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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 28**

**The Emissions Performance Standard Monitoring and  
Enforcement Regulations (Northern Ireland) 2016**

**PART 2**

**Monitoring and enforcement**

**Civil penalty notices**

**10.**—(1) Subject to paragraph (7), where the chief inspector is of the view that an operator has breached the emissions limit duty, the chief inspector may serve a notice (“a civil penalty notice”) on that operator which states the financial penalty which is payable to the chief inspector in respect of that breach.

(2) A civil penalty notice must state—

- (a) how the amount of the financial penalty imposed was calculated; and
- (b) the date by which the amount payable under the civil penalty notice is to be paid in full.

(3) The financial penalty is to be set at a level that the chief inspector considers will, if possible—

- (a) remove any benefit derived by the operator from the breach of the emissions limit duty;
- (b) be fair; and
- (c) be proportionate.

(4) The financial penalty may include an amount in respect of the costs reasonably incurred by the chief inspector in investigating and assessing the breach of the emissions limit duty.

(5) An operator must pay the amount payable under a civil penalty notice and if it is not paid in full by the date stated in the civil penalty notice, the amount payable may be recovered from the operator by the chief inspector as a civil debt.

(6) The chief inspector may vary or withdraw a civil penalty notice before it has been paid by further notice served on the operator.

(7) The chief inspector may not impose a financial penalty in respect of a breach of the emissions limit duty in any year which began more than 5 years before the year in which the notice imposing the penalty is served.

(8) The Department may issue guidance (“EPS penalty guidance”) on the calculation of financial penalties.

(9) Where EPS penalty guidance is issued, the chief inspector must have regard to that guidance when calculating the amount of a financial penalty to be imposed.

(10) Before issuing guidance, the Department must consult—

- (a) the national authorities in England, Scotland and Wales; and
- (b) such other persons or bodies as the Department considers appropriate.

(11) Where EPS penalty guidance is issued, it must be made publically available by the Department 28 days before it has effect.

(12) The chief inspector may state the manner and form in which any amount required to be paid by a civil penalty notice must be paid.

(13) Any sum received by the chief inspector must be paid into the consolidated fund.