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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 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- (a) Article 18(10) (application to be treated as being withdrawn),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>(1)</sup>.
- (2) In an appeal against a decision of the chief inspector, the appeal body is the Planning Appeals Commission<sup>(2)</sup>.
- (3) In an appeal against any other decision, the appeal body is the First-tier Tribunal<sup>(3)</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.
- (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.

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(1) 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).

(2) The Planning Appeals Commission was continued by section 203(1) of the Planning Act (Northern Ireland) 2011 (c. 25).

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