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STATUTORY INSTRUMENTS

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**2009 No. 2301**

**The Aviation Greenhouse Gas Emissions  
Trading Scheme Regulations 2009**

**PART 5**

Civil penalties

**Procedure**

- 21.**—(1) Where a person is liable to a civil penalty under regulations 24 to 29 the regulator must—
- (a) give notice to the person liable to the civil penalty; and
  - (b) state in that notice whether or not the person is liable to a daily penalty in accordance with regulation 24(2), 25(2), 26(2), 28(2) or 29(2) (“additional daily penalty”).
- (2) Where a person is liable to an additional daily penalty the regulator must, when the amount of the additional daily penalty can be determined, give notice to the person liable to the penalty of the total amount due under this Part.
- (3) Where a civil penalty does not include an additional daily penalty that penalty is due one month after notice is given under paragraph (1).
- (4) Where a civil penalty includes an additional daily penalty that penalty is due on the date one month after notice is given under paragraph (2).
- (5) A civil penalty must be paid to the regulator.
- (6) Any civil penalty imposed is recoverable—
- (a) as a civil debt; and
  - (b) where appropriate, in accordance with regulation 30.
- (7) The regulator must—
- (a) give notice to the authority of any notice of a civil penalty given under paragraph (1) or (2); and
  - (b) pass any civil penalty paid to it to the authority.

**Variable amounts**

- 22.**—(1) Where an aircraft operator is liable to a civil penalty under regulation 25, 28 or 29 the regulator may, in a notice given under regulation 21, substitute a lower amount than specified in those regulations.
- (2) Before substituting a lower amount under paragraph (1) the regulator must—
- (a) take into account the seriousness of the failure to comply; and
  - (b) ensure that the new amount provides for an effective and dissuasive penalty.

**Waiver and modification**

23.—(1) Paragraph (2) applies where—

- (a) the person liable to a civil penalty or upon whom a civil penalty has been imposed demonstrates to the satisfaction of the regulator, within 8 weeks of the service of a notice under regulation 21(1), that the person exercised all due diligence and took all steps possible—
  - (i) to comply with the provision of the Regulations giving rise to the penalty; or
  - (ii) to rectify any failure in compliance as soon as it came to that person's notice, provided that the person was acting reasonably in being unaware of the failure in compliance; and
- (b) in all the circumstances it is reasonable to exercise the powers set out in paragraph (2).

(2) The regulator may—

- (a) waive a civil penalty;
- (b) impose or substitute a lower civil penalty;
- (c) allow the person a period of no more than 31 days to rectify any failure in compliance before it imposes a civil penalty, subject to such conditions (if any) as it considers appropriate;
- (d) extend the time for payment.

**Failure to submit or resubmit an application for an emissions plan**

24.—(1) The civil penalties in paragraph (2) apply where an aircraft operator—

- (a) fails to submit or submits late an application for an emissions plan, contrary to regulation 14;
- (b) fails to resubmit or resubmits late an application for an emissions plan under regulation 15(4).

(2) The civil penalties are—

- (a) for a failure before 1st January 2012—
  - (i) £500; and
  - (ii) £50 for each day that the application or resubmission of an application is provided late following the service of a notice under regulation 21(1), up to a maximum of £4,500;
- (b) for a failure on or after 1st January 2012—
  - (i) £1,500; and
  - (ii) £150 for each day that the application or resubmission of an application is provided late following the service of a notice under regulation 21(1), up to a maximum of £13,500.

**Failure to monitor aviation emissions**

25.—(1) The civil penalties in paragraph (2) apply where an aircraft operator fails to monitor aviation emissions, contrary to regulation 16.

(2) The civil penalties are—

- (a) for a failure before 1st January 2012—
  - (i) £500; and

- (ii) £50 for each day that the aircraft operator fails to monitor aviation emissions following the service of a notice under regulation 21(1), up to a maximum of £4,500;
- (b) for a failure on or after 1st January 2012—
  - (i) £1,500; and
  - (ii) £150 for each day that the aircraft operator fails to monitor aviation emissions following the service of a notice under regulation 21(1), up to a maximum of £13,500.

#### **Failure to report aviation emissions**

**26.**—(1) The civil penalties in paragraph (2) apply where an aircraft operator fails to report or reports late aviation emissions, contrary to regulation 17.

- (2) The civil penalties are—
  - (a) for a failure before 1st January 2012—
    - (i) £1,250; and
    - (ii) £125 for each day that the aircraft operator fails to report or reports late aviation emissions following the service of a notice under regulation 21(1), up to a maximum of £11,250;
  - (b) for a failure on or after 1st January 2012—
    - (i) £3,750; and
    - (ii) £375 for each day that the aircraft operator fails to report or reports late aviation emissions following the service of a notice under regulation 21(1), up to a maximum of £33,750.

#### **Making false or misleading statements**

**27.**—(1) The civil penalty is £1,000 where a UK operator makes a statement which is false or misleading in a material particular in a report submitted under regulation 12.

(2) The civil penalty is £1,000 where an aircraft operator makes a statement which is false or misleading in a material particular in a report submitted under regulation 17.

#### **Failure to comply with requirements of the Monitoring and Reporting Decision**

**28.**—(1) The civil penalties in paragraph (2) apply where an aircraft operator fails to comply with regulation 18.

- (2) The civil penalties are—
  - (a) for a failure before 1st January 2012—
    - (i) £500; and
    - (ii) £50 for each day that the aircraft operator fails to comply with regulation 18 following the service of a notice under regulation 21(1), up to a maximum of £4,500;
  - (b) for a failure on or after 1st January 2012—
    - (i) £1,500; and
    - (ii) £150 for each day that the aircraft operator fails to comply with regulation 18 following the service of a notice under regulation 21(1), up to a maximum of £13,500.

**Failure to comply with information notices**

**29.**—(1) The civil penalties in paragraph (2) apply where an aircraft operator fails to comply with an information notice, contrary to regulation 20.

(2) The civil penalties are—

(a) for a failure before 1st January 2012—

(i) £500; and

(ii) £50 for each day that the aircraft operator complies late or fails to comply with an information notice following the service of a notice under regulation 21(1) up to a maximum of £4,500;

(b) for a failure on or after 1st January 2012—

(i) £1,500; and

(ii) £150 for each day that the aircraft operator fails to comply with an information notice following the service of a notice under regulation 21(1), up to a maximum of £13,500.