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STATUTORY INSTRUMENTS

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**2014 No. 1643**

**The Energy Savings Opportunity Scheme Regulations 2014**

**PART 8**

Civil penalties and breaches

CHAPTER 1

Civil penalties

**Penalty notices**

**39.**—(1) In any case where the relevant compliance body is satisfied that a responsible undertaking is liable to a civil penalty under this Part, it may serve a notice on that responsible undertaking (a “penalty notice”) imposing the penalties and other requirements set out in this Part.

(2) A penalty notice must—

- (a) be in writing,
- (b) be served on the person to whom it is addressed,
- (c) specify—
  - (i) the breach of these Regulations in respect of which the penalty is imposed,
  - (ii) the steps that must be taken to remedy the breach,
  - (iii) the nature of the penalty, and
- (d) include information about appeals under Part 9.

(3) A penalty notice imposing a financial penalty must specify—

- (a) where no daily penalty applies or the total amount of the daily penalty can be determined at the date of service of the notice—
  - (i) the total amount due,
  - (ii) where applicable, how it has been calculated, and
  - (iii) to whom, and the date by which, it must be paid,
- (b) where a daily penalty applies and the total amount of the daily penalty cannot be determined at the date of service of the notice—
  - (i) the amount of the initial penalty,
  - (ii) details of the applicable daily penalty, and
  - (iii) to whom the penalty must be paid.

(4) Where a notice has been served under paragraph (3)(b) and the total amount of the daily penalty can be determined after the date of service of the notice, the compliance body must serve a further notice on the responsible undertaking which complies with paragraph (3)(a).

(5) The daily penalty rate must be calculated by reference to working days.

(6) The compliance body must remit to the Secretary of State any financial penalty received.

### **Effect and recovery of financial penalty**

**40.**—(1) Where—

- (a) an initial penalty applies,
  - (b) the total amount of the daily penalty can be determined at the date of service of the notice,
- the financial penalty is due 60 working days after notice of that penalty is given.

(2) If unpaid, a financial penalty is recoverable as a civil debt by the compliance body.

### **Effect of publication penalty**

**41.**—(1) The “publication penalty” means publication on the scheme administrator’s webpage, or another compliance body’s website, of the following information in relation to a penalty notice—

- (a) the name of the responsible undertaking and, where different, of the participant,
- (b) details of the breach of these Regulations in respect of which the penalty notice has been issued, and
- (c) details of any financial penalty imposed.

(2) The information in paragraph (1) must be published for a minimum period of one year, and may be published for such longer period as the scheme administrator or the compliance body (as the case may be) determines.

(3) A publication penalty may not take effect until the period specified for any appeal against the penalty has expired.

### **Discretion in waiving, imposition and modification of civil penalties**

**42.**—(1) Where the compliance body considers appropriate, it may—

- (a) waive a civil penalty,
- (b) allow additional time to pay any financial penalty,
- (c) impose a lower financial penalty, or substitute a lower financial penalty where one has already been imposed, or
- (d) modify the application of a publication penalty.

(2) Where, at any time before a financial penalty is due to be paid, the compliance body ceases to be satisfied that the responsible undertaking is liable for that penalty, it may serve a further notice on that undertaking—

- (a) withdrawing the penalty notice, or
- (b) modifying the penalty notice.