

DAERA Consultation on Proposed Fees and Charges for NI Participants in the UK Emissions Trading Scheme (UK ETS)

5 February 2021



Department of
**Agriculture, Environment
and Rural Affairs**
www.daera-ni.gov.uk

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Overview

The regulation of emissions of greenhouse gases through an emissions trading scheme covers about 40% of the UK's greenhouse gases, of which approximately 3% are generated in Northern Ireland. It is a key policy enabling the UK to meet its Net Zero statutory target for 2050, and international commitments to reduce greenhouse gas emissions such as the Kyoto Protocol and future Paris Agreement commitments.

Historically the Department of Agriculture, Environment & Rural Affairs (DAERA), through the Northern Ireland Environment Agency (NIEA), has been responsible for regulating identified operators and installations by ensuring compliance and enforcement of the European Union Emissions Trading System (EU ETS) in Northern Ireland. With the UK leaving the EU, from the 1st January 2021 the UK introduced the UK Emissions Trading Scheme (UK ETS) which replaced the EU Emissions Trading System (EU ETS). The UK ETS is enabled by virtue of 'The Greenhouse Gas Emissions Trading Scheme Order 2020'. However, by virtue of Article 9 and Annex 4 of the Protocol on Ireland/Northern Ireland (NI Protocol), NI electricity generators have remained in the EU ETS. This provides for the alignment of cost of carbon for electricity generators on the island of Ireland and hence the maintenance of a level playing field for the Single Electricity Market (SEM).

Consequently, NI has a dual system of carbon emission trading— one for electricity generators who remain in the EU ETS and one for all other non-generators who participate in the UK ETS. **This consultation specifically deals with fees and charges in relation to the UK ETS. Fees and charges in relation to NI electricity generators in the EU ETS can be found at:**

<https://www.daera-ni.gov.uk/sites/default/files/publications/daera/EUETS%20Charging%20Scheme%202020.pdf>

NIEA regulates installations subject to the UK Emissions Trading Scheme through the issue of permits to operate specific activities. Operators have to pay a fee associated with new applications, variations, transfers and surrender of permits as well as an annual subsistence fee.

Emissions reduction is mainly a devolved matter, the UK Government and devolved administrations (DAs) have established a UK ETS which would be capable of linking to the EU ETS in future.

Government policy on the implementation of a UK ETS is set out here:

<https://www.gov.uk/government/news/new-emissions-trading-system-proposal-would-see-uk-go-further-in-tackling-climate-change>.

Purpose of the consultation

The purpose of this consultation is to seek views on:

- Proposals to set a new charging policy for fees and charges in regards to regulatory work conducted by NIEA associated with UK ETS from 1st January 2021.

Impact assessments

The introduction of the UK ETS has been screened for Equality Impact Assessment, Regulatory Impact Assessment and Rural Proofing.

Confidentiality of responses

Your response, and all other responses to the consultation, may be disclosed on request.

Responding to this consultation

Feedback is requested on these proposals. Please send your response to this consultation paper by **02 April 2021** to:

Brexit & EU ETS Team | Environmental Policy Division
Department of Agriculture, Environment & Rural Affairs (DAERA)
2nd Floor | Klondyke Building | Cromac Avenue | Gasworks Business Park
Lower Ormeau Road | Malone Lower | Belfast | BT7 2JA

E: Environment.BrexitTeam@daera-ni.gov.uk

Please note that our offices are presently providing a limited service due to Covid-19 measures. Therefore e-mail is the preferred method of communication at this time.

Background:

This charging scheme is for NI installations participating in the UK ETS from the 1st January 2021. NI electricity generators continue to participate in the EU ETS by virtue of the NI Protocol in order to protect the Single Electricity Market (SEM).

DAERA is proposing that the charges against regulated activities under the UK ETS be mirrored for regulated activities under the EU ETS, i.e. those installations that remain in the EU ETS under the Northern Ireland Protocol.

NIEA generally applies two types of charges, designed to recoup the cost of associated regulatory staff, and the services needed to support them and their activities:

Application fees: includes the receipt and processing of applications for permits and authorisations, consultation with authorisation holders and the assessment of potential impacts on people and the environment;

Subsistence fees or annual charges: sampling, compliance monitoring, review of authorisation conditions, and the issue of warning letters and notices.

Associated costs for these activities include regulatory staff salaries, accommodation, office services, IT policy and guidance, process management, finance and personnel.

NIEA's fees and charges are set in accordance with the statutory requirements set out in the Department of Finance and Personnel (DFP) and the NIEA's five year charging policy, 2016-21 (<https://www.daera-ni.gov.uk/publications/niea-regulatory-charging-policy-2016-21>). The current charging policy expires in March 2021, although it is likely that the annual GDP deflator value will continue to be applied each year to take account of inflationary increases.

As the development of the UK ETS continues to evolve NIEA will review this charging scheme on a regular basis to ensure that it accurately reflects the costs of the regime.

NI charges for the UK scheme will use the current EU ETS charging structure.

Registry charges for the UK ETS will mirror those of the UK Environment Agency who will administer the UK Registry on behalf of the UK Devolved Administrations.

The proposed charges mirror the existing EU ETS categories of installations.

- Incumbent Installations
- Small Emitter / Hospital opt outs
- Aviation activities

The scheme covers various charges which apply to applications for new permits, variations, transfers or surrenders of permits and to annual subsistence of permits.

The types of charges are:

Charge category

- Permit application
- Annual subsistence
- Variation
- Transfer
- Revocation
- Surrender
- Allocation from New Entrant Reserve
- Increase in opt out emissions target
- Determination charge (hourly rate) for application to the New Entrant Reserve
- Aviation: Application for Benchmark Plan
- Aviation: Application for Free Allocation from special Reserve
- Aviation: Application for Emissions Plan
- Aviation: Application for Emissions Plan Variation
- Aviation: Annual Subsistence

Application charges: An application payment must accompany every application for a new ETS permit. The application fee is dependent on the category of the installation, there are three categories depending on the amount of CO₂ equivalent emitted on an annual basis with the larger installation paying a higher charge.

Category	Annual CO ₂ e emissions from an installation
A	Less than 50kt per year
B	At least 50kt and less than 500kt

C	Greater than 500kt per year
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Variation charges: There is a standard charge for a permit variation.

Transfer charges: There is a standard charge for a permit transfer.

Surrender Charges: There is a standard charge for a permit surrender.

Annual Subsistence charges: The costs of ongoing regulation of a permit are recovered through subsistence charges. The annual subsistence fee is determined by the installation category as described above.

Charges based on work done: Charges for certain activities are based on an hourly rate, based on the most recent “ready reckoner” figures compiled by the Department. Such activities include determination of applications from the new entrant reserve.

Main features of the UK ETS charging scheme.

The UK ETS will encourage businesses to reduce the amount of greenhouse gases they emit to meet the UK’s statutory emissions reduction commitments. The UK scheme works on the 'cap and trade' principle similar to the EU ETS. A cap is set on the total amount of certain greenhouse gases that can be emitted by installations covered by the scheme. The cap is reduced over time so that total emissions fall.

Within the cap, companies may receive free emission allowances and buy further emission allowances to offset their emissions. Allowances can also be traded as a commodity, this forms the basis of the cap and trade system, whereby there is a limit on the total number of allowances available which ensures that they have a value.

After each year a company must surrender enough allowances to cover all its emissions, otherwise heavy fines are imposed.

Currently in the UK there are about 1,000 operators of sites (referred to as “installations”) participating in the UK ETS, of which 16 are in Northern Ireland. Under the NI Protocol, 5 installations remain in the EU ETS. There are 150 aviation

operators that also fall within the scheme and are regulated by the Environment Agency as none at present are based in Northern Ireland.

NIEA will be responsible for regulating operators and any future aircraft operators, ensuring compliance and enforcement of the UK ETS. This will be in addition to a continuation of our duties under the EU ETS.

The scope of the installations being regulated under the UK ETS include - energy-intensive industries such as glass, cement and lime, paper, food and drink production.

The UK Environment Agency are introducing charges so that they can recover the cost of carrying out the registry functions on behalf of the UK Devolved Administrations. They have reviewed their current processes and have consulted on proposed charges: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/941755/Charge_proposals_for_UK_Emissions_Trading_Scheme_-_accessible.pdf .

DAERA propose to retain the structure of the existing EU ETS charging scheme as the current structure is already understood by the businesses that it applies to.

Installation operators are required to have a permit to operate and a monitoring plan, which details how they will monitor and report their annual emissions. Aviation customers do not have permits but have an emissions plan, which sets out how they must monitor and report their emissions. Both installation and aviation operators are required to have an account in a Registry to enable them to surrender allowances to cover annual emissions or trade allowances on the carbon market. The cost of these accounts are covered by the application charge. We also charge for additional events such as transfer, surrender or revocation of the permit.

In addition there are charges for annual subsistence for the maintenance of permits and accounts.

In most cases the charges from the current EU ETS charging scheme will continue to cover costs under the UK ETS. The proposed NI UK ETS charging scheme includes the following proposed changes to the current EU ETS charges:

For installations / aviation operators:

- amend all charges by the 2020 GDP deflator increase APR estimated to be 2% at this point for indicative purposes only.

For aviation operators:

- remove the current Special Reserve application fee as it will not be applicable.

The UK Environment Agency have proposed for Registry purposes:

- to reduce Registry Trader account opening fees.
- to increase subsistence charges for optional Trader accounts.
- to introduce 2 charging categories for adding/replacing account representatives to replace the current single charge: 1) where full customer due diligence is required, and 2) where full customer due diligence has been undertaken previously.

Currently activities carried out to regulate participants are similar regardless of whether or not they receive a free allocation of allowances. These allowances will continue to be an essential part of the UK ETS, and are used to reconcile carbon dioxide (e) emissions released in a given year. From 1 January 2021, the UK ETS will introduce new mandatory reporting requirements for installations with a free allocation of allowances. This requires additional activities to regulate these customers, reviewing amendments to Monitoring Methodology Plans, reviewing Activity Level Reports, and reviewing and adjusting levels of free allocation. We do not propose to introduce additional charges for this new work as it will replace the need to assess partial cessations and significant capacity reductions which are no longer required.

Inflationary increases to charges

There is a risk that charges will fail to recover costs over time as costs are subject to inflation. To avoid having to regularly review and update charges involving further consultation with charge payers it is proposed to update charges annually in line with inflation to maintain close to full cost recovery. This avoid a more significant review exercise until it is really needed, for example when prompted by a change in legislation.

We propose to increase all charges and fees under the UK ETS charging scheme annually, on 1 April, in line with increases in the Office for National Statistics annual measure of GDP Deflation in the immediately preceding year. Fees and charges will be rounded to the nearest pound. The GDP measure is widely recognised, understood and accepted as a measure of cost inflation. It is used by economic regulators to set regulated charges, by Government to set taxes and benefits, by employers in wage bargaining and by private sector companies to set payment amounts in business contracts. We therefore believe it is the most appropriate measure of the increases in costs.

If charges need to change for other reasons there will be a review and public consultation.

What are the charges for the UK ETS scheme?

The following summarises the charges which will apply from 1st January 2021 for the UK Emission Trading Scheme permits based on the EU ETS Charging scheme.

UK ETS Scheme	2020 Rounded*	Proposed 2021 @2%**
Application Fee Annual Emissions from the Installation		
Less than 50kt per year	£1,502	£1,532
At least 50kt and no more than 500kt	£2,812	£2,868
More than 500kt per year	£6,717	£6,851
Subsistence Fee Annual Emissions from the Installation		
Less than 50kt per year	£2,863	£2,920
At least 50kt and no more than 500kt	£3,730	£3,805
More than 500kt per year	£4,585	£4,677
Variation	£475	£485
Transfer	£475	£485
Surrender	£756	£771
Revocation	£756	£771
Allocation from New Entrant Reserve	£1,258	£1,283
Opt Out Increase in Emissions Target	£1,258	£1,283
Hourly rate for determination of emissions	£131	£134

*Rounded to nearest whole pound

** 2% is GDP deflator increase

Aviation Charges		
Application for Benchmarking	£895	£913
Application for an emissions plan	£808	£824
Hourly rate for determination of emissions	£131	£134
Varying an emissions plan Reg 37	£463	£472
Determining an application for a variation of a emissions plan	£463	£472
Aviation Annual Subsistence		
Where the estimated aviation emissions are less than 50 kilotonnes: a	£2,071	£2,112
Where the estimated aviation emissions are less than 50 kilotonnes: b	£679	£693
Where the estimated aviation emissions are between 50 and 500 kilotonnes: a	£2,687	£2,741
Where the estimated aviation emissions are between 50 and 500 kilotonnes: b	£895	£913
Where the estimated aviation emissions are over 500 kilotonnes: a	£3,302	£3,368
Where the estimated aviation emissions are over 500 kilotonnes: b	£1,100	£1,122

The hourly rate of £131 will be applied to the following activities:

1. Data collection exercise;
2. Determination of activity level or emissions;
3. Where a suitable category has not been identified under the relevant scheme.

Comparison between charges in Northern Ireland and other UK regions

A direct comparison between charges in NI and other regions of the UK is possible for some categories of charge. However, the basis for charging is different across UK regions for charges levied due to economies of scale, activities regulated and staffing resources.

The table below compares charges in each of the UK regions for the regulation of similar activities.

To note: Scottish Environmental Protection Agency (SEPA), Environment Agency (English EA).

UK ETS Scheme	NI 2020 Rounded*	NI Proposed 2021 @2%**	SEPA Proposed	EA Proposed
Application Fee Annual Emissions from the Installation				
Less than 50kt per year	£1,502	£1,532	£2,382	£1,232 (regulatory charge £948, registry charge £284)
At least 50kt and no more than 500kt	£2,812	£2,868	£3,971	
More than 500kt per year	£6,717	£6,851	£4,765	
Subsistence Fee Annual Emissions from the Installation				
Less than 50kt per year	£2,863	£2,920	£3,404	£3,046 with FA ¹ (regulatory charge £2,074, registry charge £342); £1,978 without FA ¹ (regulatory charge £1,645, registry charge £333); £1,874 opt out scheme.
At least 50kt and no more than 500kt	£3,730	£3,805	£4,425	
More than 500kt per year	£4,585	£4,677	£5,446	
Variation	£475	£485	£1,021	
Transfer	£475	£485	£1,588	£1,340 (£985 regulatory charge, £355 registry charge)
Surrender	£756	£771	£1,588	£1,279 (£1,137 regulatory charge, £142 registry charge)
Revocation	£756	£771	£2,042	£1,279 (£1,137 regulatory charge, £142 registry charge)

Allocation from New Entrant Reserve	£1,258	£1,283	£2,382	£1,120
Opt Out Increase in Emissions Target	£1,258	£1,283	£2,382	£1,120
Hourly rate for determination of emissions	£131	£134	£118	£125
Aviation Charges				
Application for Benchmarking	£895	£913		£830
Application for an emissions plan	£808	£824	£2,382	£1,110 (£826 regulatory charge, £284 registry charge)
Hourly rate for determination of emissions	£131	£134		£125
Varying an emissions plan Reg 37	£463	£472		
Determining an application for a variation of a emissions plan	£463	£472	£1,135	
Aviation Annual Subsistence			£118	
Where the estimated aviation emissions are less than 50 kilotonnes: a	£2,071	£2,112	£2,496	£2,425 (regulatory charge £1,930, registry charge £495) (Group 1 (UK ETS) & Group 2 (UK ETS & CORSIA))
Where the estimated aviation emissions are less than 50 kilotonnes: b	£679	£693		£1,930 (Group 3 (CORSIA only - no associated registry charges))
Where the estimated aviation emissions are between 50 and 500 kilotonnes: a	£2,687	£2,741	£3,177	
Where the estimated aviation emissions are between 50 and 500 kilotonnes: b	£895	£913		
Where the estimated aviation emissions are over 500 kilotonnes: a	£3,302	£3,368	£3,404	

Where the estimated aviation emissions are over 500 kilotonnes: b	£1,100	£1,122		
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¹ Free Allowances

No proposed change

Current NI fee

*Rounded to nearest whole pound.

**2% is GDPM Deflator value

SEPA New opt out - £1,588

EA (England) proposed Registry Fees (not included in subsistence and other charges above):

Opening a registry account	£355
Annual registry subsistence charge	£404
Full customer due diligence	£304
Full customer due diligence where carried out previously	£142

Economic impact

UK Government has implemented a UK Emissions Trading Scheme to replace the UK's participation in the EU ETS from 1st January 2021. The UK ETS will be similar to the EU ETS to ensure continuity for existing participants and to enable a link between the UK ETS and EU ETS, subject to ongoing negotiations with the EU.

Whilst the UK ETS will be run jointly by the relevant national authorities the decision for charging remains a devolved matter in relation to the operation and enforcement of the scheme.

By virtue of Article 9 and Annex 4 of the Ireland/ Northern Ireland Protocol to the Withdrawal Agreement, electricity generating installations will continue to participate in the EU ETS from 1 January 2021. All other installations will participate in the UK ETS. The same regulatory charges will apply in each scheme.

The proposed charges have been increased in line with the annual GDP Deflator value.

As the charges are consistent with charges that would have been in place for the EU ETS there is no overall impact of the charges under the UK ETS against the counterfactual scenario in which operators stayed in the EU ETS.

Appendix A - Impact Assessments

A screening for Equality Impact Assessment for the implementation of a UK ETS has been undertaken and it is not considered that the proposed scheme will impact on any of the nine categories:

1. Religious belief
2. Political opinion
3. Racial group
4. Age
5. Marital status
6. Sexual orientation
7. Men and women generally
8. Persons with a disability and persons without
9. Persons with dependants and persons without.

A regulatory impact assessment is not considered necessary for the proposed charges, in line with Department of the Economy Regulatory Impact Guidance (2015) (<https://www.economy-ni.gov.uk/sites/default/files/publications/deti/ni-regulatory-impact-assessment-guidance.pdf>) for “changes to statutory fees by a predetermined formula such as the rate of inflation”.

A rural impact assessment has been conducted for the implementation of the UK ETS and it is not considered that the scheme will have an impact on rural needs.

Appendix B - Freedom of Information Act 2000, and Data Protection Act 2018 (GDPR)

Confidentiality of Consultations

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can refuse to disclose information only in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

Section 8(e) of the Data Protection Act 2018 permits processing of personal data when necessary for an activity that supports or promotes democratic engagement. Information provided by respondents to this consultation exercise will be held and used for the purposes of the administration of this current exercise and subsequently disposed of in accordance with the provisions of the Data Protection Act 2018 and General Data Protection Regulation.

The Freedom of Information Act 2000 gives the public a right of access to any information held by a public authority (the Department in this case). This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances.

The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- the Department should not agree to hold information received from third parties 'in confidence' which is not confidential in nature;
- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.
- For further information about confidentiality of responses, please contact the Information Commissioner's Office:

- Tel: (028) 9027 8757
- Email: ni@ico.org.uk
- Website: <https://ico.org.uk/>