

# **SL(6)259 – The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 3) Order 2022**

## **Background and Purpose**

The UK Emissions Trading Scheme (“ETS”) was established by the Greenhouse Gas Emissions Trading Scheme Order 2020 (the “principal Order”) as a UK-wide greenhouse gas emissions trading scheme. The UK ETS runs for ten scheme years, beginning in 2021. Operators of certain industrial installations and certain aircraft operators are required to monitor, report on and surrender “allowances” which are equivalent to their greenhouse gas emissions, for each scheme year.

This Order amends the principal Order to include flights from Great Britain to Switzerland within the definition of aviation activity, thus bringing them within the scope of the UK ETS, to require the recalculation of entitlements to a free allocation of allowances to take account of the new category of historic aviation activity, and to permit applications for a free allocation of allowances on the basis of this historic aviation activity by persons who have not previously applied for a free allocation of allowances.

## **Procedure**

Draft Affirmative.

A draft of the Order has been laid before Senedd Cymru, the United Kingdom Parliament, and the Scottish Parliament. The draft must be approved by each of those legislatures before it can be made by His Majesty.

## **Technical Scrutiny**

One point is identified for reporting under Standing Order 21.2 in respect of this instrument.

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

The Order has been laid before Senedd Cymru, the United Kingdom Parliament, and the Scottish Parliament. The Order has been made in English only. The Welsh Government’s Explanatory Memorandum states as follows (at paragraph 2.4):

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

## **Merits Scrutiny**

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.



## **2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.**

The UK ETS is a scheme developed for the four nations of the UK. However, currently, Northern Ireland is unable to pass affirmative legislation. As such, this Order relates to Great Britain only at the current time. The Welsh Government's Explanatory Memorandum states as follows:

*2.5 While the UK ETS is a 4-nation scheme currently Northern Ireland cannot pass affirmative legislation as the Assembly have failed to nominate a Speaker and an Executive has not been formed. As a result, officials have secured Ministerial approval from Northern Ireland to proceed in the first instance with legislation covering Great Britain only.*

*2.6 The legislation covering the flights from Great Britain (England, Scotland and Wales) to Switzerland, would be in effect from 1 January 2023. The legislation covering flights from Northern Ireland to Switzerland would be implemented as soon as the Northern Ireland Assembly is able to progress legislation.*

### **Welsh Government response**

A Welsh Government response is not required.

#### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**5 October 2022**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

—

Welsh Parliament

**Legislation, Justice and Constitution Committee**