



Environment Agency charge proposal for repatriated duties - Emissions Trading Scheme

7 December 2020

We are the Environment Agency. We protect and improve the environment.

We help people and wildlife adapt to climate change and reduce its impacts, including flooding, drought, sea level rise and coastal erosion.

We improve the quality of our water, land and air by tackling pollution. We work with businesses to help them comply with environmental regulations. A healthy and diverse environment enhances people's lives and contributes to economic growth.

We can't do this alone. We work as part of the Defra group (Department for Environment, Food & Rural Affairs), with the rest of government, local councils, businesses, civil society groups and local communities to create a better place for people and wildlife.

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Foreword

The Environment Agency carries out a wide range of regulatory services. They are fundamental to how we protect the environment. These services include flood and coastal erosion risk management; regulation of water quality and abstraction; waste; pollution prevention and navigation.

We know it works - England is a much cleaner, greener place as a result of our activities.

We charge the businesses we regulate for the work we do to regulate them. We are proposing a number of changes to our charges in 2021 to make sure we fully cover the cost of our activities.

We are committed to making sure our charges are fair and transparent. We want them to reflect the full cost of the chargeable services we provide.

The UK has left the EU, and the transition period following EU Exit comes to an end on 31 December 2020. The proposals in this consultation document cover a charging scheme for duties the Environment Agency will undertake from 1 January 2021 (unless government decides to implement controls through other means).

This charging scheme is to recover the cost of regulatory work to run a carbon pricing scheme to replace the EU Emissions Trading System - either a UK Emissions Trading Scheme or a Carbon Emissions Tax. The government has not yet confirmed if a UK Emissions Trading Scheme or Carbon Emissions Tax will operate from 1 January 2021. This consultation is necessary for the operation of either policy.

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1. Introduction

1.1. Why we are consulting

The Environment Agency has powers under legislation to recover the cost of some of its regulatory activities. Under these powers, people and organisations that require environmental regulation pay for the cost of those activities. This means they do not have to be funded from general taxes.

This document outlines our proposals for UK Emissions Trading Scheme (UK ETS) charges, and covers charges that would apply if a Carbon Emissions Tax (CET) is introduced. We would like your input by suggesting how you think our proposals might be improved and if we can make them any fairer.

1.2. The principles we follow

The Environment Agency protects people and the environment while facilitating sustainable development and supporting economic growth.

The proposals we have outlined in this consultation ensure that:

- people only pay for the regulatory service they receive
- we will not need to use additional taxpayer funds to support our regulatory work

In this consultation we have taken account of a range of factors, including the need to:

- ensure our costs are reflected in our charges and align with HM Treasury rules in 'Managing Public Money' guidance
- have regard to the desirability of promoting economic growth (under s108 of the Deregulation Act 2015) when we carry out our regulatory activities
- ensure our regulatory activities are transparent, accountable, proportionate, consistent and targeted only at cases where action is needed (in accordance with the Legislative and Regulatory Reform Act 2006)
- ensure we follow the Regulator's Code (as required under section 22 of the Legislative and Regulatory Reform Act 2006)

1.3. What we aim to achieve

We have considered our charges against the need to deliver our regulatory duties. We are aware of how our charges can affect those we regulate and have calculated them carefully. We are always interested to hear how you think we can regulate more fairly while safeguarding the environment more effectively.

2. UK Emissions Trading Scheme: proposed charges

2.1. UK Emissions Trading Scheme: why we are consulting

Regulating emissions of greenhouse gases through an emissions trading scheme covers about 30% of the UK's greenhouse gases. It is a key policy enabling the UK to meet its:

- net zero statutory target
- international commitments to reduce greenhouse gas emissions such as the Kyoto Protocol and future Paris Agreement commitments

The Environment Agency is currently responsible for regulating installations and aircraft operators, ensuring compliance and enforcement of the European Union Emissions Trading System (EU ETS) in England. We also administer the EU ETS Registry (a database hosted by the European Commission where EU ETS allowances can be transferred and surrendered) for the whole of the UK.

The UK will remain in the EU ETS until 31 December 2020. The government has not yet confirmed if a UK ETS or CET will operate from 1 January 2021. This consultation is necessary for the operation of either policy. As set out in the UK's Approach to Negotiations, published on 27 February 2020, the UK would be open to considering a link between any future UK ETS and the EU ETS, if it suited both sides' interests. If a link cannot be agreed, the UK will implement either a standalone UK ETS or the Carbon Emissions Tax (CET) from 1 January 2021. Both prospective UK policies are expected to be closely aligned with each other and the next phase of the EU ETS.

Government policy on a UK ETS is set out on this webpage:

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

Government proposals for how the CET would operate are set out in this HM Revenue & Customs and HM Treasury consultation:

<https://www.gov.uk/government/consultations/carbon-emissions-tax>

We are consulting on charges for the prospective UK ETS. In the event that a CET is introduced, all the charges consulted on here for the UK ETS would still apply (with the exception of those for the registry system). This is because our regulatory activities would be the same across both UK ETS and CET systems. Responses provided to this consultation on the prospective UK ETS charges will be taken in regard of the CET charging scheme should this system be introduced.

UK ETS legislation requires explicit identification of all Registry charges and sets out how the charges collected by the Environment Agency for the UK ETS are to be processed. We are therefore separating out our charges (previously registry costs were incorporated in regulatory charges) to show both the regulatory and registry components. This approach provides clarity on the cost components of our charges.

Our current charges and cost recovery were reassessed in light of the new activities and services that we will provide from 1 January 2021. The new activities and services relate to:

1. Implementing a UK Emissions Trading Scheme (UK ETS) or CET.
2. Administering the new Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA).

We will implement the charges after the end of the transition period. The likely start date for the charging scheme is 1 April 2021.

2.2. ETS: The regulation we need to deliver

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

Within the cap, companies receive or buy emission allowances, which they can trade with one another as needed. The limit on the total number of allowances available 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. If a company reduces its emissions, it can keep the spare allowances to cover its future needs or else sell them to another company that is short of allowances.

In the UK there are about 1,000 operators of sites (referred to as 'installations') currently participating in the EU ETS, of which 666 are in England and would be regulated by the Environment Agency from 1 January 2021 under a UK ETS. There are 150 aviation operators that also fall within the scheme and are regulated by the Environment Agency.

We will be responsible for regulating installations and aircraft operators, ensuring compliance and enforcement of the UK ETS in England. This will be a continuation of our duties from the EU ETS. The work is split into 3 broad areas:

- installations – electricity generation and the main energy-intensive industries (power stations, refineries, iron and steel, cement and lime, paper, food and drink, glass, ceramics, engineering and the manufacture of vehicles)
- aviation – mainly commercial airlines but some private and business jets
- registry – the database used to hold, trade and surrender allowances

We are introducing charges so that we can recover the cost of carrying out regulation. We expect the UK ETS to mirror the current EU ETS system of regulation. We have reviewed our current processes and anticipated where our activities will change when we transition to a UK ETS. Some of our costs will remain unchanged from the EU ETS charging scheme. This is because our duties will remain the same and these new charges will continue to be set at a level to recover those costs. However, there are some areas where our activity will change and in most cases will be more efficient. These changes are outlined in section 2.3.

Carbon Offsetting and Reduction Scheme for International Aviation (CORSA)

CORSA is a new global market-based mechanism designed to limit increases in carbon dioxide emissions from international civil aviation. The Department for Transport will be consulting on their proposal to implement CORSA into UK law by 1 April 2021 as an Air Navigation Order under Section 60 of the Civil Aviation Act 1982.

The requirements and activities undertaken in administering this scheme mirror those of the EU ETS and UK ETS, excluding the requirement to open a registry account to trade or surrender allowances. The requirement to offset emissions for eligible flights for the CORSA participants will instead take place in third-party registries.

As the CORSA will apply to many companies who will also be participants in the UK ETS, we plan to incorporate the charges for companies with both CORSA and UK ETS obligations into the UK ETS charging scheme.

2.3. UK ETS: Regulatory charge proposal

We propose to retain the structure of the existing EU ETS charging scheme because we consider the current structure works well and 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 customers are required to have accounts in a UK Registry to enable them to surrender allowances to cover annual emissions or trade allowances on the carbon market. The cost of setting up 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 (which account for over 90% of the total charge income, and differ for installation and aviation customers).

Financial institutions and private individuals can apply for a registry account to facilitate trading of carbon dioxide allowances. These are referred to as 'traders'. This activity is entirely optional. We charge for the opening of such an account and annual subsistence for maintenance of the trading account.

We are proposing new charges for the UK ETS charging scheme which are detailed in the following sections. There are a number of charges in the current EU ETS charging scheme that are cost reflective under the UK ETS and these charges will remain the same. These are:

Installations charges

- charge for allocation from new entrant reserve - £1,120
- charge for increase to emissions target - £1,120
- determination charge - £125 per hour

Aviation charges

- application for a benchmarking plan - £830
- Determination charge - £125 per hour

Project activities charges

- proposed Article 6 project activity - £700
- proposed Article 12 project activity for the production of hydro-electric power with a generating capacity of more than 20 megawatts - £700
- any other Article 12 project activity - £250

Question 1. Do you agree with our proposal to continue to use the structure of the EU ETS charging scheme in the new UK ETS charging scheme, and retain those charges listed above that will not change?

Yes

No

Not applicable

Please provide further explanation if you think it would be helpful:

Installations charges

For installations operators, we propose to:

- amend annual subsistence charge, replacing one subsistence charge with 3
- separate regulatory and registry components of annual subsistence charges to provide better clarity on what charges cover
- consolidate three permit application charges into one
- increase charges for transfers, surrenders and revocations of permits

Installations subsistence charge

Currently activities carried out to regulate participants are similar regardless of whether they receive a free allocation of allowances or not. The use of allowances will continue to be an essential part of the UK ETS. From 1 January 2021, the UK ETS will introduce new mandatory reporting requirements for installations with a free allocation of allowances. This requires us to carry out additional activities to regulate these customers, including reviewing:

- amendments to monitoring methodology plans
- activity level reports
- and adjusting levels of free allocation

Due to efficiencies in our processes, we are able to minimise the cost of the additional activities. Subsistence charges will reduce from the EU ETS charging scheme (the current charge is £3,065). Installations without an allocation of allowances do not require the additional activities, so the subsistence charge will reduce further for them. Small emitters and hospitals qualify for an opt-out scheme. This allows these to join a simplified scheme where a registry account and third-party verification of emissions is no longer required. Annual subsistence charges will reduce even further for those that qualify for the opt-out scheme.

We therefore propose to introduce 3 separate subsistence charges for UK ETS installations:

- £3,046 (regulatory charge £2,704, registry charge £342) per year for operators with a free allocation of allowances
- £1,978 (regulatory charge £1,645, registry charge £333) per year for operators without a free allocation of allowances
- £1,874 per year for operators who are part of the opt-out scheme

Question 2. Do you agree with the proposal to have these 3 subsistence charge categories and charge rates for UK ETS installations?

Yes

No

Not applicable

Please provide further explanation if you think it would be helpful:

Permit application charge

Currently there are 3 permit application charges for installations operators based on their annual emissions. We propose to introduce a single permit application charge for all operators which will still recover our regulatory costs but simplify the charging administration. This reduces the cost for all customers from the previous charges of £1,340, £2,500 and £5,970. We propose to introduce this charge:

- £1,232 (regulatory charge £948, registry charge £284) for all operators

Question 3. Do you agree with the proposal to have this one permit application charge for UK ETS installations?

Yes

No

Not applicable

Please provide further explanation if you think it would be helpful:

We also propose changes to our charges that relate to managing installation permits. These charges have not changed since 2010, and no longer reflect the true cost of these activities. In previous charge reviews under the EU ETS, we did not change these charges so that changes for customers were minimised. However, we now propose to increase charges as the cost of these services is significantly different from current charges.

Transfer of permit charge

We propose to increase the charge for transfer of permits from £430 to £1,340 (£985 regulatory charge, £355 registry charge).

Surrender of permit charge

We propose to increase the charge for surrender of permits from £670 to £1,279 (£1,137 regulatory charge, £142 registry charge).

Revocation of permit charge

We propose to increase the charge for revocation of permits from £670 to £1,052 (£910 regulatory charge, £142 registry charge).

Question 4. Do you agree with the proposed changes to transfer, surrender and revocation of permits charges for UK ETS installations?

Yes

No

Not applicable

Please provide further explanation for each of the transfer, surrender and revocation charges if you think it would be helpful:

Aviation charges

For aviation operators, we propose to:

- introduce a new annual subsistence charge for those in CORSIA only
- reduce the current annual subsistence charges, which will apply to those in UK ETS only and those in both UK ETS and CORSIA
- separate regulatory and registry components of annual subsistence charges to provide better clarity on what charges cover
- increase the emissions plan application charge
- remove the current Special Reserve application fee as it will not be applicable

Aviation subsistence charge

In considering the transition from EU to UK regulation we have reviewed our current processes and anticipated where our activities will change. Many of our duties will remain the same and we will continue to set these new charges at a level to recover those costs. However, there are some areas where our activity will change and in most cases will be more efficient. That means that there will be lower charges required for some of our regulation of the aviation sector.

There are 3 distinct groups of aviation operators in the UK ETS and the CORSIA:

Group 1 – aviation operators with just UK ETS obligations

Group 2 – aviation operators with both UK ETS and CORSIA obligations

Group 3 – aviation operators with just CORSIA obligations

The activities undertaken for the UK ETS and the CORSIA are almost identical. Compared to Group 1, Group 2 has additional activities related to the CORSIA, however these are marginal. Group 3 has no associated registry activities or costs.

Rather than have 3 annual subsistence charges, as additional CORSIA activities for Group 2 are marginal, we propose to retain a single subsistence charge for those in Groups 1 and 2 (at a 23% decrease compared to the current charge of £3,135), and introduce a new subsistence charge for those in Group 3, which excludes any associated registry activities (a 38% decrease compared to the current charge).

- £2,425 (regulatory charge £1,930, registry charge £495) per year for those in Groups 1 and 2 (with UK ETS obligations)
- £1,930 per year for those in Group 3 (with only CORSIA obligations)

Question 5. Do you agree with the proposal to have these two aviation subsistence charge categories and charge rates?

Yes

No

Not applicable

Please provide further explanation if you think it would be helpful:

Aviation emissions plan application charge

This charge has not changed since 2010. The proposed charge is now more reflective of the true cost of these activities when determining aviation emissions plan applications. In previous charge reviews under the EU ETS, we did not change this charge so that changes for customers were minimised. However, we now propose to increase this charge as the true cost of this service is significantly different from the current charge.

We propose to increase the charge for an emissions plan application from £750 to £1,110 (£826 regulatory charge, £284 registry charge).

Question 6. Do you agree with the proposed change to the charge for an application for an emissions plan?

Yes

No

Not applicable

Please provide further explanation if you think it would be helpful:

Registry charges

For registry customers, we propose to:

- reduce registry Trader account opening fees
- increase subsistence charges for optional Trader accounts
- introduce 2 charging categories for adding and replacing account representatives to replace the current single charge: one where full customer due diligence is required, and one where full customer due diligence has been undertaken previously
- remove the verifier account opening fee as it will no longer be required.

We anticipate improvements and efficiencies through the introduction of a UK Registry. Customer due diligence checks, document management processes, administration in opening accounts, and changing registry account representatives activities will all require less effort and reduce cost to customers.

For traders these efficiencies result in a 61% reduction to their current account opening charge.

However, under the UK ETS, we will have to carry out registry activities to manage Trader accounts that were previously performed by the European Commission. This means that annual subsistence charges will need to increase by £149.

The effort in adding and replacing account representatives differs where full customer due diligence is required, as opposed to where one has been undertaken previously. Therefore

we are proposing to split the single charging band into 2: a 65% reduced charge where full customer due diligence is required, and an 84% reduced charge where full customer due diligence was undertaken previously. This would benefit all registry users.

If a CET is introduced, registry costs will continue to apply to traders with accounts in the UK's National Registry.

Opening a registry account

We propose to decrease the charge for opening a registry person holding account or trading account from £915 to £355. We propose to remove the charge for opening a verifier account as it is no longer applicable.

Annual registry subsistence charge

The cost of maintaining a registry person holding or trading account has increased. We propose to increase the annual subsistence charge from £255 to £404 per year.

Change of registry authorised representative

We propose to replace the single charge of £880 for adding and replacing account representatives with 2 charging bands:

- where full customer due diligence is required we propose a charge of £304
- where full customer due diligence has been carried out previously we propose a charge of £142

Question 7. Do you agree with our proposed changes for UK ETS charges for the registry?

Yes

No

Not applicable

Please provide further explanation if you think it would be helpful:

Inflationary increases to charges

There is a danger that our charges will fail to recover our costs over time, as our costs are subject to inflationary pressures. To avoid having to regularly review and update our charges, involving further consultation with charge payers, we propose to update our charges annually in line with inflation so that we maintain close to full cost recovery. This way we can delay a more significant review exercise until it is most appropriate, for example when prompted by a change in the 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 measure of Consumer Price Index (CPI) inflation as at 30 September in the immediately preceding year. Fees and charges would be rounded to the nearest pound. We have chosen the CPI measure as this 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 to reflect interim increases in our own costs.

If our charges need to change for some other reason, we would start another review of our charging scheme and carry out a public consultation.

Question 8. Do you agree with our proposal to increase charges annually in line with inflation (CPI)?

Yes

No

Not applicable

Please provide further explanation if you think it would be helpful:

3. UK ETS: Economic context

The government has not yet confirmed if a UK ETS or CET will operate from 1 January 2021. This consultation is necessary for the operation of either policy. The UK ETS or CET will provide a smooth transition from the EU ETS for participants, while enabling a scheme linked to the EU ETS if it suits both sides' interests.

We do not believe that there will be any customers who are significantly affected by the proposed charging scheme for a UK ETS. There is an existing regime with existing customers who are currently paying charges. Most charge payers will benefit from the UK ETS and will see reductions in their charges.

Customers of the UK ETS are predominantly large private sector companies. However public sector organisations are also included, for example, large hospitals and some Ministry of Defence sites. Aviation customers range from private jet operators to commercial airlines.

Combustion is the largest sector, accounting for about two thirds of all the scheme incumbents. This sector includes power stations, food manufacturing, gas compression stations, standby generators, and large hospitals.

For companies with low emissions, the small emitter and hospital opt-out scheme allowed smaller operators to join a simplified scheme. In this scheme a registry account and third-party verification of emissions is not required. This scheme will continue from 1 January 2021. Special provisions will also be in place to exempt a further 105 ultra-small emitters from all aspects of a UK ETS except a requirement to monitor emissions and notify the regulator if emissions exceed this threshold. None of these operators are affected by changes to our registry charges.

The new charging scheme for the UK ETS follows the same format as the existing charging scheme, with a few small differences as described in section 2.3. Most of the charges are reducing or remaining the same. None of the charges that are increasing provide a barrier to entry. We are proposing to introduce one new charge for CORSIA, which affects no more than 5 customers who are not already participating in the EU ETS.

The registry subsistence charge for traders who opt to open registry accounts to facilitate trading of allowances is increasing. We believe the charge increase of £149 will not have a significant impact on these customers.

The charges for installations customers for transfer, surrender and revocation of permits, and for aviation customers for emissions plan applications have not increased since 2010. We therefore are proposing increases to ensure we can fully recover our costs for these activities. These are one-off charges and will only affect a very small number of customers.

4. List of additional questions

Question (i): Please tell us if you are responding as an individual or on behalf of an organisation or group. Select one answer only from the following options:

1. Responding as an individual
2. Responding on behalf of an organisation or group
3. Other

If you are responding on behalf of an organisation or group, please tell us who you are responding on behalf of and include its type, for example, business, environmental group:

If you selected 'other' please specify here:

Question (ii): Please tell us how you found out about this consultation:

1. From the Environment Agency
2. From another organisation
3. Through an organisation, group or trade association you are a member of
4. Press article
5. Social media, for example, Facebook, Twitter
6. Through a meeting you attended
7. Other (please specify below)

5. Responding to this consultation

5.1. How to respond

The consultation runs from 7 December 2020 to 29 January 2021 and you can view both the consultation document and questions online at <https://consult.environment-agency.gov.uk/environment-and-business/ea-charge-proposal-emissions-trading-scheme>.

You can submit your response using our online tool which provides an easy and efficient way to respond. It will also help us to gather and summarise responses quickly and accurately as well as reducing the cost of the consultation.

If you would prefer to submit your response by email please send your completed response form with the subject header of **EA Charges consultation - repatriated duties** to enquiries@environment-agency.gov.uk before close of business on Friday 29 January 2021.

We encourage you to contact us through the online portal or by email. However, if you would prefer to submit your response by letter please send your completed response form before close of business on Friday 29 January 2021 to this address:

Environment Agency

EA Charges consultation - repatriated duties

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To request a hard copy of the consultation document or the response form, please contact us on 03708 506 506 (Monday to Friday, 8am to 6pm).

Please respond to the consultation no later than Friday 29 January 2021. After this time we will consider your feedback to form our final proposal to submit to government for approval.

5.2. Publishing our consultation response

We will publish our full response on both GOV.UK and Citizen Space within 12 weeks of this consultation closing and before we implement any changes. It will include a summary of the comments and queries we received. It will not include individual comments. We will outline our recommendations which take these into account. We will circulate a link to our response to all consultees and other interested parties who have asked to be kept informed. We will not respond individually to consultees.

5.3. How we will use your information

In accordance with the Freedom of Information Act 2000, we may be required to publish your response to this consultation, but will not include any personal information. If you have requested your response to be kept confidential, we may still be required to provide a summary of it.

5.4. Consultation principles

We are running this consultation in accordance with the guidance set out in the government's consultation principles.

If you have any questions or complaints about the way this consultation has been carried out, please contact consultation.enquiries@environment-agency.gov.uk

Consultation Co-ordinator

Environment Agency

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Bristol BS1 5AH

6. Privacy notice

The Environment Agency would like to keep you informed about the outcomes of the consultation. If you would like to receive an email acknowledging your response and be notified that the summary of responses has been published please provide your email address with your response.

By providing us with your email address you consent for us to email you about the consultation. We will keep your details until we have notified you of the response document publication.

We will not share your details with any other third party without your explicit consent unless required to by law.

You can withdraw your consent to receive these emails at any time by contacting us at:

enquiries@environment-agency.gov.uk

Your email address:

The Environment Agency is the data controller for the personal data you provide. For further information on how we deal with your personal data please see our [Personal Information Charter](#) on GOV.UK or contact our Data Protection team.

Address: Data Protection team, Environment Agency, Horizon House, Deanery Road, Bristol, BS1 5AH

Email: dataprotection@environment-agency.gov.uk

Would you like to find out more about us or your environment?

Then call us on

03708 506 506 (Monday to Friday, 8am to 6pm)

email

enquiries@environment-agency.gov.uk

or visit our website

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