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DRAFT STATUTORY INSTRUMENTS

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**2023 No.**

The Vehicle Emissions Trading Schemes Order 2023

Part 6

Civil penalties

**Civil penalties: general**

**93.**—(1) The administrator—

- (a) may impose a civil penalty in accordance with articles 97 to 106; and
- (b) where it does so, it must give written notice of such penalty (referred to in this Part as a “penalty notice”).

(2) A penalty notice must specify—

- (a) the provision of this Order that is breached; and
- (b) information about rights of appeal.

(3) In this Part—

“block” means the restriction of the operation of a participant in the Trading Schemes’, or an SPV manufacturer’s, account in the registry, so that the participant or SPV manufacturer may not—

- (a) trade allowances or credits;
  - (b) bank or borrow CRTS allowances, within the meaning of [article 9](#);
  - (c) be treated as falling within [article 13\(4\)](#) or [\(6\)](#) (transitional allocation of CRTS allowances);
  - (d) acquire CCTS allowances under [article 35](#);
  - (e) bank or borrow VRTS allowances within the meaning of [article 41](#);
  - (f) be treated as falling within [article 45\(4\)](#) or [\(6\)](#) (transitional allocation of VRTS allowances);
  - (g) acquire VCTS allowances under [article 67](#);
  - (h) be treated as a low-volume CRTS participant or low-volume VRTS participant in accordance with [Schedule 4](#); or
  - (i) make an application to be a pool participant in the Trading Schemes under [Schedule 5](#);
- “financial year”, in relation to a participant in the Trading Schemes or an SPV manufacturer, has the meaning given in section 390 of the Companies Act 2006<sup>(1)</sup>;

“publication” means to publish on a part of the registry which is accessible to the public—

- (a) the name of a participant in the Trading Schemes or an SPV manufacturer, including, where a participant is a pool participant in the Trading Schemes, the name of each member of that pool participant; and
- (b) details of the breach for which a civil penalty has been imposed;

“turnover”, in relation to a participant in the Trading Schemes or an SPV manufacturer, means its turnover as defined in section 474(1) of the Companies Act 2006<sup>(2)</sup>, as if that section applied to participants in the Trading Schemes or SPV manufacturers, and excluding turnover arising outside the United Kingdom.

(4) For so long as the operation of a pool participant in the Trading Schemes' account in the registry is restricted by a block, that participant continues to be treated as a pool participant in the Trading Schemes, even where the grant of an application by the administrator under Schedule 5 would otherwise be required.

(5) In relation to a pool participant in the Trading Schemes—

- (a) its turnover for the purposes of paragraph (3) is the aggregate turnover of each of the members of the pool participant; and
- (b) a reference to its financial year is a reference to the financial year of the manufacturer identified to the administrator in accordance with—
  - (i) paragraph 5(c)(i) of Schedule 5 (application to be treated as a pool participant) in the application made under that Schedule; or
  - (ii) article 83(1) (updating information provided with application under Schedule 5).

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(2) Section 474(1) is amended by S.I. 2015/980.