
DRAFT STATUTORY INSTRUMENTS

2023 No.

The Vehicle Emissions Trading Schemes Order 2023

Part 5

Monitoring compliance and enforcement

Powers of administrator in respect of monitoring compliance

85.—(1) The powers of the administrator in this Part may only be exercised where the administrator reasonably believes there has been a failure by a participant in the Trading Schemes or an SPV manufacturer (referred to in this Part as “P”) to comply with a requirement of this Order.

(2) The administrator may authorise a person to exercise, on behalf of the administrator and in accordance with the terms of the authorisation, the administrator’s powers in this Part.

(3) A person authorised in accordance with paragraph (2) is referred to in this Part as an “authorised person”.

Power to require production of documents or provision of information

86. The administrator or an authorised person may, by a written notice given to P, require P—

- (a) to provide the administrator or the authorised person with information or documents; and
- (b) to provide such information or documents in the form specified in the notice and within such period, or at such time, as is specified in the notice.

Power to question officers of a company

87. The administrator or an authorised person may, by a written notice given to P, require P to make available any officer of a company believed to be able to give information relevant to an investigation into whether there has been a failure by P to comply with a requirement of this Order and require that officer—

- (a) to attend at a place and time specified by the administrator or authorised person;
- (b) to answer questions (in the absence of any person other than those whom the administrator or authorised person allows to be present and a person nominated by the officer being asked questions); and
- (c) to sign a declaration of truth of the answers given to those questions.

Powers of entry, etc

88. The administrator or an authorised person may—

- (a) enter any premises with a warrant issued in accordance with [article 90](#), together with any equipment or material as may be required; and
- (b) when entering premises by virtue of paragraph (a), be accompanied by such persons as appear to the administrator or authorised person to be necessary.

Seizure of documents or records

89.—(1) The administrator or an authorised person exercising the power of entry under [article 88](#) may seize any documents or records.

(2) Where the administrator or authorised person seizes documents or records under [paragraph \(1\)](#), they must—

- (a) provide the occupier of the premises with a written record of any items which are seized; and
- (b) retain any seized item for no longer than necessary, and so far as possible, in its original condition.

Warrant

90.—(1) A justice may issue a warrant in relation to any premises for the purposes of [article 88\(a\)](#) where the justice is satisfied that—

- (a) there are reasonable grounds for the exercise of the power in that paragraph; and
- (b) one or more of the conditions in paragraph (2) are fulfilled in relation to the premises.

(2) The conditions referred to in paragraph (1)(b) are that—

- (a) the exercise of the power by consent in relation to the premises has been refused;
- (b) a refusal of consent to the exercise of the power is reasonably expected;
- (c) the premises are unoccupied;
- (d) the occupier is temporarily absent from the premises and the case is one of urgency; or
- (e) a request for admission to the premises would defeat the purpose of the entry.

(3) A warrant issued in accordance with this article continues to have effect until the purpose for which it was issued has been fulfilled.

(4) In paragraph (1), “justice” means—

- (a) in England or Wales, a justice of the peace;
- (b) in Scotland, a justice of the peace or sheriff.

Legal professional privilege

91. Nothing in this Part requires any person to produce a document which that person would be entitled to withhold the production of on the grounds of legal professional privilege.

Enforcement notices

92.—(1) Where the administrator considers that a participant in the Trading Schemes or an SPV manufacturer has contravened, is contravening or is likely to contravene a requirement imposed by or under this Order, the administrator may give notice (an “enforcement notice”) to the participant or SPV manufacturer.

(2) An enforcement notice must be given in writing and must set out—

- (a) the requirement that the administrator considers has been contravened, is being contravened or is likely to be contravened;
- (b) details of the contravention or likely contravention;
- (c) the steps that must be taken to remedy the contravention or to ensure that a contravention does not occur;

- (d) the period within which the steps must be taken and any updates which must be provided to the administrator about the steps taken;
 - (e) information about rights of appeal.
- (3) A person to whom an enforcement notice is given must comply with the requirements of the notice within the period set out in the notice.
- (4) The administrator may withdraw an enforcement notice at any time by giving notice of the withdrawal to the person to whom the enforcement notice is given.