



INCLUSION OF DOMESTIC SHIPPING IN THE UK EMISSIONS TRADING SCHEME: DUE TO APPLY FROM 2026?

UK Government authorities have indicated that the UK domestic maritime sector will be included in the UK Emissions Trading Scheme from 2026 onwards. In this article and accompanying factsheet, we summarise the key elements of the current proposals, and highlight remaining areas of uncertainty.

Please see the accompanying factsheet for the UK Emissions Trading System on pages 3 & 4



As we previously reported, in March 2022 the UK Government's Department of Business, Energy & Industrial Strategy launched a consultation regarding the expansion of the UK Emissions Trading Scheme (the **UK ETS**) to cover the domestic maritime industry.¹

In early July 2023, the UK Government, the Scottish Government, the Welsh Government and the Department of Agriculture, Environment and Rural Affairs for Northern Ireland (together, the **UK Authorities**) published a joint response to the consultation, advising that the UK domestic maritime industry will be included from 2026 onwards (the **Joint Response**).²

We set out in the accompanying factsheet the key features of the inclusion of domestic maritime in the UK ETS as they currently stand.

However, it is apparent that there remain a significant number of details still to be addressed, and further clarity is expected later this year. We will provide updates as and when developments are confirmed, but suggest that you watch this space...

1. <https://www.hfw.com/Inclusion-Of-Domestic-Shipping-In-The-UK-ETS-What-We-Know-So-Far>
2. The full Joint Response can be found here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1166812/uk-emissions-trading-scheme-consultation-government-response.pdf

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Inclusion of domestic maritime in the UK ETS – key features

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| <p>When will domestic maritime be included in the UK ETS?</p> | <p>The Joint Response refers to extension to domestic maritime “by 2026”, without providing further details. However, the Joint Response indicates that implementation will include a two-year phasing-in process from 2026 to 2028, “before full cost exposure”.</p> |
| <p>What voyages will be covered by the UK ETS?</p> | <p>The UK ETS will apply to domestic shipping only. This refers to:</p> <ul style="list-style-type: none"> (a) “journeys” (using the terminology from the Joint Response) which start and end at the same port in the UK; and (b) journeys from one UK port to another UK port. <p>The UK Authorities are also “minded to include” both emissions at sea and at berth in UK ports, or at anchor, within the scope of the UK ETS. A consultation on a “comprehensive” definition of an eligible domestic journey is stated to be scheduled for “later in 2023”.</p> <p>Given that the UK ETS would apply to domestic shipping only, there should (in theory) be no overlap with the application of the EU Emissions Trading System (EU ETS), which applies 50% to voyages to/from EU and non-EU countries, which include the UK. In this respect, the UK Authorities are mindful that the application of the EU ETS “could create a potential discrepancy in emissions coverage” for voyages between the Republic of Ireland and Great Britain. Consequently, the UK Authorities intend to reduce the exposure of vessels performing voyages between Northern Ireland and Great Britain to 50% under the UK ETS, to ensure equivalence with the exposure of voyages between the Republic of Ireland and Great Britain under the EU ETS.</p> <p>The Joint Response notes that concerns have been raised about the impact of the UK ETS on vessels undertaking “certain crucial activities”. These activities are undefined, but could include ferry services to remote and/or island communities. Consequently, there may be exemptions from the UK ETS for certain ‘vital’ services, in a similar manner to the approach taken under the EU ETS.³</p> |
| <p>Which vessels will be covered by the UK ETS?</p> | <p>In short, the UK ETS will apply to vessels of 5,000 GT and above, in line with the threshold under the existing UK Monitoring, Reporting and Verification (MRV) regulations. The UK Authorities anticipate that this may result in a more straightforward transition into the UK ETS for many operators, as well as avoiding administrative burden for smaller vessels and lighter craft.</p> <p>Following the usual approach under the Merchant Shipping Act 1995, government non-commercial maritime activity will not fall under the UK ETS, although vessels involved in this kind of activity will be expected to decarbonise their operations in line with the UK’s net zero commitments.</p> <p>Further, the UK Authorities also recognise “concerns raised about the impact the policy may have on vessels undertaking certain crucial activities and will continue to examine this, along with other possible consumer impacts” throughout the policy development.</p> |

3. See our separate article on the EU ETS here: <https://www.hfw.com/The-Formal-Inclusion-Of-Maritime-Transport-In-The-EU-ETS-Key-Features-And-Implications>

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| <p>Who will be responsible for compliance?</p> | <p>Initially, the Joint Response indicates that responsibility for compliance with the UK ETS will rest with the entity responsible for the relevant vessel's compliance with the ISM Code. This implies an automatic application to technical managers or bareboat charterers, if those parties are the ISM Code Document of Compliance (DOC) holder.</p> <p>However, the Joint Response later states that the entity responsible for compliance will be <i>"the vessel owner, or to whichever party has assumed responsibility for the operation of the vessel and the duties imposed by the ISM Code"</i>. This is more in line with the definition of <i>"shipping company"</i> under the EU ETS. Consequently, whilst this currently remains a matter of ongoing legislative debate, the UK Authorities may ultimately follow the EU's approach, although this in itself may require further reflection given the continuing uncertainty surrounding the EU ETS definition of <i>"shipping company"</i>.⁴</p> |
| <p>Is there any commentary regarding the costs of compliance?</p> | <p>In relation to this question, the Joint Response states as follows:</p> <p><i>"The Authority also recognises that the party bearing responsibility for compliance with the ISM Code is not in all cases the party responsible for the decisions affecting the greenhouse gas emissions of the vessel. To respect the polluter pays principle and incentivise both more efficient operation and the use of more efficient vessels, the Authority intends to explore the ability of the obligated party to recover compliance costs from the commercial operator and aims to consult on this later in 2023"</i></p> <p>It currently remains unclear whether there will be a statutory right for parties responsible for compliance to pass on costs to commercial operators, in a similar fashion to the EU ETS.⁵</p> |
| <p>How will emissions from domestic maritime be monitored under the UK ETS?</p> | <p>The inclusion of domestic maritime in the UK will be based on vessel activity. Consequently, participants will need to monitor their emissions from eligible <i>"journeys"</i> (voyages), report their emissions from these journeys, and surrender sufficient allowances to cover their emissions. In this regard, the practical operation of the UK ETS for domestic maritime would operate in a very similar fashion to the EU ETS for international shipping.</p> <p>It appears that existing obligations / requirements under the UK MRV regulations will continue, to ensure continuity. According to the Joint Response, additional detail on relevant MRV processes will be set out later this year.</p> |
| <p>How can responsible parties prepare for compliance – for example, setting up allowances accounts?</p> | <p>There is no guidance in the Joint Response regarding how parties subject to the UK ETS for domestic maritime can set up emissions allowances accounts. This issue, together with other key practical aspects of the scheme, including implementation, decarbonisation and distributional aspects, and MRV requirements and processes, are to be set out later this year.</p> |
| <p>Will there be any free allocation of emissions allowances to domestic UK maritime?</p> | <p>This question currently remains unanswered. However, the UK Authorities indicate that they will consult on future changes to free allocation methodology under the UK ETS before the end of 2023.</p> |

4. Ibid

5. Ibid