
DRAFT STATUTORY INSTRUMENTS

2010 No.

The CRC Energy Efficiency Scheme Order 2010

PART 15

Criminal offences and penalties

Offences

- 106.**—(1) It is an offence for a person—
- (a) intentionally to obstruct an authorised person in the exercise of the powers or duties of the authorised person under Schedule 9; or
 - (b) to make a statement—
 - (i) which that person knows to be false or misleading in a material particular; or
 - (ii) recklessly and which is false or misleading in a material particular,where the statement is made in purported compliance with a provision of this Order.
- (2) It is an offence for a person—
- (a) to fail to comply with an enforcement notice;
 - (b) where an authorised person exercises the powers or duties under Schedule 9—
 - (i) to fail or refuse to provide facilities or assistance or to permit any inspection, when reasonably required by an authorised person; or
 - (ii) to prevent any other person from appearing before an authorised person or answering any question to which an authorised person may require an answer.
- (3) It is a defence for a person charged with an offence under paragraph (2) to prove that such person had a reasonable excuse for the matters charged.
- (4) It is an offence for a person to pretend to be an authorised person.
- (5) It is an offence for a person in control of any premises to refuse to allow the administrator access to those premises contrary to article 87(3) where such access is reasonably required.

Penalties

- 107.**—(1) A person guilty of an offence under article 106(1)(b) or (2)(a) is liable—
- (a) in England and Wales or Northern Ireland—
 - (i) on summary conviction to a fine not exceeding £50,000 or to a term of imprisonment not exceeding 3 months, or both;
 - (ii) on conviction on indictment, to a fine or to a term of imprisonment not exceeding 2 years, or both;
- and
- (b) in Scotland—

- (i) on summary conviction to a fine not exceeding £50,000 or to a term of imprisonment not exceeding 12 months, or both;
 - (ii) on conviction on indictment, to a fine or to a term of imprisonment not exceeding 2 years, or both.
- (2) A person guilty of an offence under article 106(1)(a), (2)(b), (4) or (5) is liable—
- (a) in England and Wales or Northern Ireland—
 - (i) on summary conviction to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 3 months, or both;
 - (ii) on conviction on indictment, to a fine or to a term of imprisonment not exceeding 2 years, or both;
 - and
 - (b) in Scotland—
 - (i) on summary conviction to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 12 months, or both;
 - (ii) on conviction on indictment, to a fine or to a term of imprisonment not exceeding 2 years, or both.

Bodies corporate

108.—(1) Where an offence under this Part is committed by a body corporate and—

- (a) it is committed with the consent or connivance of an officer; or
- (b) it is attributable to any neglect on the officer's part,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) "Officer", in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts or defaults of a member in connection with that member's functions of management as if the member were a director of the body corporate.

Scottish partnerships

109.—(1) Where an offence under this Part is committed by a Scottish partnership and—

- (a) it is committed with the consent or connivance of a partner; or
- (b) it is attributable to any neglect on the partner's part,

the partner as well as the partnership is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1) "partner" includes a person purporting to act as a partner.

The Crown

110.—(1) This Order applies to the Crown but no contravention of it by the Crown makes the Crown criminally liable.

(2) Notwithstanding paragraph (1), this Order applies to persons in the public service of the Crown as it applies to other persons.