Energy and Transport Committee for consideration.
2. It is for the Net Zero, Energy and Transport Committee to recommend to the Scottish Parliament whether the Order should be approved. The Cabinet Secretary for Transport, Net Zero and Just Transition lodged motion [S6M-10535](#) which recommended the Committee approve the Order.
3. According to the [Explanatory Memorandum](#), this instrument amends the UK Emissions Trading Scheme (UK ETS). The scheme was set up in 2020 following EU-exit to replace the UK's involvement in its EU equivalent scheme. In particular, the Order "caps the maximum amount of free allocations for the aviation sector; clarifies the treatment of Carbon Capture and Storage (CCS) plants; and makes other technical amendments to free allocation rules for electricity generation."
4. The UK ETS Authority, which is tasked with overseeing the scheme, is jointly operated by the UK Government and the Devolved Administrations. As such, instruments containing this Order have also been laid before the UK Parliament and Senedd Cymru for approval. The Cabinet Secretary confirmed to the Committee that, because the Northern Ireland Assembly is suspended, the Order will only apply to Great Britain.ⁱ

ⁱ Net Zero, Energy and Transport Committee, [Official Report, 31 October 2023](#), col 3.

Consideration by the Delegated Powers and Law Reform (DPLR) Committee

5. At its meeting on 26 September 2023, the DPLR Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

[Read the Official Report - 26 September 2023](#)

Consideration by the Net Zero, Energy and Transport Committee

6. At its meeting on 31 October 2023, the Committee took evidence on the Order from—
- Màiri McAllan, Cabinet Secretary for Transport, Net Zero and Just Transition, Scottish Government;
 - Mariana Cover, Senior Policy Advisor, UK Emissions Trading Scheme, Scottish Government; and
 - Lucy Geoghegan, Head of Unit, Net Zero Economy and Carbon Markets, Scottish Government.

7. The evidence taken and debate held at that meeting regarding this instrument can be found in the Official Report.

[Read the Official Report - 31 October 2023](#)

8. In her opening remarks, the Cabinet Secretary said the introduction of a new cap on allowances for free allocation for the aviation sector would "amend a current anomaly in the system, whereby data used to allocate free allocations to aircraft operators is inconsistent with current activity levels, resulting in some operators receiving an overallocation of free allowance and creating a competitive distortion."ⁱⁱ
9. The Committee asked if the previous over-subscription of free allocations had led to a significant discrepancy. The Cabinet Secretary said the scale of disparity would vary amongst operators. She added that the cause of the issue had arisen due to outdated activity data.ⁱⁱⁱ
10. The Committee queried the commercial benefits resulting from the over subscription. Lucy Geoghegan confirmed operators would have benefited financially from the deviation. The Committee probed the scale of the financial benefit. The Cabinet Secretary undertook to provide data in follow-up correspondence, noting some of the information the Committee requested may be commercially sensitive.^{iv}
11. The Committee questioned what impact the phasing out of the free allocation will have on the aviation industry. The Cabinet Secretary said "we are still developing our approach to the phase-out date, which is not until 2026, and assessing the impact". She added that she was conscious of the potential implications for Highlands and Islands connections, and had been assured that this would be specifically considered by the UK Authorities as part of the assessment process.^v
12. Following the conclusion of evidence taking, the Cabinet Secretary moved motion

ⁱⁱ Net Zero, Energy and Transport Committee, [Official Report, 31 October 2023](#), cols 2-3.

ⁱⁱⁱ Net Zero, Energy and Transport Committee, [Official Report, 31 October 2023](#), col 4.

^{iv} Net Zero, Energy and Transport Committee, [Official Report, 31 October 2023](#), col 4.

^v Net Zero, Energy and Transport Committee, [Official Report, 31 October 2023](#), cols 4-5.

S6M-10535 in her name—

That the Net Zero, Energy and Transport Committee recommends that the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023 [draft] be approved.

13. The motion was agreed to without debate or division.

Conclusion

The Net Zero, Energy and Transport Committee recommends that the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023 [draft] be approved.

