
STATUTORY INSTRUMENTS

2012 No. 3038

The Greenhouse Gas Emissions
Trading Scheme Regulations 2012

PART 7

Civil Penalties

Carrying out a regulated activity contrary to regulation 9

52.—(1) Where in any scheme year a regulated activity is carried out that is not authorised by a permit, contrary to regulation 9, the operator of the installation (“P”) is at the end of that year liable to the civil penalty in paragraph (2).

(2) For each such year, the civil penalty is $A + (B \times C)$, where—

A is the estimated amount of the costs avoided by P in that year as a result of carrying out a regulated activity without such authorisation;

B is the estimated amount of reportable emissions from the installation in the period during which a regulated activity was carried out without such authorisation;

C is the carbon price for that year.

(3) In exercising powers under regulation 51 in relation to the penalty in paragraph (2), the regulator must ensure that the penalty imposed exceeds the amount of any economic benefit that P has obtained as a result of carrying out a regulated activity that is not authorised by a permit.

(4) The authority must exercise powers under section 40 of the Environment Act 1995 or regulation 37 of the Northern Ireland Regulations to give the regulator directions as to—

- (a) the estimation by the regulator of A and B in paragraph (2); and
- (b) the exercise of the regulator’s powers in accordance with paragraph (3).