
Changes to legislation: Energy Act 2013, Cross Heading: Matters that may be contained in enforcement regulations is up to date with all changes known to be in force on or before 20 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 5

EMISSIONS LIMIT DUTY: MONITORING AND ENFORCEMENT

Matters that may be contained in enforcement regulations

- 1 (1) Provision that may be contained in enforcement regulations includes provision—
- (a) conferring functions for or in connection with monitoring or enforcing the compliance of operators with the emissions limit duty;
 - (b) determining the authorities by whom such functions are to be exercisable (“enforcing authorities”);
 - (c) requiring enforcing authorities to comply with directions given by the appropriate national authority in carrying out any of their functions under the regulations;
 - (d) requiring enforcing authorities to comply with requirements imposed on them under section 59(10);
 - (e) requiring or authorising enforcing authorities to carry out consultation in connection with the carrying out of any of their functions under the regulations;
 - (f) requiring enforcing authorities to publish guidance about the carrying out of any of their functions under the regulations;
 - (g) about the provision, use and publication of information in relation to the compliance of operators with the emissions limit duty;
 - (h) authorising the appropriate national authority to make schemes for the charging by enforcing authorities of fees or other charges in respect of or in connection with functions conferred on enforcing authorities under the regulations;
 - (i) about the enforcement of contraventions of the emissions limit duty through enforcement notices and financial penalties (see paragraphs 2 and 3);
 - (j) about the procedure to be followed in connection with the service of enforcement notices and imposition of financial penalties (including requirements for enforcement notices to be published in draft before being served for the purpose of enabling representations to be made about them);
 - (k) for the enforcement of—
 - (i) enforcement notices,
 - (ii) undertakings given in connection with such notices,
 - (iii) financial penalties, or
 - (iv) other obligations imposed on operators under the regulations,by proceedings in the High Court or any court of competent jurisdiction in Scotland;
 - (l) conferring rights of appeal in respect of decisions made, notices served, financial penalties imposed or other things done (or omitted to be done) by

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- enforcing authorities under the regulations (including provision in relation to the making, consideration and determination of such appeals);
- (m) about the application of the regulations to the Crown.
- (2) Provision under sub-paragraph (1)(a) may in particular include provision—
- (a) conferring power on enforcing authorities to take samples or to make copies of information;
 - (b) conferring power on enforcing authorities to arrange for preventative or remedial action to be taken at the expense of operators;
 - (c) authorising enforcing authorities to appoint suitable persons to exercise the functions mentioned in paragraph (a) or (b);
 - (d) conferring powers on persons so appointed (which may include, so far as relevant, the powers mentioned in section 108(4) of the Environment Act 1995).
- (3) Provision under sub-paragraph (1)(g) may in particular include provision—
- (a) enabling enforcing authorities to use, for the purposes of their functions conferred under the regulations in respect of fossil fuel plant, information held for the purposes of their functions in relation to any such plant conferred under regulations implementing the ETS Directive;
 - (b) requiring operators, or other persons of a description specified in the regulations, to provide to an enforcing authority such information, and in such manner, as—
 - (i) the regulations may specify, or
 - (ii) the authority may reasonably require;
 - (c) requiring or authorising enforcing authorities to publish such information, and in such manner, as is specified in the regulations (whether such information is held as mentioned in paragraph (a) or is provided as mentioned in paragraph (b));
 - (d) requiring operators to publish such information, and in such manner, as—
 - (i) the regulations may specify, or
 - (ii) an enforcing authority may reasonably require.
- (4) Provision under sub-paragraph (1)(h) in relation to a scheme may—
- (a) require the scheme to be so framed that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover such expenditure (whether or not incurred by the enforcing authority or other person to whom they are so payable) as is specified;
 - (b) authorise any such scheme to make different provision for different cases (and specify particular kinds of such cases).

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 68(4) inserted by [2023 c. 52 s. 302\(4\)](#)