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STATUTORY INSTRUMENTS

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**2021 No. 534**

**The Air Navigation (Carbon Offsetting and Reduction Scheme for International Aviation) Order 2021**

**PART 1**

**General**

**Citation and commencement**

1. This Order may be cited as the Air Navigation (Carbon Offsetting and Reduction Scheme for International Aviation) Order 2021 and comes into force on 26th May 2021.

**Extent**

2. This Order extends to the whole of the United Kingdom.

**Application**

3.—(1) Subject to paragraph (2), this Order applies to civil international aviation undertaken by aeroplane operators for whom the United Kingdom is the administering State, in accordance with article 8, under this Order.

(2) This Order does not apply to the following flights—

- (a) humanitarian, medical and firefighting flights, or to international flights preceding or following a humanitarian, medical or firefighting flight provided such flights are conducted with the same aeroplane, and are required to accomplish the related humanitarian, medical or firefighting activities or to reposition the aeroplane after that for its next activity, or
- (b) flights by State aircraft.

(3) The aeroplane operator must provide supporting evidence of such activities to the verification body or, upon request, to the Regulator.

**Interpretation**

4. In this Order—

“Aerodrome” means a defined area on land or water, including any buildings, installations and equipment, intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

“Aerodrome pair” means a group of two aerodromes composed of a departing aerodrome and an arrival aerodrome;

“Aeroplane” means a power-driven heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;

“Aeroplane operator” means a person identified under article 5;

“Aeroplane owner” means a person, organisation or enterprise identified via Item 4 (name of owner) and Item 5 (address of owner) on the certificate of registration of an aeroplane;

“Aeroplane type” means the aeroplane types described in “Doc 8643 – Aircraft Type Designators”(1);

“ACARS” means Aircraft Communications Addressing and Reporting System;

“Administrative partnership” means the delegation of administering tasks in this Order from one State to one or more other States;

“AFBO” means Average Fuel Burn Ratio;

“Air Operator Certificate” or “AOC” means a certificate issued by the CAA authorising an operator to carry out specified commercial air transport operations;

“CAA” means the Civil Aviation Authority of the United Kingdom;

“CERT” means the CO<sub>2</sub> Estimation and Reporting Tool regulated by Schedule 3;

“Chicago Convention” means the Convention on International Civil Aviation and its Annexes(2), signed in Chicago on 7th December 1944, as amended;

“chief inspector” means the chief inspector constituted under regulation 8(3) of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(3);

“CO<sub>2</sub>” means carbon dioxide;

“CO<sub>2</sub>e” means carbon dioxide equivalent;

“Compliance period” means the relevant timeline set out in Schedule 1;

“Conversion process” means a type of technology used to convert a feedstock into aviation fuel;

“CORSIA” means the Carbon Offsetting and Reduction Scheme for International Aviation(4);

“CORSIA eligible fuel” means a CORSIA sustainable aviation fuel or a CORSIA lower carbon aviation fuel, which an aeroplane operator may use to reduce its offsetting requirements(5);

“CORSIA lower carbon aviation fuel” means a fossil-based aviation fuel that meets the CORSIA Sustainability Criteria(6) under this Order;

“CORSIA sustainable aviation fuel” means a renewable or waste-derived aviation fuel that meets the CORSIA Sustainability Criteria(7) under this Order;

“domestic flight” means the operation of an aircraft from take-off at an aerodrome in the United Kingdom or its territories, to landing at an aerodrome of the United Kingdom or its territories;

(1) “Doc 8643 — Aircraft Type Designators” is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

(2) Treaty Series No. 8 (1953); Cmd 8742.

(3) [S.R. 2013 No. 160](#).

(4) Volume IV (Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)) of Annex 16 (Environmental Protection) to the Convention on International Civil Aviation (June 2018).

(5) CORSIA eligible fuel is a fuel which complies with the CORSIA Sustainability Criteria defined within the ICAO document entitled “CORSIA Sustainability Criteria for Sustainable Aviation Fuels” which is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

(6) “CORSIA Sustainability Criteria for Sustainable Aviation Fuels” is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

(7) “CORSIA Sustainability Criteria for Sustainable Aviation Fuels” is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

“Emissions Monitoring Plan” means the plan setting out how the aeroplane operator’s aviation emissions are to be monitored for the purposes of this Order;

“Emissions Report” means the report produced by the aeroplane operator for the purposes of article 31(1);

“Feedstock” means a type of unprocessed raw material used for the production of aviation fuel;

“Flight plan” means specified information provided to air traffic services units, relative to an intended flight or portion of a flight of an aircraft;

“Fuel uplift” means the measurement of fuel provided by the fuel supplier, as documented in the fuel delivery notes or invoices for each flight, in litres;

“Great Circle Distance” means the shortest distance, rounded to the nearest kilometre, between the origin and the destination aerodromes, measured over the earth’s surface modelled according to the World Geodetic System 1984 (WGS84)(8);

“GHG” means Greenhouse gases;

“IAF” means International Accreditation Forum;

“ICAO” means the International Civil Aviation Organisation(9);

“IEC” means International Electrotechnical Commission;

“international flight” means the operation of an aircraft from take-off at an aerodrome of a State or its territories, to landing at an aerodrome of another State or its territories;

“ISO” means International Organization for Standardization;

“ISO 14064-3:2006” means ISO document entitled “Greenhouse gases -- Part 3: Specification with guidance for the validation and verification of greenhouse gas assertions”.

“ISO 14065:2013” means ISO document entitled “Greenhouse gases - Requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition, Document published on: 2013-04”.

“ISO 14066:2011” means ISO document entitled “Greenhouse gases — Competence requirements for greenhouse gas validation teams and verification teams”.

“ISO/IEC 17011:2004” means ISO/IEC document entitled “Conformity assessment - General requirements for accreditation bodies accrediting conformity assessment bodies”.

“kg” means kilogrammes;

“MRV” means Monitoring, Reporting and Verification;

“MJ” means Megajoule;

“National accreditation body” means the body authorised by a State which attests that a verification body is competent to provide specific verification services;

“New entrant” means any aeroplane operator that commences an aviation activity falling within the scope of this Order on or after its entry into force and whose activity is not in whole or in part a continuation of an aviation activity previously performed by another aeroplane operator;

“Notifying State” means the State that has submitted to ICAO the request for the registration of or change in the three-letter designator of an aeroplane operator over which it has jurisdiction;

“NRW” means the Natural Resources Body for Wales(10);

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(8) Latitude and longitude coordinates of aerodromes can be obtained from the ICAO Location Indicators database which is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

(9) ICAO was set up under Part II of the Convention on International Civil Aviation, signed at Chicago on 7th December 1944.

(10) The Natural Resources Body for Wales was established by article 3 of S.I. 2012/1903 (W.230).

“Operator” means, for the purpose of this Order, the person, organisation or enterprise engaged in or offering to engage in an aircraft operation;

“Pathway” means a specific combination of feedstock and conversion process used for the production of aviation fuel;

“Regulator” is the regulator identified under article 10 for the purpose of this Order;

“Reporting period” means a period which commences on 1st January and finishes on 31st December in a given year for which an aeroplane operator or State reports required information. The flight departure time (UTC)(11) determines which reporting period a flight belongs to;

“scheme year” means the calendar year beginning on 1st January 2021 or any of the subsequent calendar years during which CORSIA applies; and a reference to a scheme year described by a calendar year, such as the “2021 scheme year”, is a reference to the scheme year beginning on 1st January of that year;

“SEPA” means the Scottish Environment Protection Agency(12);

“SI units” means the international system of measurements that is based on particular metric units;

“source stream” means any of a specific fuel type, raw material or product giving rise to emissions of relevant greenhouse gases at one or more emission sources as a result of its consumption or production;

“State” means any State that is a signatory to, or has acceded to, the Convention on International Civil Aviation, signed at Chicago on 7th December 1944;

“State aircraft” means an aircraft used in the military, customs or police services;

“State pair” means a group of two States composed of a departing State or its territories and an arrival State or its territories;

“UK ETS Order” means the Greenhouse Gas Emissions Trading Scheme Order 2020(13);

“Verification of report” means an independent, systematic and sufficiently documented evaluation process of an Emissions Report;

“Verification body” means a person that performs the verification of an Emissions Report as an accredited independent third party;

“Verification team” means a group of verifiers, or a single verifier that also qualifies as a team leader, belonging to a verification body conducting the verification of an Emissions Report, whether or not supported by technical experts; and

“Verification report” means a document, drafted by the verification body, containing the verification statement set out in paragraphs 3(22) to (26) of Schedule 6 and required supporting information.

### Meaning of aeroplane operator

5. In this Order, a person is an “aeroplane operator” where that person is an operator that produces annual CO<sub>2</sub> emissions greater than 10,000 tonnes from the use of an aeroplane with a maximum certificated take-off mass greater than 5,700 kg conducting international flights.

(11) In this Order UTC is Co-ordinated Universal Time, which is the same time as Greenwich Mean Time (GMT).

(12) The Scottish Environment Protection Agency was established by section 20 of the Environment Act 1995 (c. 25).

(13) S.I. 2020/1265.

**Units**

6. The non-SI units listed in column 2 of the Table must be used either in lieu of, or in addition to, SI units(14) as primary units of measurement under this Order.

**Table****Non-SI units for use with SI units**

<i>Specific quantity</i>	<i>Non-SI Unit</i>	<i>Symbol</i>	<i>Definition (in terms of SI units)</i>
Mass	tonne	T	1 t = 10 <sup>3</sup> kg
Time	hour	H	1 h = 60 min = 3,600 s
Volume	litre	L	1 L = 1 dm <sup>3</sup> = 10 <sup>-3</sup> m <sup>3</sup>

**PART 2****Administration****CHAPTER 1****General****Notification to ICAO of voluntary participation in CORSIA**

7.—(1) The Secretary of State must notify ICAO of any change in the decision by the government of the United Kingdom to voluntarily participate, or to discontinue its voluntary participation, in CORSIA, for the purpose of the inclusion of the United Kingdom in the ICAO document entitled “CORSIA States for Chapter 3 State Pairs”(15).

(2) The notification in paragraph (1) must be made by 30th June in each year from and including 2021 to and including 2025, for the purposes of inclusion in the subsequent year of the scheme.

**Attribution of an aeroplane operator to the United Kingdom**

8.—(1) The United Kingdom is the administering State for an aeroplane operator where—

- (a) the aeroplane operator has an ICAO Designator which identifies the United Kingdom as the Notifying State, as listed in the ICAO document entitled ICAO Designators for Aircraft Operating Agencies, Aeronautical Authorities and Services(16),
- (b) without an ICAO Designator, the aeroplane operator has a valid AOC, or equivalent, or
- (c) without an ICAO Designator or AOC, the aeroplane operator has its registered office in the United Kingdom or, where the aeroplane operator is a natural person, is resident in the United Kingdom.

(14) The International System of Units (SI), commonly known as the metric system, is the international standard for measurement.

(15) “CORSIA States for Chapter 3 State Pairs” is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

(16) ICAO Designators and Notifying States are contained in ICAO Designators for Aircraft Operating Agencies, Aeronautical Authorities and Services (Doc 8585) which is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

(2) An aeroplane operator with international flights attributed to it and which has the United Kingdom as its administering State must notify the Regulator of that fact.

(3) The Secretary of State, with the assistance of the Regulator, must ensure the correct attribution of an aeroplane operator to the United Kingdom according to the approach in paragraph (1).

(4) A Regulator must, by 30th October in each scheme year, provide the Secretary of State with a list of aeroplane operators for which it is the Regulator.

(5) The Secretary of State must submit to ICAO in accordance with the timeline set out in Schedule 1 a list of aeroplane operators which are attributed to the United Kingdom containing the required information as described in Schedule 5, Table 3 and the Secretary of State may submit updates to this list to ICAO on a more frequent basis.

### **Attribution of international flights to an aeroplane operator**

**9.—**(1) An aeroplane operator must identify international flights that are attributed to it in accordance with paragraph (3).

(2) Two or more consecutive flights operated under the same flight number are considered as separate flights for the purposes of this Order.

(3) An international flight is attributable to an aeroplane operator as follows—

- (a) when Item 7 (aircraft identification)(**17**) of the flight plan contains the ICAO Designator, that flight must be attributed to the aeroplane operator that has been assigned this Designator,
- (b) when Item 7 (aircraft identification) of the flight plan contains the nationality or common mark, and registration mark of an aeroplane that is explicitly listed in a valid AOC, or equivalent, that flight must be attributed to the aeroplane operator that holds the air operator certificate, and
- (c) when the aeroplane operator of a flight has not been identified under sub-paragraphs (a) or (b), that flight must be attributed to the aeroplane owner who must then be considered to be the aeroplane operator of that flight.

(4) If requested by the Regulator, aeroplane owners identified under paragraph (3)(c) must provide all information necessary to identify the actual aeroplane operator of a flight.

(5) The aeroplane operator may, by contract, delegate the administrative requirements of this Order to a third party, as long as the delegation is not to the same entity as the verification body. Liability for compliance must not be delegated.

(6) Nationality and registration marks, referred to in paragraph (3)(b), are defined in paragraph 1, Part 2 of Schedule 4 to the Air Navigation Order 2016(**18**).

### **Meaning of Regulator**

**10.—**(1) Subject to paragraph (2) and article 17, the Regulator of an aeroplane operator who has been attributed to the United Kingdom under article 8(1) is—

- (a) the Environment Agency(**19**), where the aeroplane operator —
  - (i) has its registered office or is resident in England, or

(17) The reference to Item 7 is based on the ICAO model flight plan form contained in Appendix 2 of ICAO Procedures for Air Navigation Services - Air Traffic Management (Doc 4444) which is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

(18) *S.I. 2016/765*, to which there are amendments not relevant to this Order.

(19) The Environment Agency was established by section 1 of the Environment Act 1995 (c. 25).

- (ii) does not have a registered office or is not resident in the United Kingdom,
- (b) the NRW, where the aeroplane operator has its registered office or is resident in Wales,
- (c) the SEPA where the aeroplane operator has its registered office or is resident in Scotland,
- (d) the chief inspector, where the aeroplane operator has its registered office or is resident in Northern Ireland.

(2) For an aeroplane operator who is administered as an aircraft operator under the UK ETS Order in a scheme year, the Regulator is the regulator specified in that Order.

### **Regulator tasks**

**11.**—(1) A Regulator must approve an aeroplane operator’s compliance on the basis of satisfactory evidence that the aeroplane operator meets requirements that are at least equal to the applicable standards specified in this Order.

(2) A Regulator must, by 30th October in each scheme year, provide the Secretary of State with a list of verification bodies accredited in the part of the United Kingdom for which it is responsible under article 10 containing the required information described in Schedule 5, Table 3.

(3) The Secretary of State must submit to ICAO a list of verification bodies which are accredited in the United Kingdom containing the required information described in Schedule 5, Table 3, and in accordance with the relevant timeline set out in Schedule 1. The Secretary of State may submit updates to this list to ICAO on a more frequent basis.

### **Record keeping**

**12.**—(1) Each aeroplane operator must keep records relevant to the requirements of this Order for a period of 10 years.

(2) The Regulator of an aeroplane operator must keep records relevant to that aeroplane operator’s CO<sub>2</sub> emissions per State pair during 2019 and 2020 in order to calculate each aeroplane operator’s offsetting requirements during the 2030-2035 compliance periods. Those records must be kept for the duration of CORSIA and the 5 years following the end of CORSIA.

### **Compliance periods and timeline**

**13.** The Secretary of State, and each Regulator and aeroplane operator must comply with the requirements of this Order in accordance with the relevant timeline set out in Schedule 1.

### **Equivalent procedures**

**14.**—(1) The use, in relation to an aeroplane operator, of equivalent procedures in lieu of the procedures specified in this Order, must be approved by the Secretary of State with the assistance of the Regulator of that aeroplane operator.

(2) Equivalent procedures must demonstrably meet the requirements in Volume IV of Annex 16 to the Chicago Convention.

### **The CAA**

**15.**—(1) The CAA must provide such assistance and advice as a Regulator may require in connection with any of the Regulator’s functions under this Order.

(2) The CAA is entitled to recover from the Regulator a sum equal to any expense reasonably incurred by it in providing the Regulator with assistance or advice under paragraph (1).

## CHAPTER 2

## Aeroplane operator's change in circumstances

**Change in aeroplane operator's attribution to a State****16.—(1) Where—**

- (a) an aeroplane operator changes its ICAO Designator, air operator certificate or equivalent, or place of its registered office, and is subsequently attributed to a new State in accordance with paragraph 1.2 of Chapter 1, Part II, Volume IV of Annex 16 to the Chicago Convention, but
- (b) that aeroplane operator is not establishing a new entity or a subsidiary,

this new State must become the State to which the aeroplane operator fulfils its requirements under Volume IV of Annex 16 to the Chicago Convention from the start of the next compliance period.

(2) The aeroplane operator must notify the Regulator of any change described in paragraph (1) within 3 months of the change taking effect.

(3) An aeroplane operator with a wholly owned subsidiary aeroplane operator that has its registered office in the United Kingdom can be treated as a single consolidated aeroplane operator liable for compliance with the requirements of Volume IV of Annex 16 to the Chicago Convention, subject to the approval of the Regulator. Evidence must be provided in the aeroplane operator's Emissions Monitoring Plan to demonstrate that the subsidiary aeroplane operator is wholly owned.

**Change in aeroplane operator's registered office within the United Kingdom****17.—(1) Where—**

- (a) an aeroplane operator attributed to the United Kingdom under article 8(1) with a registered office or place of residence in the area of a Regulator, in a scheme year, changes the address of its registered office or place of residence to the area of a different Regulator ("R"), and
- (b) that aeroplane operator's registered office or place of residence is in the area of R at the end of the scheme year,

R is the Regulator of that aeroplane operator from the beginning of the next compliance period.

**(2) Where—**

- (a) an aeroplane operator which did not have a registered office or place of residence in the United Kingdom at the beginning of a scheme year acquires a registered office or place or residence in the United Kingdom in the course of that period, and
- (b) at the end of that scheme year that registered office or place of residence is in the area of a Regulator ("S"),

S is the Regulator of that aeroplane operator from the beginning of the next compliance period.

(3) The aeroplane operator must notify the Regulator of any change described in paragraphs (1) and (2) within 3 months of the change taking effect.

**(4) In this article, "area" in relation to a Regulator, means—**

- (a) in respect of the Environment Agency, England,
- (b) in respect of the NRW, Wales,
- (c) in respect of the SEPA, Scotland, and
- (d) in respect of the chief inspector, Northern Ireland.



## CHAPTER 3

### Applications, notices, etc.

#### **Submission of applications and notices to Regulators**

**18.**—(1) This article applies to an application, notice or report submitted to a Regulator under this Order or under an Emissions Monitoring Plan.

(2) An application, notice or report—

(a) must be in writing, and

(b) unless the Regulator agrees otherwise in writing, must be made on a form provided by the Regulator for that purpose.

(3) The Regulator must set out in the form—

(a) the information required by the Regulator to determine the application, or

(b) the matters required to be included in the notice or report.

(4) Unless the Regulator agrees otherwise in writing—

(a) the form must be submitted to the Regulator electronically and, if the form specifies an email address for submission, to that address, or

(b) if the form is provided by the Regulator for submission through a website, the form must be submitted through the website and in accordance with any instructions given for completion and submission.

(5) Unless the information has been provided in a previous application made to the Regulator, an application must set out—

(a) the name, postal address, including postcode, and telephone number of the applicant, and

(b) either—

(i) an email address for service, or

(ii) a postal address, including postcode, in the United Kingdom for service.

(6) Subject to paragraph (7), an application must be accompanied by the charge for the application set out in the charging scheme published under article 43.

(7) Where an application is submitted electronically, the charge may be sent to the Regulator separately from the application; and in that case, for the purposes of this Order, the application must be treated as not being received by the Regulator until the charge is also received.

(8) An application may be withdrawn at any time before it is determined.

(9) A Regulator may, by notice to an applicant, require the applicant to provide such further information specified in the notice, within the period specified, as the Regulator may require in order to determine the application.

(10) For the purposes of this Order, the application must be treated as being withdrawn if—

(a) the applicant fails to provide that information —

(i) before the end of that period, or

(ii) on or before such later date as may be agreed with the Regulator, and

(b) the Regulator gives notice to the applicant that the application is treated as having been withdrawn.

**Determination of applications by Regulators**

**19.**—(1) Where an application under this Order is made to a Regulator in accordance with the requirements of this Order, the application must be determined by the Regulator within—

- (a) the timescales set out in Schedule 1, where relevant, or
- (b) where Schedule 1 does not apply—
  - (i) the period of 2 months beginning with the date on which the application is received, or
  - (ii) such longer period as may be agreed in writing with the applicant.

(2) For the purposes of paragraph (1)—

- (a) an application is determined when notice of the determination is given to the applicant by the Regulator, and
- (b) in calculating the period of 2 months, no account must be taken of any period beginning with the date on which a notice under article 18(9) is given to the applicant and ending with the date on which the applicant provides the information specified in the notice.

(3) Where the Regulator fails to determine an application before the end of the period referred to in paragraph (1)—

- (a) the applicant may give to the Regulator notice that the applicant treats the application as having been refused, and
- (b) if such notice is given the application must be treated as having been refused at the end of that period.

**Service of notices given by the Regulator**

**20.**—(1) This article applies to a notice given under this Order by the Regulator.

(2) The notice must be in writing.

(3) The notice may be given to a person in any of the following ways—

- (a) by delivering it to the person,
- (b) by sending it to a postal or email address provided by the person for the purpose of the service of notices and not withdrawn for that purpose,
- (c) by leaving it at the person's proper address,
- (d) by sending it by post or electronic means to the person's proper address,
- (e) if the person is a body corporate, by giving it to the secretary or clerk of the body in accordance with any of sub-paragraphs (a) to (d), or
- (f) if the person is a partnership, by giving it to a partner or a person having the control or management of the partnership business in accordance with any of sub-paragraphs (a) to (d).

(4) In this article, “proper address” means—

- (a) in the case of a body corporate—
  - (i) the registered or principal office of the body, or
  - (ii) the email address of the secretary or clerk of the body provided by that body for the purpose of service of notices and not withdrawn for that purpose,
- (b) in the case of a partnership—
  - (i) the principal office of the partnership, or

- (ii) the email address of the partner or person having control or management of the partnership business provided by that partnership for the purpose of service of notices and not withdrawn for that purpose, or
  - (c) in any other case, the person's last known address, including an email address provided by that person for the purpose of service of notices and not withdrawn for that purpose.
- (5) For the purposes of paragraph (4), where a body corporate registered outside the United Kingdom, or a partnership established outside the United Kingdom, has an office in the United Kingdom, the principal office of the body corporate or partnership is its principal office in the United Kingdom.
- (6) For the purposes of paragraph (4)(c), where the person is an aeroplane operator, the proper address includes an address derived from information supplied by Eurocontrol<sup>(20)</sup>.

## PART 3

### Monitoring, reporting and verification (“MRV”) of aeroplane operator annual CO<sub>2</sub> emissions

#### CHAPTER 1

##### General

#### **Applicability of MRV requirements**

**21.**—(1) The requirements of this Part apply to an aeroplane operator that produces annual CO<sub>2</sub> emissions greater than 10,000 tonnes from the use of one or more aeroplanes with a maximum certificated take-off mass greater than 5,700 kg conducting international flights.

(2) The requirements of this Part apply to a new entrant aeroplane operator from the year after it meets the requirements in paragraph (1).

#### CHAPTER 2

##### Monitoring of aeroplane operator annual CO<sub>2</sub> emissions

#### **Monitoring of CO<sub>2</sub> emissions: Eligibility of monitoring methods**

**22.**—(1) An aeroplane operator must monitor and record its fuel use from international flights in accordance with an eligible monitoring method set out in paragraphs (3) to (6) for the 2019-2020 period and paragraphs (7) to (12) for the 2021-2035 period, and approved by the Regulator.

(2) Following approval and issue of its Emissions Monitoring Plan in accordance with article 24, an aeroplane operator must use the same eligible monitoring method for the entire compliance period<sup>(21)</sup>.

#### *2019-2020 period*

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<sup>(20)</sup> Eurocontrol is the intergovernmental body established by the International Convention Relating to Co-operation for the Safety of Air Navigation of 13th December 1960 (the Eurocontrol Convention).

<sup>(21)</sup> Guidance material on eligibility of monitoring methods, and associated thresholds, is provided in the Environmental Technical Manual (Doc 9501), Volume IV – Procedures for demonstrating compliance with the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) which is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

(3) Where an aeroplane operator has, prior to this Order coming into force, accumulated any fuel use during the period of 2019-2020 pursuant to article 3 of Commission Implementing Regulation (EU) 2019/1603<sup>(22)</sup>, that fuel use data must be used for the purpose of this Order.

(4) An aeroplane operator with annual CO<sub>2</sub> emissions from international flights greater than or equal to 500,000 tonnes must use a Fuel Use Monitoring Method set out in Schedule 2.

(5) An aeroplane operator with annual CO<sub>2</sub> emissions from international flights of less than 500,000 tonnes must use either a Fuel Use Monitoring Method or the CERT set out in Schedules 2 and 3, respectively.

(6) If the aeroplane operator's annual CO<sub>2</sub> emissions from international flights increases above the threshold of 500,000 tonnes in 2019, the Regulator may permit the aeroplane operator to continue to apply the monitoring method chosen in accordance with paragraph (5) for this period.

#### *2021-2035 period*

(7) An aeroplane operator, with annual CO<sub>2</sub> emissions from international flights between State Pairs defined in the ICAO document entitled "CORSIA States for Chapter 3 State Pairs"<sup>(23)</sup> of greater than or equal to 50,000 tonnes, must use a Fuel Use Monitoring Method as described in Schedule 2 for these flights. For other international flights, the aeroplane operator must use either a Fuel Use Monitoring Method, as described in Schedule 2, or the CERT, as described in Schedule 3.

(8) An aeroplane operator, with annual CO<sub>2</sub> emissions from international flights between State Pairs defined in the ICAO document entitled "CORSIA States for Chapter 3 State Pairs" of less than 50,000 tonnes, must use either a Fuel Use Monitoring Method or the CERT as described in Schedules 2 and 3, respectively.

(9) If an aeroplane operator's annual CO<sub>2</sub> emissions from international flights between State Pairs defined in the ICAO document entitled "CORSIA States for Chapter 3 State Pairs", increases above the threshold of 50,000 tonnes in a given year (y), and also in year (y+1)<sup>(24)</sup>, the aeroplane operator must—

- (a) submit an updated Emissions Monitoring Plan by 30th September of year (y + 2)<sup>(25)</sup>, and
- (b) change to a Fuel Use Monitoring Method, as set out in Schedule 2, on 1st January of year (y + 3)<sup>(26)</sup>.

(10) If an aeroplane operator's annual CO<sub>2</sub> emissions from international flights between State Pairs defined in the ICAO document entitled "CORSIA States for Chapter 3 State Pairs" decreases below the threshold of 50,000 tonnes in a given year (y), and also in year (y + 1), the aeroplane operator may change monitoring method on 1st January of year (y + 3).

(11) Where an aeroplane operator chooses to change its monitoring method under paragraph (10)<sup>(27)</sup>, it must submit an updated Emissions Monitoring Plan by 30th September of year (y + 2).

(12) Where the aeroplane operator has, prior to this Order coming into force, accumulated any fuel use during 2021 pursuant to article 3 of Commission Implementing Regulation (EU) 2019/1603 in conjunction with article 24 of the UK ETS Order, that fuel use data must be used for the purpose of this Order

(22) OJ L 250, 30.9.2019, p.10.

(23) "CORSIA States for Chapter 3 State Pairs" is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

(24) "(y + 1)" refers to the year following the increase above the threshold.

(25) "(y + 2)" refers to the second year following the increase above the threshold.

(26) "(y + 3)" refers to the third year following the increase above the threshold.

(27) See Volume IV of Annex 16 to the Chicago Convention, Attachment B, Figure B-3, for a process flowchart on the eligibility of Fuel Use Monitoring Methods during the 2021-2035 Compliance Phases.

### **Emissions Monitoring Plan**

**23.**—(1) An aeroplane operator must submit an Emissions Monitoring Plan to the Regulator for approval by the Regulator. The Emissions Monitoring Plan must contain the information set out in Schedule 4.

(2) Where an aeroplane operator has, prior to this Order coming into force, established an approved Emissions Monitoring Plan pursuant to article 3 of Commission Implementing Regulation (EU) 2019/1603(28), a Regulator must, before 30th June 2021, approve and issue an Emissions Monitoring Plan to that aeroplane operator in the same terms, subject to any variation required to comply with this Order.

(3) A new entrant aeroplane operator must submit an Emissions Monitoring Plan to the Regulator for approval and issue within 3 months of falling within the scope of applicability set out in article 21. The Emissions Monitoring Plan must contain the information specified in Schedule 4.

### **Issue of Emissions Monitoring Plans**

**24.**—(1) If an aeroplane operator submits an Emissions Monitoring Plan for approval by the Regulator in accordance with article 23, a Regulator must approve and issue the Emissions Monitoring Plan unless—

- (a) the Regulator is not satisfied that the application complies with the requirements of this Order; and
- (b) the aeroplane operator has not agreed to amendments of the application required to satisfy the Regulator that the application does so comply.

(2) An Emissions Monitoring Plan issued under paragraph (1) replaces any Emissions Monitoring Plan previously issued to the aeroplane operator.

(3) An Emissions monitoring Plan may contain any conditions the Regulator considers necessary to give proper effect to the requirements of this Order.

(4) An aeroplane operator must comply with any condition included in its Emissions Monitoring Plan.

### **Refusal of application for Emissions Monitoring Plans**

**25.**—(1) If a Regulator refuses an application for an Emissions Monitoring Plan, the Regulator must give notice to the applicant.

- (2) A notice under paragraph (1) must state—
  - (a) the reasons for the decision; and
  - (b) if amendments of the application are required in order for an Emissions Monitoring Plan to be issued, the nature of those amendments.

(3) An aeroplane operator who is given a notice under paragraph (1) must make a revised application to the Regulator before the end of the period of 31 days beginning with the day that the notice was given.

(4) Article 24 and this article apply to a revised application under paragraph (3) as they apply to the original application, but for the purposes of such a revised application, the references to the period of 2 months in article 19 are to be read as references to a period of 24 days.

### **Modification of the Emissions Monitoring Plan**

**26.**—(1) An aeroplane operator must notify the Regulator of any proposals for modification of its Emissions Monitoring Plan.

(2) The aeroplane operator must resubmit the Emissions Monitoring Plan to the Regulator for approval if a material change is made to the information contained within the Emissions Monitoring Plan.

(3) A material change is a change to the information presented in the Emissions Monitoring Plan that would—

- (a) affect the status or eligibility of the aeroplane operator for an option under the emissions monitoring requirements, or
- (b) otherwise affect the decision by the Regulator with regard to whether the aeroplane operator’s approach to monitoring conforms with the requirements.

(4) The aeroplane operator must also resubmit the Emissions Monitoring Plan in the event of a change to the information presented in the plan that—

- (a) arises from a change in the availability of data, due to the use of new types of measuring instrument, sampling methods or analysis methods, or for other reasons, which leads to higher accuracy in the determination of emissions,
- (b) has been found to be incorrect under the data monitoring methodology applied previously,
- (c) would improve the accuracy of the reported data, unless this is technically not feasible or incurs unreasonable costs, or
- (d) is necessary to respond to the suggestions for improvement of the monitoring plan contained in a verification report.

(5) An aeroplane operator must also inform the Regulator of changes that would affect the Regulator’s oversight, such as a change in corporate name or address, even if the changes do not fall within the definition of a material change(29).

### **Approval of modification of the Emissions Monitoring Plan**

**27.**—(1) A Regulator may allow an aeroplane operator to notify modifications of the Emissions Monitoring Plan that are not significant.

(2) Any significant modification of the Emissions Monitoring Plan must be subject to approval by a Regulator.

(3) Where the Regulator considers a modification not to be significant, it must inform the aeroplane operator without undue delay.

(4) Significant changes to the Emissions Monitoring Plan include—

- (a) change of emission factor values laid down in the Emissions Monitoring Plan,
- (b) a change between the calculation methods referred to in Schedule 2,
- (c) the introduction of new source streams,
- (d) changes in the status of the aeroplane operator with regard to one of the thresholds specified in article 5 or 22(7) to (12).

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(29) Guidance material on the Emissions Monitoring Plan and material changes is provided in the Environmental Technical Manual (Doc 9501), Volume IV – Procedures for demonstrating compliance with the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) which is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

**Calculation of CO<sub>2</sub> emissions from aeroplane fuel use**

**28.**—(1) An aeroplane operator must apply a fuel density value to calculate fuel mass where the amount of fuel uplift is determined in units of volume.

(2) The aeroplane operator must record the fuel density, which may be an actual or a standard value of 0.8 kg per litre, that is used for operational and safety reasons such as in an operational, flight or technical log.

(3) The procedure for informing the use of actual or standard density must be detailed in the Emissions Monitoring Plan along with a reference to the relevant aeroplane operator documentation<sup>(30)</sup>.

(4) An aeroplane operator using a Fuel Use Monitoring Method, as set out in Schedule 2, must determine the CO<sub>2</sub> emissions from international flights using the following equation—

$$CO_2 = \sum_f M_f * FCF_f$$

where—

CO<sub>2</sub> = CO<sub>2</sub> emissions in tonnes<sup>(31)</sup>;

M<sub>f</sub> = Mass of fuel f used in tonnes; and

FCF<sub>f</sub> = Fuel conversion factor of given fuel f.

(5) The fuel conversion factor referred to in paragraph (4) is equal to—

- (a) 3.16 (in kg CO<sub>2</sub>/kg fuel) for Jet-A fuel,
- (b) 3.10 (in kg CO<sub>2</sub>/kg fuel) for AvGas, or
- (c) 3.10 (in kg CO<sub>2</sub>/kg fuel) for Jet-B fuel.

**Monitoring of CORSIA eligible fuels claims**

**29.**—(1) An aeroplane operator that intends to claim for emissions reductions from the use of CORSIA eligible fuels must use a CORSIA eligible fuel that meets the CORSIA Sustainability Criteria as defined within the ICAO document entitled, “CORSIA Sustainability Criteria for Sustainable Aviation Fuels”<sup>(32)</sup>.

(2) An aeroplane operator that intends to claim for emissions reductions from the use of CORSIA eligible fuels must only use CORSIA eligible fuels from fuel producers that are certified by an approved Sustainable Certification Scheme included in the ICAO document entitled, “CORSIA Approved Sustainability Certification Schemes”<sup>(33)</sup>.

(3) If the aeroplane operator cannot demonstrate the compliance of the CORSIA eligible fuel with the CORSIA Sustainability Criteria, it must not be accounted for as a CORSIA eligible fuel.

<sup>(30)</sup> Guidance material on the Emissions Monitoring Plan and material changes is provided in the Environmental Technical Manual (Doc 9501), Volume IV – Procedures for demonstrating compliance with the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) which is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

<sup>(31)</sup> For the purpose of calculating CO<sub>2</sub> emissions the mass of fuel used includes conventional aviation fuel and sustainable aviation fuel.

<sup>(32)</sup> “CORSIA Sustainability Criteria for Sustainable Aviation Fuels” is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

<sup>(33)</sup> “CORSIA Approved Sustainability Certification Schemes” is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

**Calculation of emissions from the use of CORSIA eligible fuels**

**30.**—(1) An aeroplane operator that intends to claim for emissions reductions from the use of CORSIA eligible fuels in a given year must compute the emissions from those CORSIA eligible fuels as follows—

$$ER_y = FCF * \left[ \sum_f MS_{f,y} * \left( 1 - \frac{LS_f}{LC} \right) \right]$$

where—

ER<sub>y</sub> = Emissions reductions from the use of CORSIA eligible fuels in the given year y in tonnes;

FCF = Fuel conversion factor;

MS<sub>f,y</sub> = Total mass of a neat CORSIA eligible fuel claimed in the given year y in tonnes, as described and reported in Field 12.b in Table 1 of Schedule 5;

LS<sub>f</sub> = Life cycle emissions value for a CORSIA eligible fuel, in gCO<sub>2</sub>e/MJ; and

LC = Baseline life cycle emissions values for aviation fuel, equal to 89 gCO<sub>2</sub>e/MJ for jet fuel and equal to 95 gCO<sub>2</sub>e/MJ for AvGas.

(2) The fuel conversion factor referred to in paragraph (1) is equal to—

- (a) 3.16 (in kg CO<sub>2</sub>/kg fuel) for Jet-A fuel,
- (b) 3.10 (in kg CO<sub>2</sub>/kg fuel) for AvGas, or
- (c) 3.10 (in kg CO<sub>2</sub>/kg fuel) for Jet-B fuel.

(3) If a Default Life Cycle Emissions value is used, the aeroplane operator must use the ICAO document entitled “CORSIA Default Life Cycle Emissions Values for CORSIA Eligible Fuels”(34) for the calculation in paragraph (1).

(4) If an Actual Life Cycle Emissions value is used, an approved Sustainability Certification Scheme must ensure that the methodology, set out in the ICAO document entitled “CORSIA Methodology for Calculating Actual Life Cycle Emissions Values”(35), has been applied correctly.

**CHAPTER 3****Reporting of aeroplane operator annual CO<sub>2</sub> emissions****Aeroplane operator reporting**

**31.**—(1) An aeroplane operator must submit to the Regulator a copy of its verified Emissions Report for approval by the Regulator and a copy of the associated Verification Report in accordance with the timeline set out in Schedule 1.

(2) The Regulator must decide on the level of aggregation, being State pair or aerodrome pair, for which an aeroplane operator must report the number of international flights in accordance with Field 7 in Table 1 in Schedule 5, and CO<sub>2</sub> emissions in accordance with Field 8 in that Table. The

(34) “CORSIA Default Life Cycle Emissions Values for CORSIA Eligible Fuels” is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

(35) “CORSIA Methodology for Calculating Actual Life Cycle Emissions Values” is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).



Regulator must inform the aeroplane operator whether Fields 7 and 8 in the Emissions Report must be reported at the level of State pair or aerodrome pair during the approval process for its Emissions Monitoring Plan.

(3) An Emissions Report must contain the information set out in Table 1 of Schedule 5. An aeroplane operator that uses the CERT is not required to report Field 5 in Table 1.

(4) When an aeroplane operator reports its consolidated CO<sub>2</sub> emissions from international flights during the 2019-2020 period, including those of subsidiary aeroplane operators, disaggregated data relating to each subsidiary aeroplane operator must be appended to the main Emissions Report.

(5) In specific circumstances where an aeroplane operator operates a very limited number of flights between State pairs, it may submit a written request to the Regulator that such data not be published at the aeroplane operator level, as set out in Tables 4 and 5 of Schedule 5, explaining the reasons why disclosure would harm its commercial interests.

(6) Based on this request, the Regulator must determine whether this data is confidential.

(7) In specific circumstances where aggregated State pair data may be attributed to an identified aeroplane operator as a result of a very limited number of aeroplane operators conducting flights on a State pair, that aeroplane operator may request in writing to the Regulator that such data not be published at State pair level, explaining the reasons why disclosure would harm their commercial interests.

(8) Based on this request, the Regulator must determine whether this data is confidential.

### **Reporting of CORSIA eligible fuels**

**32.**—(1) An aeroplane operator must subtract CORSIA eligible fuels traded or sold to a third party from its total reported quantity of CORSIA eligible fuels.

(2) The aeroplane operator must provide to the Regulator a declaration of all other GHG schemes it participates in where the emissions reductions from the use of CORSIA eligible fuels may be claimed, and a declaration that it has not made claims for the same batches of CORSIA eligible fuel under these other schemes.

(3) To claim emissions reductions from the use of CORSIA eligible fuels in the Emissions Report, the aeroplane operator must provide to the Regulator the information described in Table 2 of Schedule 5, within a given compliance period for all CORSIA eligible fuel received by a blender by the end of that compliance period.

(4) The information provided is through to the blend point, and includes information received from both the neat (unblended) fuel producer and the fuel blender.

(5) If the aeroplane operator purchases fuel from a supplier downstream from the fuel blender, such as a distributor, another aeroplane operator, or an aerodrome-based fuel distributor, this fuel supplier must provide to the aeroplane operator all of the requisite documentation in order for the emissions reductions from the use of CORSIA eligible fuels to be claimed by the aeroplane operator in accordance with articles 29 and 30.

### **Reporting to ICAO**

**33.**—(1) The Regulator must calculate and inform each of the aeroplane operators that are attributed to it of their average total CO<sub>2</sub> emissions during 2019 and 2020, in accordance with the timeline set out in Schedule 1.

(2) A Regulator must provide the Secretary of State with the required information regarding CO<sub>2</sub> emissions specified in paragraph (1) and any reported information deemed confidential.

(3) The Secretary of State must submit a report covering those emissions for aeroplane operators administered in the United Kingdom to ICAO in accordance with the timeline set out in Schedule 1. This report must contain the information set out in Tables 4, 5 and 6 in Schedule 5, when applicable.

(4) The Secretary of State must inform ICAO of any reported data deemed confidential in accordance with article 31(6) and (8).

(5) All aeroplane operator data which are deemed confidential in accordance with article 31(6) and (8) must be aggregated without attribution to any specific aeroplane operator, and included within the ICAO document entitled, “CORSIA Central Registry (CCR): Information and Data for Transparency”(36).

## CHAPTER 4

### Verification of CO<sub>2</sub> emissions

#### **Verification body and national accreditation body**

**34.**—(1) A verification body must be accredited as complying with the standards specified in ISO 14065:2013 and the requirements in paragraph 2 of Schedule 6 by a national accreditation body, in order to be eligible to verify the Emissions Report of an aeroplane operator.

(2) A national accreditation body must be working in accordance with ISO/IEC 17011:2004.

#### **Annual verification of an aeroplane operator’s Emissions Report**

**35.**—(1) An aeroplane operator must engage a verification body for the verification of its annual Emissions Report.

(2) A verification body must conduct the verification according to ISO 14064-3:2006, and the relevant requirements in paragraph 3 of Schedule 6.

(3) Following the verification of the Emissions Report by the verification body, the aeroplane operator and the verification body must both independently submit, upon authorisation by the aeroplane operator, a copy of the Emissions Report and associated Verification Report to the Regulator, in accordance with the timeline set out in Schedule 1.

(4) The Regulator must perform an order of magnitude check of the Emissions Report in accordance with the timeline set out in Schedule 1 to assess the completeness of the data provided in that report.

(5) To facilitate order of magnitude checks and ensure the completeness of reported data, and where necessary to support the implementation of the requirements in this Order, the Regulator may agree to share with another State’s regulator, specific data and information contained in an aeroplane operator’s Emissions Report where that aeroplane operator performs flights to and from the State of the requesting regulator.

(6) The Regulator must inform any relevant aeroplane operator about such a request for that information.

(7) In the absence of an agreement between the two States, this information must not be disclosed to third parties.

(8) A Regulator must provide the name of the verification body used to verify an Emissions Report on being asked for the disclosure of information by the regulator of another State.

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(36) “CORSIA Central Registry (CCR): Information and Data for Transparency” is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

## Verification of sustainable aviation fuels

**36.**—(1) Fuel purchases, transaction reports, fuel blending records and sustainability credentials must constitute the documentary proof for the purpose of verification and approval of emissions reductions from the use of CORSIA eligible fuels.

(2) An aeroplane operator must ensure that it, or its designated representative, has audit rights over the production records for the CORSIA eligible fuels that it purchases<sup>(37)</sup>.

## CHAPTER 5

### Data management and control

#### Data gaps

**37.**—(1) An aeroplane operator using a Fuel Use Monitoring Method, as described in Schedule 2, must fill data gaps using the CERT, as described in Schedule 3, provided that the data gaps during a compliance period do not exceed the following thresholds—

- (a) 2019-2020 period: 5 per cent of international flights;
- (b) 2021-2035 period: 5 per cent of international flights between State Pairs defined in the ICAO document entitled “CORSIA States for Chapter 3 State Pairs”<sup>(38)</sup>.

(2) The aeroplane operator must correct issues identified with the data and information management system in a timely manner to mitigate ongoing data gaps and system weaknesses.

(3) If the aeroplane operator realises it has data gaps and system weaknesses that exceed the threshold in paragraph (1), it must engage with the Regulator to take remedial action to address this.

(4) When the threshold is exceeded, the aeroplane operator must state the percentage of international flights for the 2019-2020 period, or flights between State Pairs defined in the ICAO document entitled “CORSIA States for Chapter 3 State Pairs” for the 2021-2035 period, that had data gaps, and provide an explanation to the Regulator in its annual Emissions Report.

(5) The aeroplane operator must fill all data gaps and correct systematic errors and misstatements prior to the submission of the Emissions Report.

(6) If an aeroplane operator does not provide its annual Emissions Report in accordance with the timeline set out in Schedule 1, the Regulator must engage with the aeroplane operator to obtain the necessary information. If this proves unsuccessful, the Regulator must estimate the aeroplane operator’s annual emissions using the best available information and tools, such as the CERT as described in Schedule 3.

(7) If the Regulator does not provide its annual aggregated Emissions Report for the purposes of reporting to ICAO in accordance with the timeline set out in Schedule 1, the data provided by ICAO must be used to fill these gaps and calculate the total sectoral CO<sub>2</sub> emissions in a given year and the Sectoral Growth Factor.

#### Error correction to Emissions Reports

**38.**—(1) If an error in an aeroplane operator’s reported emissions is identified by the Regulator, the verification body or the aeroplane operator after the reported CO<sub>2</sub> emissions have been submitted

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(37) The quality control assurances of CORSIA eligible fuel producers include declarations and/or process certifications, with periodic audits by verifiers, purchasers, or trusted entities. The process certifications, including the sustainability credentials, provide assurance that the CORSIA eligible fuel producer has established business processes to prevent double counting, and the periodic audits verify that the producer is following their established procedures. Purchasers and States may elect to independently audit the production records of the CORSIA eligible fuel producer in order to provide further assurance.

(38) “CORSIA States for Chapter 3 State Pairs” is available from the ICAO website at [www.icao.int](http://www.icao.int). For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail [sales@icao.int](mailto:sales@icao.int)).

to ICAO in accordance with the timeline set out in Schedule 1, the Regulator must update the reported CO<sub>2</sub> emissions to address the error.

(2) The Regulator must assess any implications with respect to the aeroplane operator's offsetting requirements in previous years and, if necessary, make an adjustment to compensate for the error during the compliance period in which the error has been identified.

(3) A Regulator must report to the Secretary of State any error in an aeroplane operator's CO<sub>2</sub> emissions and the follow-up result of the related adjustment.

(4) The Secretary of State must report an error in an aeroplane operator's CO<sub>2</sub> emissions and the follow-up result of the related adjustment to ICAO.

### **Reporting on improvements to the monitoring methodology**

**39.**—(1) An aeroplane operator must regularly check whether the monitoring methodology applied can be improved.

(2) Where the verification report states outstanding non-conformities, the aeroplane operator must submit to the Regulator for approval a report on improvements by 30th June of the year in which that verification report is issued by the verification body. That report on improvements must describe how and when the aeroplane operator has rectified, or plans to rectify, the non-conformities identified by the verification body and to implement recommended improvements.

(3) The Regulator may set an alternative date for submission of the report on improvements as referred to in paragraph (2), but no later date than 30th September in the same year. Where applicable, such report on improvements may be combined with the report referred to in paragraph (2).

(4) Where recommended improvements would not lead to an improvement of the monitoring methodology, the aeroplane operator must provide a justification for why that is the case. Where the recommended improvements would incur unreasonable costs, the aeroplane operator must provide evidence of the unreasonable nature of the costs.

(5) Paragraphs (2) to (4) do not apply where an aeroplane operator has already resolved all non-conformities and recommendations for improvement and has submitted related modifications of the Emissions Monitoring Plan to the Regulator for approval in accordance with article 26 before the date set in paragraph (2), subject to the alternative date set in paragraph (3).

### **Rounding of data**

**40.**—(1) Total annual emissions must be reported as tonnes of CO<sub>2</sub> rounded to the nearest whole number.

(2) Unless otherwise provided in this Order, all variables used to calculate the emissions must be rounded to the nearest whole number for the purpose of calculating and reporting emissions.

### **Electronic data exchange and use of automated systems**

**41.**—(1) The Regulator may require verification bodies to use electronic templates or specific file formats for verification reports.

(2) Standardised electronic templates or file format specifications may be made available for further types of communication between the aeroplane operator, Regulator, verification bodies and national accreditation body.

## PART 4

### Charging

#### Charges

**42.**—(1) A Regulator may charge an aeroplane operator or any other person an amount as a means of recovering costs incurred by the Regulator in performing activities in accordance with or by virtue of this Order.

(2) The activities referred to in paragraph (1) include—

- (a) giving advice in relation to an application under or by virtue of this Order or any other advice in relation to the operation of CORSIA,
- (b) considering an application under or by virtue of this Order,
- (c) issuing or varying an emissions monitoring plan,
- (d) giving any notice or other document provided for by or under this Order,
- (e) receiving any notice or other document provided for by or under this Order,
- (f) monitoring compliance with this Order.

(3) A charge under paragraph (1) may include an annual or other periodic charge to an aeroplane operator that does not relate to any specific activity.

(4) A Regulator may apply different charges for—

- (a) the same activity, and
- (b) different categories of person in relation to the same activity.

(5) Payment of a charge is not received until the Regulator has cleared funds for the full amount due and a charge, if unpaid, may be recovered by the Regulator as a civil debt.

(6) A Regulator may require a charge to be paid before it carries out the activity to which the charge relates.

(7) If a Regulator does not require a charge to be paid in accordance with paragraph (6) it is payable on demand.

(8) A Regulator is not required to reimburse a charge where—

- (a) an activity is not completed, or
- (b) the person liable to pay the charge does not remain within the scheme for all of the period in relation to which the charge is payable or has been calculated.

#### Approval, publication and revision of charges

**43.**—(1) A Regulator must publish a document (“charging scheme”) setting out the charges payable in accordance with article 42(1) or how they will be calculated.

(2) Before publishing a charging scheme, the Regulator must—

- (a) bring its proposals to the attention of the persons likely to be affected by them,
- (b) allow persons likely to be affected by the proposals to submit representations on, or objections to, them, and
- (c) specify the period within which representations or objections to the proposals may be made.

(3) A charging scheme cannot be published unless it has been approved—

- (a) in the case of proposals by the Environment Agency, by the Secretary of State;

- (b) in the case of proposals by SEPA, by the Scottish Ministers;
  - (c) in the case of proposals by NRW, by the Welsh Ministers;
  - (d) in the case of proposals by the chief inspector, by the Department of Agriculture, Environment and Rural Affairs<sup>(39)</sup>.
- (4) Where a proposed charging scheme has been submitted for approval under paragraph (3), the appropriate national authority—
- (a) must consider any representations or objections made under paragraph (2)(b), and
  - (b) may make such modifications to the proposal as it considers appropriate.
- (5) If a Regulator proposes to revise a charging scheme in a material way, paragraphs (2) to (4) apply to the revised charging document.
- (6) Paragraphs (2) to (5) do not apply to a charging scheme prepared and published by the Secretary of State.

### **Remittance of charges**

- 44.—(1) The Environment Agency must pay the Secretary of State any charge received by it.
- (2) SEPA must pay the Scottish Ministers any charge received by it.
- (3) NRW must pay the Welsh Ministers any charge received by it.
- (4) The chief inspector must pay the Department of Agriculture, Environment and Rural Affairs any charge received by it.

## **PART 5**

### **Compliance monitoring**

#### **Authorised persons**

- 45.—(1) A Regulator may authorise a person to exercise, on behalf of the Regulator and in accordance with the terms of the authorisation, the Regulator’s powers set out in this Part.
- (2) In this Part, “authorised person” means a person authorised under paragraph (1).

#### **Inspections**

- 46.—(1) A Regulator or authorised person may, at a reasonable time, inspect any premises and any thing in or on those premises in order to monitor compliance with this Order.
- (2) Reasonable prior notice must be given before exercising the powers in this article.
- (3) A person in control of the premises to which the Regulator or authorised person reasonably requires access must allow the Regulator or authorised person to have such access.
- (4) The Regulator or authorised person may, when inspecting premises—
- (a) make any such examination and investigation as may be necessary,
  - (b) install or maintain monitoring equipment or other apparatus,
  - (c) request the production of any record,
  - (d) take measurements, photographs, recordings or copies of anything,

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(39) The Department of Agriculture, Environment and Rural Affairs is the department for the Northern Ireland region.

- (e) take samples of any articles or substances found in, or on, the premises and of the air, water or land in, on, or in the vicinity of, those premises,
  - (f) request any person at the premises to provide facilities or assistance to the extent that is within that person's control.
- (5) Except to the extent agreed by the person in control of a place or premises, the power referred to in paragraph (1) does not apply to—
- (a) a prohibited place for the purposes of the Official Secrets Act 1911<sup>(40)</sup>, or
  - (b) any other premises to which the Crown restricts access on the ground of national security.

**Powers of entry, etc.**

- 47.—(1) A Regulator or an authorised person may—
- (a) enter any premises with a warrant issued in accordance with article 48, together with any equipment or material as may be required;
  - (b) when entering premises by virtue of sub-paragraph (a)—
    - (i) be accompanied by an authorised person and, if considered appropriate, a constable;
    - (ii) direct that any part of the premises be left undisturbed for so long as may be necessary;
  - (c) require any person believed to be able to give information relevant to an examination or investigation—
    - (i) to attend at a place and time specified by the Regulator or authorised person;
    - (ii) to answer questions, in the absence of any person other than those whom the Regulator or authorised person allows to be present and a person nominated by the person being asked questions;
    - (iii) to sign a declaration of truth of the answers given by that person;
  - (d) require the production of—
    - (i) records required to be kept under this Order;
    - (ii) other records which the Regulator or authorised person considers it necessary to see for the purpose of an examination or investigation;
    - (iii) entries in a record referred to in this sub-paragraph;
  - (e) inspect and take copies of the records and entries referred to in sub-paragraph (d).
- (2) The powers in paragraph (1) may only be exercised where the Regulator or an authorised person reasonably believes that there has been a failure to comply with the requirements of this Order.
- (3) Except to the extent agreed by the person in control of a place or premises, the powers referred to in paragraph (1) do not apply in relation to—
- (a) a prohibited place for the purposes of the Official Secrets Act 1911; or
  - (b) any other premises to which the Crown restricts access on the ground of national security.
- (4) It is an offence for a person—
- (a) to fail to comply with a requirement imposed pursuant to this article; or
  - (b) to prevent any other person from—
    - (i) appearing before a Regulator or an authorised person; or
    - (ii) answering a question to which the Regulator or authorised person requires an answer.

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<sup>(40)</sup> 1911 c. 28.

- (5) A person guilty of an offence under paragraph (4) is liable—
- (a) on summary conviction in England and Wales, to a fine;
  - (b) on summary conviction in Scotland or in Northern Ireland, to a fine not exceeding the statutory maximum;
  - (c) on conviction on indictment, to a fine.

## Warrants

**48.**—(1) A judge may by warrant authorise a Regulator to designate an authorised person to exercise the power in article 47(1)(a), in accordance with the warrant, where satisfied that—

- (a) there are reasonable grounds for the exercise of the power; 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;
- (e) a request for admission to the premises would defeat the purpose of the entry.

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

(4) In paragraph (1), “judge” means—

- (a) a justice of the peace;
- (b) in Northern Ireland, a lay magistrate; or
- (c) in Scotland, a justice of the peace or sheriff.

## Admissible evidence

**49.**—(1) An answer given by a person in compliance with article 47(1)(c)(ii) is admissible in evidence—

- (a) in England, Wales and Northern Ireland, against that person in any proceedings;
- (b) in Scotland, against that person in criminal proceedings.

(2) In criminal proceedings in which the person referred to in paragraph (1) is charged with an offence, no evidence relating to the person’s answer may be adduced and no question relating to it may be asked by, or on behalf of, the prosecution unless evidence relating to it has been adduced by, or on behalf of, the person.

(3) Paragraph (2) does not apply to an offence under—

- (a) section 5 of the Perjury Act 1911<sup>(41)</sup>;
- (b) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995<sup>(42)</sup>; or
- (c) article 10 of the Perjury (Northern Ireland) Order 1979<sup>(43)</sup>.

<sup>(41)</sup> 1911 c. 6.

<sup>(42)</sup> 1995 c. 39; section 44(2) was amended by the Criminal Justice and Licensing (Scotland) Act 2010 (2010 asp 13), section 200(2)(b).

<sup>(43)</sup> 1979 No. 1714 (N.I. 19).



### **Information notices**

**50.**—(1) A Regulator may, by giving a notice (an “information notice”) to a person, require the person to provide information for purposes connected with the exercise of functions under this Order.

(2) The information notice must set out—

- (a) the information to be provided;
- (b) the form in which the information must be provided;
- (c) the period within which or the time when the information must be provided; and
- (d) the place where the information must be provided.

(3) The information that a person may be required to provide includes information that, although it is not in the person’s possession or it would not otherwise come into the person’s possession, is information that it is reasonable to require the person to obtain or compile for the purpose of complying with the information notice.

### **Legal professional privilege**

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

## **PART 6**

### **Enforcement**

#### **Enforcement notices**

**52.**—(1) Where a Regulator considers that a person has contravened, is contravening or is likely to contravene a relevant requirement, the Regulator may give notice (an “enforcement notice”) to the person.

(2) In paragraph (1), “relevant requirement” means—

- (a) a requirement imposed on the person by or under this Order, or
- (b) a condition of an emissions monitoring plan.

(3) An enforcement notice must set out—

- (a) the relevant requirement that the Regulator considers to have 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
- (e) information about rights of appeal.

(4) The person to whom the enforcement notice is given must comply with the requirements of the notice within the period set out in the notice.

(5) The Regulator may withdraw an enforcement notice at any time by giving notice of the withdrawal to the person to whom the enforcement notice is given.

**Penalty notices**

53.—(1) Where a Regulator considers that a person is liable to a civil penalty under any of articles 55 to 63 the Regulator may impose a civil penalty on the person.

(2) A civil penalty is imposed on a person by giving a notice (a “penalty notice”) to the person.

(3) Where the civil penalty to which the person is liable consists of a non-escalating penalty only, or where the civil penalty consists of both a non-escalating penalty and a daily penalty but the Regulator decides not to impose a daily penalty, the penalty notice must set out—

- (a) the grounds for liability,
- (b) the amount of the non-escalating penalty and, where relevant, how the amount is calculated,
- (c) the date by which the non-escalating penalty must be paid, which must not be less than 28 days after the day on which the notice is given,
- (d) the person to whom payment must be made, which must be either the Regulator or the appropriate national authority,
- (e) how payment may be made, and
- (f) information about rights of appeal.

(4) Where the civil penalty to which the person is liable consists of both a non-escalating penalty and a daily penalty and the Regulator considers that it may wish to impose a daily penalty, the Regulator must, before giving a penalty notice to the person, first give a notice (an “initial notice”) to the person.

(5) The initial notice must set out—

- (a) the grounds for liability,
- (b) the maximum amount of the non-escalating penalty that may be imposed,
- (c) that the daily penalty that may be imposed begins to accrue on the day on which the initial notice is given, and
- (d) the maximum daily rate of the daily penalty and the maximum amount of the daily penalty that may be imposed.

(6) Where, after an initial notice is given to a person, the Regulator considers that the total amount of the daily penalty to which the person is liable can be calculated, including where the daily penalty reaches its maximum amount, the Regulator may give a penalty notice to the person.

(7) The penalty notice must set out—

- (a) the grounds for liability,
- (b) the amount of the civil penalty, including how the amount is calculated, which may include—
  - (i) a non-escalating penalty, and
  - (ii) a daily penalty,
- (c) the date by which the civil penalty must be paid, which must not be less than 28 days after the day on which the notice is given,
- (d) the person to whom payment must be made, which must be either the Regulator or the appropriate national authority,
- (e) how payment may be made, and
- (f) information about rights of appeal.

(8) The person to whom a penalty notice is given must pay the civil penalty set out in the notice to the person set out in the notice on or before the date specified in the notice.

- (9) A civil penalty imposed by a penalty notice is recoverable by the Regulator as a civil debt.
- (10) A Regulator must, as soon as reasonably practicable—
- (a) inform the appropriate national authority of a penalty notice given by the Regulator, and
  - (b) pay all sums received or recovered under a penalty notice to the appropriate national authority.
- (11) In this article—
- “appropriate national authority” means—
- (a) in the case of a penalty notice given by the chief inspector, the Department of Agriculture, Environment and Rural Affairs,
  - (b) in the case of a penalty notice given by SEPA, the Scottish Ministers,
  - (c) in the case of a penalty notice given by NRW, the Welsh Ministers,
  - (d) in any other case, the Secretary of State,
- “daily penalty” means a daily penalty set out in articles 55(2)(b), 56(2)(b), 57(2)(b), 58(2)(b), 60(2)(b) or 61(2)(b),
- “non-escalating penalty” means a civil penalty under articles 55 to 63 that is not a daily penalty.
- (12) This article is subject to article 54.

#### **Penalty notices: supplementary**

- 54.**—(1) A penalty notice imposing a civil penalty under any of articles 55 to 63 (the “relevant provision”) may set out—
- (a) a non-escalating penalty of an amount lower than the amount referred to in the relevant provision,
  - (b) where the civil penalty consists of both a non-escalating penalty and a daily penalty—
    - (i) a daily penalty based on a daily rate of an amount lower than the amount referred to in the relevant provision, or
    - (ii) no daily penalty.
- (2) Subject to paragraph (3), the Regulator may, by giving notice to the person to whom a penalty notice is given—
- (a) extend the date for which a payment set out in the penalty notice is due,
  - (b) amend the penalty notice by substituting a lower non-escalating penalty or a daily penalty based on a lower daily rate, or
  - (c) withdraw the penalty notice.
- (3) The Regulator may withdraw a penalty notice referred to in paragraph (3) if there is an error in the notice, including an error in the basis on which the civil penalty imposed by the notice is calculated.

#### **Failure to apply or make revised application for approval of Emissions Monitoring Plan**

- 55.**—(1) An aeroplane operator is liable to a civil penalty where the aeroplane operator fails—
- (a) to apply, or to apply on time, to a Regulator for the approval of an Emissions Monitoring Plan, contrary to article 23; or
  - (b) to make a revised application, or to make a revised application on time, for the approval of an Emissions Monitoring Plan, where required to do so under article 26(2).
- (2) The civil penalty is—

- (a) £20,000; and
- (b) a daily penalty at a daily rate of £500 for each day that the application is not submitted or, as the case may be, the revised application is not resubmitted, beginning with the day on which the initial notice set out in article 53(4) is given, up to a maximum of £45,000.

#### **Failure to comply with condition of Emissions Monitoring Plan**

**56.**—(1) An aircraft operator is liable to a civil penalty where the aircraft operator fails to comply, or to comply on time, with a condition of an Emissions Monitoring Plan, contrary to article 24(4).

(2) The civil penalty is—

- (a) £20,000, and
- (b) a daily penalty at a daily rate of £500 for each day that the person fails to comply with the condition, beginning with the day on which the initial notice under article 53(4) is given, up to a maximum of £45,000.

#### **Failure to monitor emissions**

**57.**—(1) An aeroplane operator is liable to a civil penalty where the aeroplane operator fails to monitor emissions in accordance with its Emissions Monitoring Plan.

(2) The civil penalty is—

- (a) £20,000; and
- (b) a daily penalty at a daily rate of £500 for each day that the person fails to monitor aviation emissions in accordance with article 22(1), beginning with the day on which the initial notice under article 53(4) is given, up to a maximum of £45,000.

#### **Failure to report emissions**

**58.**—(1) An aeroplane operator is liable to a civil penalty where the aeroplane operator fails to submit, or to submit on time, a verified Emissions Report to a Regulator, contrary to article 31(1).

(2) The civil penalty is—

- (a) £20,000; and
- (b) a daily penalty at a daily rate of £500 for each day that the report is not submitted, beginning with the day on which the initial notice under article 53(4) is given, up to a maximum of £45,000.

#### **Failure to keep records**

**59.** A person is liable to a civil penalty of £50,000 where the person fails to keep the appropriate records in accordance with article 12(1).

#### **Failure to comply with enforcement notice given by a Regulator**

**60.**—(1) A person is liable to a civil penalty where the person fails to comply, or to comply on time, with the requirements of an enforcement notice given by a Regulator under article 52(1).

(2) The civil penalty is—

- (a) £20,000; and
- (b) a daily penalty at a daily rate of £1,000 for each day that the person fails to comply with the requirements of the notice, beginning with the day on which the initial notice under article 53(4) is given, up to a maximum of £45,000.

### **Failure to comply with information notice**

**61.**—(1) A person is liable to a civil penalty where the person fails to comply, or to comply on time, with the requirements of an information notice given by a Regulator under article 50(1).

(2) The civil penalty is—

- (a) £5,000; and
- (b) a daily penalty at a daily rate of £500 for each day that the person fails to comply with the requirements of the information notice, beginning with the day on which the initial notice under article 53(4) is given, up to a maximum of £45,000.

### **Providing false or misleading information, etc.**

**62.** A person is liable to a civil penalty of £50,000 where the person provides false or misleading information, or makes a statement that is false or misleading in a material respect, where the information is provided, or the statement is made—

- (a) in an application under this Order;
- (b) in compliance with a notice given to the person under this Order;
- (c) in a notice that the person is required to give under this Order;
- (d) in compliance with a condition of an approved Emissions Monitoring Plan;
- (e) in an Emissions Report.

### **Inspection: refusal to allow access to premises**

**63.** A person in control of premises is liable to a civil penalty of £50,000 where the person does not allow a Regulator or authorised person, within the meaning of article 45, access to the premises contrary to article 46(3).

## **PART 7**

### **Appeals**

#### **Interpretation**

**64.** In this Part—

- “appeal body” has the meaning given by article 66,
- “decision” includes a deemed refusal under this Order.

#### **Right of appeal**

**65.**—(1) The following may appeal to the appeal body—

- (a) a person who is aggrieved by a decision of a Regulator determining an application made by that person under this Order;
  - (b) a person who is aggrieved by a notice given to that person, under a provision referred to in paragraph (2).
- (2) Those provisions are—
- (a) Article 18(10) (application to be treated as being withdrawn),
  - (b) Article 19(1) (determination of applications by Regulators),
  - (c) Article 24(3) (conditions imposed on Emissions Monitoring Plan)

- (d) Article 25(1) (refusal of modification of an Emissions Monitoring Plan),
- (e) Article 26(2) (modification of an Emissions Monitoring Plan),
- (f) Article 31(2) (determination of level of aggregation by Regulator),
- (g) Articles 31(6) or (8) (determination of confidential nature of information),
- (h) Article 33(1) (calculation of reportable emissions by Regulator),
- (i) Article 37(6) (estimation of reportable emissions by Regulator),
- (j) Article 50(1) (information notices),
- (k) Article 52(1) (enforcement notices), or
- (l) Articles 53(2) or (6) (penalty notices).

### **Appeal body**

- 66.**—(1) In an appeal against a decision of SEPA, the appeal body is the Scottish Land Court<sup>(44)</sup>.
- (2) In an appeal against a decision of the chief inspector, the appeal body is the Planning Appeals Commission<sup>(45)</sup>.
- (3) In an appeal against any other decision, the appeal body is the First-tier Tribunal<sup>(46)</sup>.

### **Effect of appeals**

- 67.**—(1) Subject to paragraphs (2) and (3), the bringing of an appeal under article 65 suspends the effect of the decision pending the final determination or withdrawal of the appeal.
- (2) The bringing of an appeal does not suspend the effect of—
- (a) a decision refusing an application,
  - (b) a deemed refusal of an application, or
  - (c) a notice under—
    - (i) article 26(2) (modification of an Emissions Monitoring Plan), or
    - (ii) article 52(1) (enforcement notices).
- (3) Where an Emissions Monitoring Plan has been approved under article 24, the bringing of an appeal against the conditions included in the plan does not suspend the effect of those conditions.
- (4) The bringing of an appeal against an estimation of aviation emissions under article 37(6) suspends the effect of the decision only for the purpose of assessing whether there has been compliance with that article.

### **Determination of appeals**

- 68.**—(1) In determining an appeal made under article 65 the appeal body may—
- (a) affirm the decision;
  - (b) quash the decision or vary any of its terms;
  - (c) substitute a deemed refusal with a decision of the appeal body;
  - (d) give directions as to the exercise of the Regulator’s functions under this Order.

<sup>(44)</sup> The Scottish Land Court was established by section 3 of the Small Landholders (Scotland) Act 1911 (c. 49) and continued in being under section 1 of the Scottish Land Court Act 1993 (c. 45).

<sup>(45)</sup> The Planning Appeals Commission was continued by section 203(1) of the Planning Act (Northern Ireland) 2011 (c. 25).

<sup>(46)</sup> The First-tier Tribunal was established by section 3(1) of the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(2) The appeal body may not make a determination that would result in a decision which could not otherwise have been made under this Order.

### **Procedure for appeals**

**69.**—(1) The procedure for appeals to the Scottish Land Court is provided in Schedule 7.

(2) The procedure for appeals to the Planning Appeals Commission (Northern Ireland) is provided in Schedule 8.

## **PART 8**

### **Schedules and consequential amendments**

#### **CHAPTER 1**

##### **Schedules**

#### **Schedules**

**70.**—(1) Schedule 1 (which makes provision in relation to administrative procedures for CORSIA) has effect.

(2) Schedule 2 (which makes provision in relation to fuel use monitoring methods) has effect.

(3) Schedule 3 (which makes provision in relation to CO<sub>2</sub> emission estimation and reporting methods and tools) has effect.

(4) Schedule 4 (which makes provision in relation to emissions monitoring plans) has effect.

(5) Schedule 5 (which makes provision in relation to reporting) has effect.

(6) Schedule 6 (which makes provision in relation to verification) has effect.

(7) Schedule 7 (which makes provision in relation to appeals to the Scottish Land Court) has effect.

(8) Schedule 8 (which makes provision in relation to appeals to the Planning Appeals Commission (Northern Ireland)) has effect.

#### **CHAPTER 2**

##### **Consequential amendments**

#### **Revocation of retained EU law**

**71.**—(1) Commission Implementing Regulation (EU) 2019/1603 of 18 July 2019 supplementing [Directive 2003/87/EC](#) of the European Parliament and of the Council as regards measures adopted by the International Civil Aviation Organisation for the monitoring, reporting and verification of aviation emissions for the purpose of implementing a global market-based measure<sup>(47)</sup> is revoked.

(2) Notwithstanding the revocation made by paragraph (1), the provisions of Commission Implementing Regulation (EU) 2019/1603 continue to have effect in respect of the monitoring, reporting and verification of aviation emissions undertaken by aeroplane operators pursuant to that Regulation prior to this Order coming into force.

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(47) OJ L 250, 30.9.2019, p. 10-13.

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**Status:** *This is the original version (as it was originally made).*

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*Richard Tilbrook*  
Clerk of the Privy Council