

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT GREENHOUSE GAS EMISSIONS TRADING  
SCHEME (AMENDMENT) (NO. 3) ORDER 2022

*Monday 7 November 2022*

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**The Committee consisted of the following Members:**

*Chair:* STEWART HOSIE

† Anderson, Stuart (*Wolverhampton South West*) (Con)

† Baillie, Siobhan (*Stroud*) (Con)

† Brennan, Kevin (*Cardiff West*) (Lab)

† Brown, Alan (*Kilmarnock and Loudoun*) (SNP)

† Bruce, Fiona (*Congleton*) (Con)

Byrne, Liam (*Birmingham, Hodge Hill*) (Lab)

Foy, Mary Kelly (*City of Durham*) (Lab)

† Hudson, Dr Neil (*Penrith and The Border*) (Con)

† Jarvis, Dan (*Barnsley Central*) (Lab)

Johnston, David (*Wantage*) (Con)

† Morden, Jessica (*Newport East*) (Lab)

† Richardson, Angela (*Guildford*) (Con)

† Stevenson, Jane (*Wolverhampton North East*) (Con)

† Stuart, Graham (*Minister for Climate*)

† Swayne, Sir Desmond (*New Forest West*) (Con)

† Syms, Sir Robert (*Poole*) (Con)

† Whitehead, Dr Alan (*Southampton, Test*) (Lab)

Anna Kennedy-O'Brien, *Committee Clerk*

† **attended the Committee**

## Third Delegated Legislation Committee

Monday 7 November 2022

[STEWART HOSIE *in the Chair*]

### Draft Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 3) Order 2022

6 pm

**The Minister for Climate (Graham Stuart):** I beg to move,

That the Committee has considered the draft Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 3) Order 2022.

It is a pleasure to serve under your chairmanship, Mr Hosie.

The UK emissions trading scheme, the UK ETS, was established under the Climate Change Act 2008 by the Greenhouse Gas Emissions Trading Scheme Order 2020 as a UK-wide greenhouse gas emissions trading scheme to encourage cost-effective emissions reductions, contributing to the UK's emissions reduction targets and net zero goal. The scheme replaced the UK's participation in the European Union ETS, and the 2020 order applied existing rules on the monitoring, reporting and verification of emissions, with modifications to ensure that they work for the UK ETS. The purpose of this order is to amend the 2020 order to enable the inclusion of flights from Great Britain to Switzerland within the scope of the UK ETS.

The UK ETS currently covers domestic flights, flights from the UK to the European economic area, and flights between the UK and Gibraltar.

**Alan Brown (Kilmarnock and Loudoun) (SNP):** I thank the Minister for giving way. When did the Government realise there was an omission and a lack of agreement with Switzerland? Are there other countries that the UK should have agreements with that have dropped off since we left the EU?

**Graham Stuart:** That is an excellent question. We seek to find the right partners and optimise the system going forward. We always keep that under review. If I have further information, when suitably refreshed I will happily share it with the hon. Gentleman.

**Alan Brown:** Is the Minister willing to write with the relevant information on the question I raised?

**Graham Stuart:** I am indeed; I will be delighted to do so.

Since our departure from the European Union, flights between the UK and Switzerland are not covered in either the UK or the Swiss emissions trading systems, creating a gap in ETS coverage. The Government consulted on the policy in this draft instrument between May and July 2019 as part of a consultation called "The future of UK carbon pricing". In the 2020 Government response

to the consultation, we committed to include UK-to-Switzerland flights in the scope of the UK ETS if an agreement could be reached with Switzerland. The agreement has been reached, and Switzerland has amended the relevant domestic legislation to ensure that flights from Switzerland to the UK are included in the Swiss ETS from 2023. This instrument amends the 2020 order to include flights from Great Britain to Switzerland in the scope of the UK ETS for the start of the 2023 scheme year.

In 2019, UK-to-Switzerland flights amounted to approximately a quarter of a megatonne of CO<sub>2</sub>—less than 0.2% of the UK ETS cap for the 2023 scheme year. The policy intent is to include flights from across the UK to Switzerland in the scope of the UK ETS. As the Northern Ireland Assembly was not able to consider affirmative legislation at the time this instrument began the legislative process, this legislation only brings GB to Switzerland flights within scope of the UK ETS.

**Kevin Brennan (Cardiff West) (Lab):** I am grateful to the Minister for giving way on that point. It is ironic that we have been able to reach agreement with Switzerland, but not with Northern Ireland. Leaving that aside, can he enlighten the Committee on how many flights will be covered by the scheme? I do not know whether there are flights from Northern Ireland to Switzerland, but what impact might the order have? I apologise if the shadow Minister was going to ask the same question.

**Graham Stuart:** It is a most excellent question. When the hon. Member for Southampton, Test asks it later, I am sure I will be able to give a definitive answer, but it is a pretty small percentage. I look forward to sharing the exact percentage with the Committee.

Once the Northern Ireland Assembly is functioning, equivalent legislation will be proposed to the Assembly as soon as possible to ensure that all flights between the UK and Switzerland are covered.

In conclusion, the SI will close a gap in the coverage of the UK ETS, fulfilling the commitment set out in the Government response to the consultation on "The future of UK carbon pricing" and upholding the agreement with Switzerland. On that basis, I commend the order to the Committee.

6.5 pm

**Dr Alan Whitehead (Southampton, Test) (Lab):** This statutory instrument does something fairly simple, which should have been done quite a long time ago. It regularises the arrangements relating to the 2020 UK ETS system with Switzerland, which, being a member of the single market but not of either the European economic area or the EU, fell outside both provisions when the UK ETS was set up. It may have been possible to spot that at the time, and it has taken rather a long time to fill that gap, but it will now be filled.

What that means, if we agree on this afternoon's SI, is that, while stating, in principle, that all flights from the UK are international flights—because we are no longer in the EU—the UK will have a parallel system to that of the EU. The EU ETS supplies both-end emissions arrangements to all members of the EU, and those of the EEA, which are, of course, Iceland, Norway and Lichtenstein. I think that that is a partial answer to the

question from the hon. Member for Kilmarnock and Loudoun, in that we now have a fairly seamless arrangement, as far as all of Europe and the EEA is concerned, regarding two-ended emissions-trading arrangements for flights throughout Europe in general.

That is except for one flight—the six-days-a-week flight between Belfast and Geneva—which is uniquely not covered by that arrangement. Therefore, it is not quite right to say, as the explanatory memorandum suggests, that there was a gap that has been filled by this measure; there was a gap, and it is now smaller, but it is still a gap. I am sure that those people who do take that flight from Belfast to Geneva, and/or back again, will be discomfited to know that they are the new exception.

I am a little concerned about that gap, because the explanatory memorandum to this SI states that:

“Further legislation will be brought forward in relation to Northern Ireland to Switzerland flights when feasible.”

Is the Minister saying that it is not feasible because the Northern Ireland Assembly is not in operation, and, therefore, it will become feasible when the Assembly returns? Alternatively, is he saying, “It’s not feasible because we haven’t got time to do it at the moment”?

As we know, we are regularly legislating. Indeed, the Minister and I were talking this morning about seven pieces of secondary legislation coming forward regarding the energy price support mechanisms. All of those have two pieces of legislation each—an SI for England, Scotland and Wales, and a parallel SI of the same nature for Northern Ireland. The argument for that is precisely because there is no Assembly in Northern Ireland, so we have to do it ourselves in the UK Parliament. I would have thought that that was perfectly straightforward and could have easily been done under these circumstances, so that people flying from Belfast to Geneva would feel much happier about how their flights are dealt with as far as offsetting and carbon trading are concerned.

Can the Minister tell us what is meant by “feasible” under these circumstances, and whether he intends to speedily introduce an SI that regularises the position? By the way, that would help considerably with allocating the payments for emissions, which will take place between flights to Switzerland generally and may have to be further amended when the Belfast-Geneva flight is brought into the process, so an administrative good could be done in the fairly short term if legislation, which I imagine would be as brief as the draft order we are considering, were to be introduced.

The Minister might also briefly comment on the fact that the UK will now have a system of two-ended ETS flight arrangements across the whole of the European economic area. The UK is now in a position parallel to that of the EU, which makes a distinction between flights that are effectively regarded as domestic for the purposes of emissions trading and international flights, which are governed by the UN carbon offsetting reduction scheme for international aviation, known as CORSIA. The scheme does not impose an emissions cap, but simply requires any aviation emissions above the level in 2019 to be offset.

However, the EU proposes to go further than that. Indeed, the European Parliament recently voted to extend the EU ETS from intra-EU flights—that is, within the European economic area—to all departing flights, subject to an adjustment to reclaim the cost of offset unit

purchase for the same flights under CORSIA, which is the arrangement for international flights at the moment. That needs to be agreed by the European Commission, but it is well under way.

The UK has never defined the relationship between CORSIA and the UK emissions trading scheme as far as aviation is concerned. Now that our playing set is complete, is it the Minister’s intention not only to define the relationship with CORSIA, but to undertake the same sort of arrangement for international flights outside the EEA that the EU is looking at, in order to create a much better system of international flights outside the European economic area?

I am sure the Minister now has inspiration for all my questions and will be able to give us a full account of how these things are to proceed, but I would be particularly grateful to hear about the progress with the poor, sad missing Belfast-to-Geneva flight that I know we are all concerned about.

6.13 pm

**Kevin Brennan:** I am grateful to the shadow Minister for answering the question that I put to the Minister. I assume that is correct, and that the Minister can confirm officially that just that one flight, which takes place six times a week between Northern Ireland and Switzerland, is absent from the provisions of the statutory instrument.

I have two other brief questions, which I hope the Minister will be able to answer. In paragraph 12.3 of the explanatory memorandum, the Government indicate that they did not prepare an impact assessment for the SI because

“it is not a regulatory provision.”

Can the Minister explain in what sense the SI is not a regulatory provision, and what that means?

In lieu of providing an impact assessment, the Government signpost Members to the document, “Analytical Annex to Developing the UK Emissions Trading Scheme (UK ETS)”, published in March 2022. That annex does not add very much to what is provided today, but the annex to chapter 5, which deals with aviation, says that the Government propose to

“permit verifiers of aviation activities to conduct remote site visits, provided that an appropriate risk assessment has been carried out and any precautionary conditions have been met.”

Does the statutory instrument we are considering today have any impact on that proposal? Who would be the verifiers of aviation activities referred to in the annex to chapter 5?

6.16 pm

**Graham Stuart:** I thank hon. Members for their valuable contributions to the debate, and I am grateful for the broad support—so enthusiastic, so driven, so loud—for the proposals.

In answer to the various questions that have come up, I should mention that flights between the UK and Switzerland fell out of scope of ETS coverage following the UK’s withdrawal, although those flights were previously covered by the EU ETS following the EU-Swiss linking agreement, which came into force in 2020. We are looking to restore coverage of that gap. The majority of international flights departing the UK are covered by the carbon offsetting and reduction scheme for international

[Graham Stuart]

aviation—CORSA—and the UK continues to play a leading role in the work of the International Civil Aviation Organisation, negotiating for ambitious global action to tackle international aviation emissions, including protecting and strengthening CORSA.

In 2019, flights from Northern Ireland to Switzerland made up just 76—my maths is functional, if that, but six flights a week would appear to amount to rather more than that—or 0.28% of the total 26,813 flights from the UK to Switzerland. That represented 1,081 tonnes of carbon dioxide, 0.39% of the total 277,814 tonnes. The impact of not including those flights is therefore small, but not negligible. As such, we aim to include those flights in the ETS as soon as possible.

As to why we cannot currently do so, legislation for the UK ETS is made under the Climate Change Act 2008. The powers are devolved, and therefore exercisable only by the Secretary of State for England and by the respective devolved Administrations for the other nations of the UK. Where all agree, joint legislation can be made for the whole of the UK by the Privy Council. The heart of the matter is that under the terms of that Act, scheme expansion requires an affirmative instrument. The Northern Ireland Assembly has not been able to debate and approve instruments, so it is not currently possible to make legislation that extends to Northern Ireland. The draft order has already been approved by the Scottish Parliament and by the Senedd. If approved by both Houses of Parliament, the order will be submitted to the Privy Council to be made covering Great Britain. Therefore, it is a function of the legislation.

**Kevin Brennan:** I understand that point; presumably, if an affirmative instrument is required, Ministers cannot make that legislation in the absence of the Assembly's meeting. However, if I heard the Minister correctly, he said that there were 76 flights in 2019, whereas the shadow Minister, my hon. Friend the Member for Southampton, Test, said that the actual figure is a return flight six times a week. My maths is not bad—I got a grade A O-level back in the day—and that is a lot more than 76. Will the Minister clarify that point and write to the Committee with the actual figure and, if there is a disparity, the true level of emissions?

**Graham Stuart:** I am sure every member of the Committee will be waiting to hear that, and I am happy to write to confirm it. As it is, it is a relatively small number of flights, given the overall number that go from the UK.

**Dr Whitehead:** My checking process was probably not as accurate as the entire civil service was able to muster, but it looks to be the case that there is one direct flight between Belfast and Switzerland, and a number of flights that stop in other places. If we believe Skyscanner, that is where the six flights a week come from. But I

stand to be corrected; there may be flights that I have missed out that come under that umbrella, and it may be that some of the stopping flights are included.

**Graham Stuart:** I have agreed to write with further information, notwithstanding the ability that any of us has to check Skyscanner, and I am happy to do so. However, it was 76 flights in total in 2019, so we are talking about a pretty small issue.

On CORSA, which I know Members will be keen to hear more about, the UK Government, led by the Department for Transport, consulted on implementing CORSA in 2021, including six high-level options for how CORSA could interact with the UK ETS on flights in the scope of both schemes. We are carefully considering the approach to CORSA implementation and will consult further in due course, seeking to have all legislation for CORSA in force by 2024.

The UK ETS is regarded in legislation as a fiscal measure, not a regulation. We published an analytical annex with the initial Government response in August 2022. That examined the impact of applying the UK ETS to UK-to-Switzerland flights, so I think that only direct flights are affected. I congratulate the hon. Member for Cardiff West: it is hard to be more arcane than his hon. Friend the shadow Minister, or to have a more detailed grasp or inspection of the factors behind legislation, but on this occasion I think he has achieved it, and I know that he will be pleased to continue the discussion even further.

**Kevin Brennan:** To save me making another speech—of course, I could—I will just intervene on the Minister. Unusually for him, because he is always very thorough, he has left one loose end, which is my question about who the verifiers will be. I am perfectly happy for him to tie up that loose end later by writing to the Committee, in order that we can have that question answered and we can have properly and thoroughly scrutinised this particular fiscal measure.

**Graham Stuart:** I thank the hon. Gentleman for his question. I am sure that, like me, when he was a small boy he was terribly excited when he received a letter addressed to him. I know that other members of the Committee will have a similar childish excitement when they get my letter, in which I will answer that point too, because the verifiers need to be identified properly and effectively.

With no further ado, and with what I can see is the great expectation of the Chair, I commend the draft order to the Committee.

**The Chair:** I am almost expecting a letter in the post.  
*Question put and agreed to.*

6.23 pm

*Committee rose.*



