

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT RECOGNISED AUCTION PLATFORMS
(AMENDMENT AND MISCELLANEOUS
PROVISIONS) REGULATIONS 2021

DRAFT GREENHOUSE GAS EMISSIONS TRADING
SCHEME AUCTIONING REGULATIONS 2021

Wednesday 14 April 2021

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The Committee consisted of the following Members:

Chair: †MRS SHERYLL MURRAY

† Badenoch, Kemi (*Exchequer Secretary to the Treasury*)

Betts, Mr Clive (*Sheffield South East*) (Lab)

Caulfield, Maria (*Lewes*) (Con)

Duffield, Rosie (*Canterbury*) (Lab)

Duguid, David (*Parliamentary Under-Secretary of State for Scotland*)

† Fletcher, Colleen (*Coventry North East*) (Lab)

Harris, Rebecca (*Lord Commissioner of Her Majesty's Treasury*)

Mann, Scott (*North Cornwall*) (Con)

† Morris, James (*Lord Commissioner of Her Majesty's Treasury*)

† Oppong-Asare, Abena (*Erith and Thamesmead*) (Lab)

† Rutley, David (*Lord Commissioner of Her Majesty's Treasury*)

Slaughter, Andy (*Hammersmith*) (Lab)

Thomson, Richard (*Gordon*) (SNP)

Throup, Maggie (*Lord Commissioner of Her Majesty's Treasury*)

Tomlinson, Michael (*Lord Commissioner of Her Majesty's Treasury*)

Whitley, Mick (*Birkenhead*) (Lab)

Williams, Craig (*Montgomeryshire*) (Con)

Robi Quigley, *Committee Clerk*

† **attended the Committee**

Third Delegated Legislation Committee

Wednesday 14 April 2021

[MRS SHERYLL MURRAY *in the Chair*]

Draft Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021

2.30 pm

The Chair: Before we begin, I remind Members to observe social distancing and to sit only in places that are clearly marked. I also remind Members that Mr Speaker has stated that masks should be worn in Committee. *Hansard* colleagues will be most grateful if Members could send their speaking notes to hansardnotes@parliament.uk.

The Exchequer Secretary to the Treasury (Kemi Badenoch): I beg to move,

That the Committee has considered the draft Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021.

The Chair: With this it will be convenient to consider the draft Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021.

Kemi Badenoch: It is a pleasure to serve under your chairmanship, Mrs Murray. The two draft instruments relate to the UK emissions trading scheme or ETS.

At the end of the transition period, the UK ceased to participate in the European Union's emissions trading scheme. However, the Government remain committed to maintaining an ambitious carbon price to ensure that polluters continue to pay for their emissions, as they should. At the start of the year, we launched the UK ETS, which has been legally established under the Climate Change Act 2008. It is a UK-wide greenhouse gas emissions trading scheme designed to encourage emissions reductions when most cost-effective. It applies to energy generation, energy-intensive industries and aviation.

Reducing emissions while supporting UK industry is central to the Government's mission to deliver our world-leading net zero target. The UK ETS is key to achieving that goal. The new scheme provides a smooth transition for businesses while reducing our contribution to climate change from day one.

Emissions trading schemes work on the cap-and-trade principle. A cap is set on the total amount of greenhouse emissions covered by the scheme and, within that cap, participants receive or buy emission allowances, which may be traded with other participants as required. The cap is reduced over time, so that total emissions fall. Participants are required to monitor their emissions and to surrender one emission allowance for every tonne of carbon dioxide equivalent emitted. An ETS is therefore underpinned by the creation of a market for emission allowances. Auctioning and trading such allowances leads to the discovery of a market price for greenhouse gas emissions.

The UK ETS was established by the Greenhouse Gas Emissions Trading Scheme Order 2020. That GGETS order was made under the Climate Change Act 2008 on 11 November 2020. It set up a UK-wide emissions trading scheme, as launched on 1 January 2021. The GGETS order regulates the emission of greenhouse gases in the United Kingdom, permits the creation of allowances to emit 1 tonne of carbon dioxide equivalent and sets a cap on the number of allowances that may be created in any scheme year.

The draft regulations we are debating today relate to the auction of emissions allowances as part of the UK ETS. The first of the statutory instruments is the draft Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021. It creates an oversight role for the Financial Conduct Authority, the FCA, in the UK ETS and emission allowance market. It was laid under the European Union (Withdrawal) Act 2018 and makes consequential amendments to financial services law and related matters to provide for the safe and effective operation of the market for UK emission allowances as part of the UK ETS.

The SI amends existing financial services legislation so that it works in the context of a UK-only ETS. In doing so, it ensures that the Financial Conduct Authority can oversee the auctioning and trading of emission allowances and can ensure the soundness and integrity of the market. The instrument has been introduced now so that it may receive parliamentary approval in time for the first auctioning of UK emission allowances in May 2021.

The draft SI establishes the activity of bidding in an emission allowance auction as a regulated activity and establishes UK emission allowances as financial instruments. That means that the FCA has oversight of bidding in allowance auctions, and ensures that the allowances themselves are subject to the appropriate regulatory treatment with regard to issues such as market abuse. The instrument also amends financial promotion legislation, so that the promotion of investments in UK emission allowances can be undertaken only by persons with the correct permissions.

To properly empower the FCA to oversee the regime, the SI also updates rules around the disclosure of confidential information so that the FCA can correctly discharge its functions with regard to the disclosure of information relating to the UK ETS and emission allowance holdings. It ensures that the FCA has the investigation and enforcement powers to fulfil its duties with regard to preventing financial misconduct in the context of the auctioning and trading of emission allowances.

Finally, the SI amends the UK market abuse regulation, known as UK MAR, so that it covers the primary and secondary market trading of UK emission allowances and the secondary market trading of EU emission allowances when those activities are within the territorial scope of UK MAR. In summary, the instrument will ensure the integrity of the UK carbon emission allowances market, in turn facilitating the contribution that the new UK ETS will make as the UK's leading carbon pricing policy instrument. That will encourage cost-effective emission reductions, and therefore help us to achieve our net zero goal.

Alongside the draft Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021 are the draft Greenhouse Gas Emissions Trading

Scheme Auctioning Regulations 2021, which were laid before the House on 11 February 2021. A correction slip was laid on 15 February 2021 for a minor amendment clarifying that the UK ETS will have an auction reserve price of £22 per tonne of carbon dioxide equivalent, as announced alongside the publication of the draft regulations on 11 February.

The instrument provides for the auctioning of emission allowances to emit 1 tonne of carbon dioxide equivalent under the UK emissions trading scheme and introduces mechanisms to support market stability in the new scheme. The draft regulations are made under the power in section 96 of the Finance Act 2020 to make regulations on the allocation of emission allowances in exchange for payment. The draft regulations make provision under the Act for auctions of allowances to emit 1 tonne of carbon dioxide equivalent created under the Greenhouse Gas Emissions Trading Scheme Order 2020.

Part 1 contains the interpretation provisions. Part 2 provides for the products to be auctioned and sets out how bids are to be submitted and withdrawn, and how the auction clearing price is to be determined. Part 3 makes provision for the auction calendar and when the calendar may be adjusted. It sets out what happens to the volume of allowances at cancelled auctions, what volume of allowances are to be auctioned annually, and provides for a cost containment mechanism, enabling the Treasury to adjust the distribution or volume of allowances to be auctioned in any one year if the carbon price exceeds specified limits.

Part 4 provides for access to auctions. Parts 5, 6 and 7 provide for the appointment and functions of the auctioneer and the auction platform, and their appointment requirements. Part 8 provides for the reporting of transactions. Part 9 provides for the payment and transfer of the auction proceeds. Part 10 provides for the delivery of the auctioned allowances. Part 11 provides for the management of collateral. Part 12 provides for fees and costs.

Part 13 provides for monitoring of auctions, remedial measures and sanctions. Part 14 provides for the publication of auction results and protection of confidential information. Finally, Part 15 makes provision for a right of appeal and the correction of errors. The instrument therefore provides the rules covering both auctions and secondary markets for emission allowances as part of the UK ETS. It also introduces mechanisms to support market stability.

The two instruments will ensure the functionality and integrity of the auctioning and trading of emission allowances due to begin next month, thereby preserving the soundness of the UK ETS market. Together, they are fundamental to the Government's ambitions to encourage cost-effective emission reductions and ultimately to achieve our goal of net zero.

2.39 pm

Abena Oppong-Asare (Erith and Thamesmead) (Lab): It is a pleasure to serve under your chairmanship, Mrs Murray. I thank the Minister for providing an overview of the regulations. As she has said, the regulations take further steps to establish a UK ETS by setting out more detail on how the auctions will operate. The second set of regulations amend financial services legislation to allow the functioning of the new UK ETS and to continue the Financial Conduct Authority's role in regulating aspects of it.

We do not oppose the regulations, but I wish to make a couple of points and ask the Minister some questions. There has been a long-running debate, not least among the Government themselves, about what should replace the EU ETS as the UK left the EU. Until relatively recently, the Government were considering three options: a stand-alone UK ETS, a linked scheme or a carbon tax. The uncertainty about carbon pricing left many UK businesses in a state of confusion last year. It is welcoming that some clarity is now being given by the Government, but it is far from ideal that they are bringing forward this detail after the UK ETS has already been in existence for over three months. Once again, businesses have been left in the lurch. I am afraid that this sort of last-minute policy making, which does not recognise the long lead-in times that businesses need to operate, is typical of the Government.

We welcome the Government's decision to stick with the cap-and-trade principles rather than pursue a carbon tax, and we support the creation of a UK ETS. However, we believe it is critical that the UK ETS is linked with the EU ETS. I am sure the Minister agrees that the only way to address climate change is to do so in partnership with countries around the world, and that we need an international approach to reducing carbon emissions. I hope that the Government will not let political or ideological aversion to working with the EU get in the way of doing what is best for the environment.

The Government's energy White Paper, published last December, said:

"The UK is also open to linking the UK ETS internationally in principle and we are considering a range of options, but no decision on our preferred linking partners has yet been made."

Can the Minister update us on whether negotiations have started with the EU on this issue? Can she tell us whether the Government are considering linking with other schemes around the world? If so, which ones? We really need some clarity on this vital issue.

I turn now to some specific points about the regulations, which set the auction reserve price at £22 per tonne of carbon. That is an increase from the Government's previous proposal, but the Minister will know that the EU ETS price has increased considerably in recent months and is currently around £44. Do the Government intend to make any further changes to ARP in the light of this? The auction reserve price must be set at a level that creates a robust market and ultimately drives down emissions.

There is also an issue of market volatility, which has the potential to be especially problematic, given the smaller size of the UK ETS versus the EU ETS. A report by the Climate Change Committee said that

"a standalone UK ETS faces potentially significant challenges in achieving market stability and liquidity."

Clearly, linking with the EU ETS would mitigate the risk, as would expanding the range of sectors covered by the ETS. It has recently been reported that the Government are considering extending ETS to the agriculture sector. Can the Minister update us on the Government's thinking on this issue, and can she set out what steps the Government will take to ensure the market functions correctly?

A well-functioning and ambitious emissions trading system will clearly be a critical tool in our path to net zero. It is extremely important that the Government get that detail of the system right, and I hope the Minister can provide some reassurances on this today.

2.44 pm

Kemi Badenoch: I thank the hon. Lady for her contribution to the debate and for the Opposition's broad support for carbon pricing and the draft instruments. She asked whether we are still interested in linking the UK ETS to the EU ETS. The UK is open to linking the UK ETS internationally in principle. We are considering a range of options, but no decisions on preferred linking partners have yet been made. We are already looking to innovate and create schemes suited to the UK and our climate commitments. We have started by reducing the cap on emissions by 5% compared with what it would have been within the EU, and we will set out further plans ahead of COP26. Having our own scheme means that we can be flexible, now that we are a sovereign nation, and can go further and faster than the EU.

Regarding which option we took, whether a stand-alone UK ETS, a carbon emissions tax and so on, the Government carefully considered the important economic and environmental aspects of each policy ahead of making a decision for a UK ETS. That included the certainty of carbon price, simplicity of the policy and the cost to business. On balance, however, the Government felt that the UK ETS—with a cap on emissions, which we will consult on to enable it to align with net zero, and the continuity it offers participants—offers a better basis for businesses to decarbonise. It is right that, at the moment of leaving the EU, we took the time to prepare properly and consider both a UK ETS and a carbon tax, given that the chosen mechanism will be crucial to meeting our climate ambitions over the coming decades. Preparations for a carbon emissions tax were already advanced due to the contingency planning that took place for the scenario whereby the UK left the EU without a deal and thereby ceased to participate in the EU ETS. As such, additional costs to develop this option further were minimal. I remind the hon. Lady that payment will not be due until April 2022, so I do not accept the assertion that businesses have been left with uncertainty; we have actually given them quite a lot of time to prepare for changes.

The hon. Lady also asked what we will do with the auction reserve price. We have set a floor for that. The Government would be prepared, should prices become exceedingly high, to intervene, but at the moment we will let the market run its course. She also asked about the tax implications for sectors such as agriculture. I say to her that the Treasury keeps all taxes under review.

The draft Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021, laid under the European Union (Withdrawal) Act 2018, will make amendments to financial services law to provide for the safe and effective operation of the UK emissions allowances market, as part of the UK ETS. The draft Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021, laid under the Finance Act 2020, will provide for the auctioning of emissions allowances under the UK ETS. It will also introduce mechanisms to support market stability in the new scheme. Together, these two instruments will ensure the integrity of the market that will underpin our carbon pricing goals and are vital to ensuring that the UK ETS can function as planned.

I thank the hon. Lady for her contribution, and I greatly appreciate the support that has been shown for the draft instruments, which will ensure that the UK has a domestic carbon pricing policy that is fit for the net zero future we have committed to.

Question put and agreed to.

DRAFT GREENHOUSE GAS EMISSIONS TRADING SCHEME AUCTIONING REGULATIONS 2021

Resolved,

That the Committee has considered the draft Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021.—(*Kemi Badenoch.*)

2.49 pm

Committee rose.

