

STATUTORY INSTRUMENTS

2009 No. 2301

The Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2009

[^{F1}PART 7

Appeals

Textual Amendments

- F1** Regulations revoked (31.8.2010) by [The Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010 \(S.I. 2010/1996\)](#), **regs. 1, 60** (with savings and transitional provisions in reg. 60(2)-(12))

General

- 36.**—(1) A UK operator may appeal to the appeal body where the regulator has—
- (a) refused the UK operator's application for a benchmarking plan by—
 - (i) notice under regulation 10(1); or
 - (ii) deemed refusal under regulation 10(4);
 - (b) refused to submit the UK operator's report to the Secretary of State by—
 - (i) notice under regulation 13(1)(b); or
 - (ii) deemed refusal under regulation 13(4);
 - (c) served the UK operator a notice under regulation 21(1) in relation to a civil penalty under regulation 27(1).
- (2) An aircraft operator may appeal to the appeal body where the regulator has—
- (a) refused the aircraft operator's application for an emissions plan by—
 - (i) notice under regulation 15(1) or (5); or
 - (ii) deemed refusal under regulation 15(6);
 - (b) served the aircraft operator a notice under regulation 19(2)(c), 20 or 21.
- (3) In determining an appeal under this regulation the appeal body may—
- (a) affirm the notice or deemed refusal;
 - (b) quash all or part of the notice or deemed refusal;
 - (c) vary the notice;
 - (d) give directions to the regulator in relation to the subject matter of the appeal;
 - (e) substitute a deemed refusal by the regulator with a decision of the appeal body.
- (4) An appeal brought under paragraph (1)(a), (b) or (2)(a) does not suspend the operation of the notice or deemed refusal.

(5) An appeal brought under paragraph (1)(c) or (2)(b) suspends the operation of the notice pending the final determination or the withdrawal of the appeal.

(6) The “appeal body” means—

- (a) in respect of an appeal against a notice or deemed refusal of the Environment Agency—
 - (i) the Welsh Ministers, where the UK operator making the appeal has its registered office in Wales;
 - (ii) otherwise, the Secretary of State;
- (b) in respect of an appeal against a notice or deemed refusal of the Scottish Environment Protection Agency, the Scottish Ministers;
- (c) in respect of an appeal against a notice or deemed refusal of the chief inspector, the Planning Appeals Commission.

Procedure and appointment

37.—(1) Except where paragraph (4) applies, Schedule 2 has effect in relation to the making and determination of appeals under regulation 36.

(2) Except where paragraph (4) applies, the appeal body may—

- (a) appoint any person to exercise on its behalf, with or without payment, the function of determining an appeal under regulation 36 or any matter or question involved in such an appeal; or
- (b) refer any matter or question involved in an appeal under regulation 36 to such person as it may appoint for the purpose, with or without payment.

(3) Schedule 3 has effect with respect to appointments under paragraph (2)(a).

(4) Where an appeal under regulation 36 is made to the Planning Appeals Commission, Schedule 4 has effect in relation to the making and determination of the appeal.]

Changes to legislation:

There are currently no known outstanding effects for the The Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2009, PART 7.