



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**            **The Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) (No. 2) Regulations 2019**

**DATE**            **11 April 2019**

**BY**                **Rebecca Evans AM, Minister for Finance and Trefnydd**

### **The Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) (No. 2) Regulations 2019**

The 2019 Regulations make amendments to the following:

#### Amendments to EU Directly Applicable Legislation

- Commissioning Implementing Regulation (EU) 2018/2067
- Commission Regulation (EU) No 601/2012

#### Revocation

- Commission Delegated Regulation (EU) 2019/331

#### Amendments to Domestic Legislation

- Greenhouse Gas Emissions Trading Scheme Regulations 2012
- The Greenhouse Gas Emissions Trading (Amendment) (EU Exit) Regulations 2019

### **Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence**

The SI is part of a package of measures to address the deficiencies within the EU Emissions Trading Scheme regime. This SI amends domestic legislation, and retained direct EU legislation, which largely falls within the legislative competence of the National Assembly for Wales and the Welsh Ministers' executive powers in relation to carbon trading.

### **The purpose of the amendments**

These Regulations are made in exercise of the powers conferred by section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

The Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) Regulations 2019 (the first EU ETS Exit Regulations) related to the continuation of the monitoring, reporting, accreditation and verification obligations of the EU Emissions Trading Scheme (EU ETS) in a no deal scenario and revoked directly applicable legislation relating to the cap and trade elements of the scheme. These Regulations address further deficiencies to the functioning of those obligations as a result of developments in EU which occurred at the end of 2018.

These regulations reflect the introduction of a new EU monitoring regulation (Commission Implementing Regulation (EU) 2018/2066) and verification regulation (Commission Implementing Regulation (EU) 2018/2067) at an EU level, and correct new deficiencies in the current EU monitoring regulation (Commission Regulation (EU) No 601/2012). They specifically introduce:

- An update to the definition of “the Verification Regulation” in regulation 3 of the Greenhouse Gas Emissions Trading Scheme Regulations 2012.
- Minor amendments to the first EU ETS Exit Regulations in consequence of amendments made to the existing monitoring by the new monitoring regulation.
- Amendments to the new verification regulation to ensure the operability of verification requirements after exit.
- An amendment to the new verification regulation to exclude provisions relating to free allocation as after exit, in a no deal scenario, the UK will no longer continue participating in the free allocation process associated with the EU ETS.
- Amendments to the current EU monitoring regulation, to address deficiencies introduced into that regulation by the new EU monitoring regulation.
- The revocation of the EU Regulation that relates to that post exit-day free allocation process (Commission Delegated Regulation (EU) 2019/331) as after exist day, in a no deal scenario the UK will no longer participate in the EU ETS and, therefore, free allocation relating to that scheme will no longer apply.

The SI and accompanying Explanatory Memorandums, setting out the effect of each amendment is available here: <https://beta.parliament.uk/work-packages/X2gK9S1i>

### **Why consent was given**

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency and expediency. These amendments are to ensure that the statute book remains functional following the UK’s exit from the EU, by amending or revoking provisions that would otherwise be inoperable.