

Environmental newsletter

September 2025 | www.skslegal.pl

Amendment to the Act on the greenhouse gas emissions trading system – ETS changes

The Council of Ministers is preparing an amendment to the Act on the greenhouse gas emissions trading system (“**ETS Act**”). The draft implements the EU “Fit for 55” policy and transposes several EU Directives into national law (Directives 2023/959 and 2023/958).

The EU “Fit for 55” policy seeks to reduce CO₂ emissions in the European Union by at least 55% by 2030 compared with 1990 levels, and to achieve climate neutrality by 2050. Measures to reach these targets include strengthening and extending the current ETS, and introducing a new ETS for other sectors (ETS 2).

The draft amendment is currently before the Committee for European Affairs. If the Council of Ministers adopts the draft (planned for the third quarter of 2025), it will go to the Sejm for parliamentary work.

Key changes to how the ETS operates

The draft introduces changes to tighten the ETS and raise funds for environmentally beneficial investments. The main changes are presented in the table.

ETS element	Changes
Free allocation of emission allowances	1. A 20% reduction in the free allocation of allowances for certain installations (for example, installations required to carry out an energy audit or implement a certified energy management system). 2. Heating plants may apply for an additional 30% allocation of free allowances.
Auction revenues spent on climate objectives	100% of revenues from emissions allowance auctions must be spent on specified climate-related purposes. Previously, the ETS Act required at least 50% of such revenues for these purposes.
Modernisation Fund	The draft clarifies the catalogue of investments that may be financed under priority areas of the Modernisation Fund and adds new types of investments that the Fund may support.

Aviation and the CORSIA mechanism

The amendment proposes a gradual reduction of free allowance allocations for aviation in favour of auctioning. At the same time, it would allow free allocations linked to using certain qualifying aviation fuels (for example, advanced aviation biofuels or renewable hydrogen for aviation). This measure is intended as an exception to the auctioning principle, and to encourage decarbonisation in the aviation sector.

The draft also provides for EU carriers to participate in the global Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), established by the International Civil Aviation Organization (ICAO). Aircraft operators must compensate emissions that exceed the baseline levels set by the ICAO Council. These obligations include monitoring and reporting emissions from flights covered by CORSIA (international flights), and surrendering units equal to the amount by which emissions above the baseline from flights subject to compensation exceed that baseline.

Including maritime transport in the ETS

The draft extends the ETS to include emissions from the maritime transport sector. Until now, the ETS covered emissions from certain installations (for example, industrial plants, power stations, and CHP plants) and emissions from aviation operations.

Under the amendment, large shipping companies must report and account for emissions in the Union Registry. The ETS Act will define terms such as “shipping company” and “port of call”, which will determine the scope of the new rules.

Bringing maritime transport into the ETS will create several administrative obligations for new participants, including:

1. the requirement for shipping companies to have a monitoring plan for emissions for each ship covered by the ETS;
2. an annual reporting obligation for emissions for the previous year; and
3. an obligation to account for emissions in the Union Registry.

The ETS will cover voyages by:

1. ships with a gross tonnage of 5,000 and above, for greenhouse gas emissions released during voyages to transport passengers or goods for commercial purposes from the last port of call to a port of call under an EU Member State's jurisdiction, and voyages from a port of call under a Member State's jurisdiction to the next port of call; and
2. offshore ships with a gross tonnage of 5,000 and above, for greenhouse gas emissions released during voyages from the last port of call to a port of call under an EU Member State's jurisdiction, voyages from a port of call under a Member State's jurisdiction to the next port of call, and operations within ports of call under a Member State's jurisdiction (the obligation for the latter is deferred until 2027).

Changes to administrative fines

The draft replaces fixed-amount administrative fines with range-based (discretionary) fines. This will allow enforcement authorities to consider the circumstances of the breach when setting the penalty. For example, the current administrative fine for operating an installation without a permit is PLN 50,000; under the new rules, the fine would range from PLN 10,000 to PLN 50,000.

How we can help

We can support you by:

- preparing an analysis of the proposed changes and their impact on businesses subject to the ETS;
- advising on how to adapt your operations to the new ETS requirements; and
- representing businesses in proceedings concerning administrative fines issued for breaches of ETS rules.



Contact us!



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