
DRAFT STATUTORY INSTRUMENTS

2020 No.

The Greenhouse Gas Emissions Trading Scheme Order 2020

PART 7

Enforcement

CHAPTER 2

Civil penalties

Ultra-small emitters: failure to notify where reportable emissions exceed maximum amount

60.—(1) Where—

- (a) an installation's reportable emissions in a scheme year (the "excess year") for which the installation is an ultra-small emitter exceed the maximum amount; and
- (b) the operator of the installation fails to give notice to the regulator under paragraph 6 of Schedule 8 on or before 31st March in the following year (the "default year") or at all,

the operator is liable to a civil penalty.

(2) The civil penalty is the sum of—

- (a) £2,500; and
- (b) $CA + (RE \times CP)$ for each scheme year (or part of a scheme year) falling within the penalty period (if any), where—

CA is an estimate of the costs avoided by the operator in the scheme year (or part of the scheme year) as a result of carrying out a regulated activity without the authorisation of the relevant permit;

RE is an estimate of the installation's reportable emissions in the scheme year (or part of the scheme year) during which a regulated activity that was not authorised by a permit was carried out;

CP is the carbon price for the scheme year.

(3) The penalty period is the period—

- (a) beginning on 1st January in the year following the default year; and
- (b) ending on the earlier of the following—
 - (i) the day before the day on which a permit for the installation comes into force; and
 - (ii) the last day of the same allocation period as the excess year is in.

(4) But there is no penalty period if—

- (a) 1st January in the year following the default year is not in the same allocation period as the excess year; or
- (b) a permit for the installation is in force on that date.

(5) When setting the amount of the civil penalty to be imposed, the regulator may increase the amount calculated under paragraph (2)(b) by a factor designed to ensure that the amount of the civil penalty exceeds the value of any economic benefit that the operator has obtained as a result of carrying out a regulated activity that was not authorised by the relevant permit.

(6) The regulator must—

- (a) estimate CA and RE under paragraph (2); and
- (b) exercise the regulator’s functions under paragraph (5),

in accordance with a direction given by the relevant national authority under section 52 of CCA 2008.

(7) In this article—

“maximum amount” has the meaning given in paragraph 1 of Schedule 8;

“relevant permit” means—

- (a) where a hospital or small emitter permit for the installation comes into force before the last day of the same allocation period as the excess year is in, a hospital or small emitter permit;
- (b) in any other case, a greenhouse gas emissions permit.