

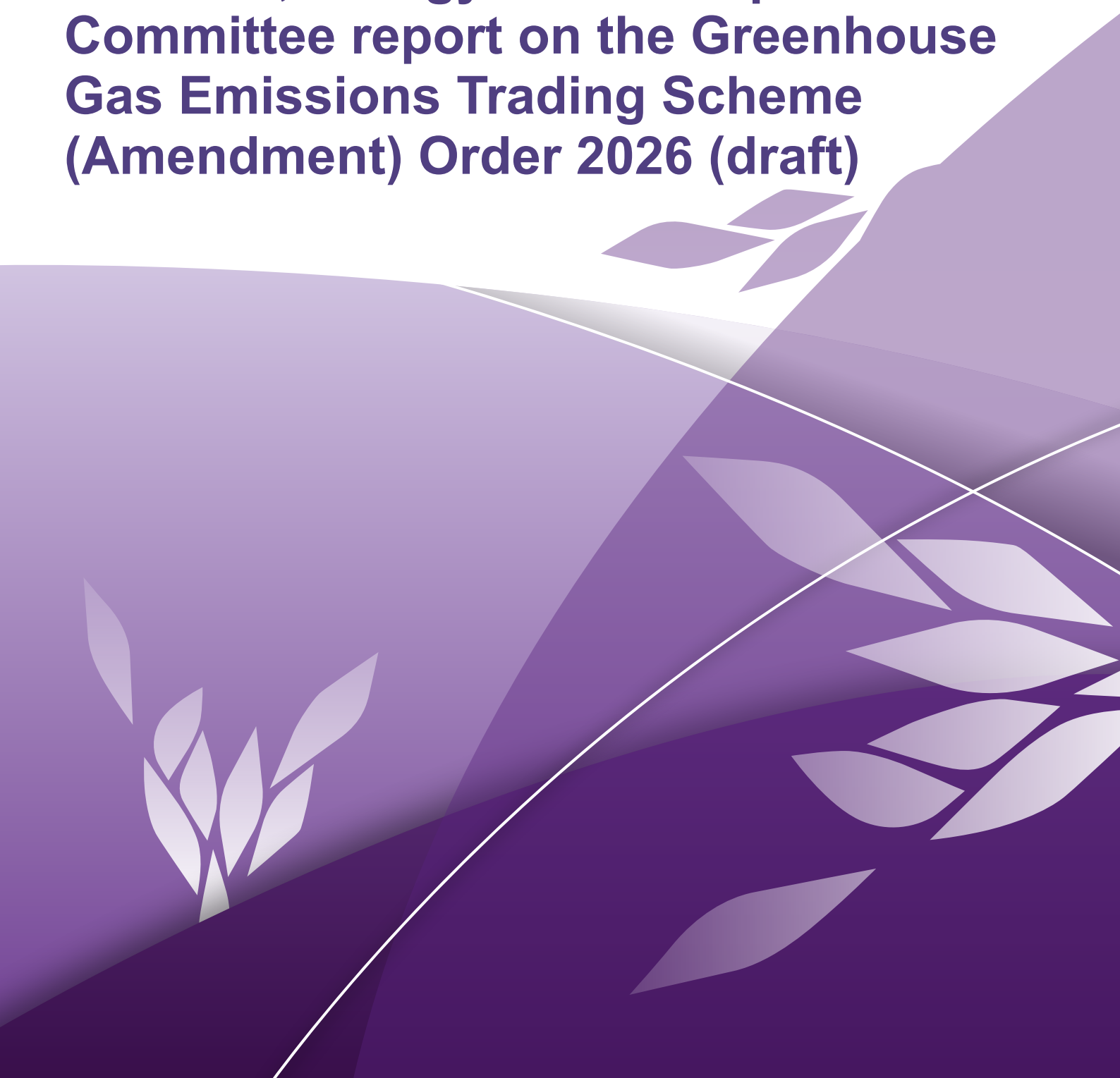


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Net Zero, Energy and Transport Committee

Net Zero, Energy and Transport Committee report on the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2026 (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 Transport and the Cabinet Secretary for Climate Action and Energy, with the exception of matters relating to just transition; and 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.



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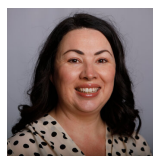
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Introduction

1. The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2026 (draft) was laid before the Scottish Parliament by the Scottish Government on 17 December 2025. It is subject to the affirmative procedure, which means it cannot be made unless it has been approved by a resolution of the Parliament.
2. It is for the Net Zero, Energy and Transport Committee, as lead committee, to decide whether or not to recommend approval. On 2 December 2025, the Cabinet Secretary for Climate Action and Energy lodged Motion [S6M-19991](#), proposing that the Committee recommend the draft Order be approved.

About the instrument

3. This instrument makes various changes to the UK Emissions Trading Scheme (UK-ETS). The UK Government and devolved administrations announced in June 2020 that they would be introducing a UK ETS to replace the EU Emissions Trading Scheme (EU ETS) after the UK left the EU. The four administrations collectively constitute the UK-ETS Authority that oversee the UK-ETS. The UK ETS is a cap-and-trade emissions scheme, of similar design and with similar aims to the EU ETS.
4. The Explanatory Note for the Statutory Instrument sets out that there are three main changes that result from the instrument.
5. The first relates to the forthcoming United Kingdom Carbon Border Adjustment Mechanism (UK CBAM). A CBAM is a mechanism implemented by governments to effectively apply a carbon tax on goods imported that have a defined level of embedded carbon (i.e. a defined amount of carbon emissions were produced in the manufacture).
6. In December 2023, the UK Government [announced the UK would implement a CBAM](#). It consulted on the design of a UK CBAM during 2024. Based on the Government's announcements, UK CBAM will be similar to EU CBAM but there are differences in terms of timescale and scope. The UK CBAM is set to be introduced on 1 January 2027. There are five sectors which are set to take part in the CBAM (cement, fertilisers, iron and steel, aluminium and hydrogen).
7. According to the Explanatory note, the first main change from the instrument arises as a result of the introduction of the UK CBAM from 2027. Industrial installations that operate in one of the five sectors covered by UK CBAM (cement, fertilisers, iron and steel, aluminium and hydrogen) will have their annual free allocation reduced by a set amount over the 2027-2030 allocation period (articles 19(9) and 22(3) of the Order).
8. Operators of "incumbent" installations will specify during the second stage of their application for free allocation in the 2027-2030 period whether they operate in any of the five UK CBAM sectors and some operators may be required to resubmit the data they submitted in their stage one application. The operators required to resubmit will also be required to modify their monitoring methodology plan and vary their permit. These operators will later have to resubmit in 2027 the "activity level report" they submitted in 2026. If an incumbent installation operates in a UK CBAM sector, a UK CBAM reduction factor will be applied to the calculation of their free allocation in each of the 2027-2030 scheme years.
9. The second main change is to 'enable operators of incumbent installations to have their 2020, or 2020 and 2021, scheme year data excluded from the calculation of their historical activity levels (the arithmetic mean of their activity levels in the 2019-2023 scheme years) upon which their free allocation entitlement is calculated. This is in recognition of the impact of COVID-19 on activity levels in the 2020, or 2020 and 2021, scheme year/s resulting in historical activity levels that do not represent an installation's typical activity.
10. The second main change is to enable operators of incumbent installations to have their 2020, or 2020 and 2021, scheme year data excluded from the calculation of

their historical activity levels (the arithmetic mean of their activity levels in the 2019-2023 scheme years) upon which their free allocation entitlement is calculated. This is in recognition of the impact of COVID-19 on activity levels in the 2020, or 2020 and 2021, scheme year/s resulting in historical activity levels that do not represent an installations typical activity.

11. The third main change is to ‘provide that existing “benchmarks” (which reflect an average emissions intensity per unit of product of the most efficient installations in each sector) in Annex 8 to the Free Allocation Regulation will be used to calculate free allocation in the 2027 scheme year (an installation’s historical activity level is multiplied by the relevant benchmark as part of the calculation), and that the UK ETS Authority will subsequently adopt updated benchmarks for the 2028, 2029 and 2030 scheme years via secondary legislation using powers provided for in Part 3 of the Climate Change Act 2008.

Consideration by the DPLR Committee

12. The Delegated Powers and Law Reform (DPLR) Committee is required to consider every instrument laid before the Parliament and decide whether to draw it to the attention of the Parliament on any of the “reporting grounds” set out in Rule 10.3 of the Parliament’s standing orders.
13. The DPLR Committee considered the instrument on 13 January 2026 and reported on it in its [6th report 2026](#). The DPLR Committee made no recommendations in relation to the instrument but noted that this draft instrument has been withdrawn and re-laid twice: first due to errors identified by the responsible Minister and subsequently following [questions raised by the DPLR Committee](#) with the Scottish Government.

Consideration by the Net Zero, Energy and Transport Committee

14. At its meeting on 27 January, the Net Zero, Energy and Transport Committee took evidence on the instrument from:
 - Gillian Martin, Cabinet Secretary for Climate Action and Energy, Scottish Government
 - Lucy Geoghegan, Head of Unit, Net Zero Economy and Carbon Markets, Scottish Government
 - Natalie Bertagna, Senior Policy Advisor, Scottish Government
 - Norman Munro, Lawyer, Scottish Government
15. The evidence taken at the meeting can be read in full in the Official Report, which is available here:

[Read the Official Report - 27 January 2026](#)
16. In her opening remarks, the Cabinet Secretary explained that the instrument makes technical amendments to the methodology used to distribute free allocation of allowances under the UK ETS. She described free allocation as the UK's primary policy mechanism for addressing the risk of carbon leakage.ⁱ
17. The Cabinet Secretary outlined that participants in the UK ETS are required to purchase an allowance for each tonne of carbon dioxide emitted. However, free allowances are provided to sectors considered to be at risk of carbon leakage, in order to protect energy intensive and trade exposed industries while continuing to incentivise emissions reduction. She said that the UK ETS Authority had consulted extensively on the free allocation policy to ensure that it strikes an appropriate balance between environmental ambition and industrial competitiveness.
18. She further explained that the Authority published a consultation response in November 2025, setting out changes to the free allocation methodology for the next allocation period from 2027, and that the instrument gives effect to the commitments made in that response. The Cabinet Secretary summarised the changes proposed, noting that they are reflected in the background information provided to the Committee. She stated that, taken together, the technical amendments are intended to improve the fairness and accuracy of free allocation distribution, while continuing to support affected sectors.
19. The Cabinet Secretary also drew the Committee's attention to a minor drafting error in the instrument: the word "period" should have been removed as it is being replaced by another term. She said that work is under way to determine the most

ⁱ The term 'carbon leakage' refers to the transfer of CO₂ emissions from one country to another when, due to strict climate policies, companies relocate their production to countries with weaker emission constraints. This can contribute to an increase in global greenhouse gas emissions.

appropriate mechanism for correcting the error at the earliest opportunity, and that the Scottish Government is working with the other administrations within the Authority to improve the drafting and legislative process for future UK ETS instruments. She emphasised that in the Scottish Government's view, the error has no material impact on the operation of the instrument.

20. In response to questions on the impact of the instrument on Scottish businesses, the Cabinet Secretary referred to the Business and Regulatory Impact Assessment prepared for the instrument. She explained that free allocation is designed to protect businesses with high emissions that perform essential industrial functions, and that significant free allocations remain in place for high-emitting industries in Scotland. She highlighted the introduction of the UK CBAM, which will apply charges to imports from countries without comparable carbon pricing, and noted that the UK CBAM will be phased in as free allocations are reduced. She stated that, without this approach, Scottish and UK businesses would be placed at a competitive disadvantage.
21. On whether the instrument provides sufficient certainty for businesses to invest, the Cabinet Secretary said that it addresses issues raised by all four Governments. She highlighted that the instrument adjusts for periods of reduced activity during the Covid-19 pandemic so that businesses are not adversely affected by inactivity during those years. She also noted that the instrument updates emissions efficiency benchmarks used in calculating free allocation and enables a planned, annual reduction in free allocation between 2027 and 2030 for installations that will fall within the scope of CBAM. She described this as a phased approach that allows businesses to plan ahead.
22. The Committee also questioned the potential impact of the instrument on fertiliser prices for Scottish farmers. The Cabinet Secretary said she did not consider the instrument would have any material effect on these. She noted that most fertiliser used in Scotland is imported and that price changes are more likely to be driven by global market conditions. She further explained that CBAM is intended to ensure fairness between domestic producers and imports from countries without an emissions trading scheme, and said UK-based producers would not be disadvantaged as a result of the instrument.
23. Scottish Government official Lucy Geoghegan said the instrument provides for the gradual phasing-out of free allocations for UK fertiliser producers over a nine-year period as the CBAM is introduced, in order to avoid price distortions between domestic and imported fertiliser. She confirmed that the CBAM itself is a reserved policy matter and is not provided for by this instrument.
24. Finally, in response to questions about whether the instrument would incentivise investment, including in emerging sectors such as hydrogen, the Cabinet Secretary stated that the purpose of the instrument is not to provide direct investment incentives. Rather, it is intended to protect UK businesses and provide clarity and advance notice of the interaction between free allocation and the introduction of CBAM, ensuring that domestic producers are not disadvantaged relative to higher-emitting imports.

Conclusion

25. Following the conclusion of evidence taking, the Cabinet Secretary moved motion [S6M-19991](#) in her name -

That the Net Zero, Energy and Transport Committee recommends that the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2026 [draft] be approved.

26. There being no further contributions from Members, the motion was agreed to without division.

Recommendation

27. The Net Zero, Energy and Transport Committee recommends to the Parliament that the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2026 [draft] be approved.

