
STATUTORY INSTRUMENTS

2003 No. 3311

The Greenhouse Gas Emissions
Trading Scheme Regulations 2003

PART 7

Offences and Civil Penalties

Offences

32.—(1) It is an offence for a person—

- (a) to contravene regulation 7;
- (b) to fail to comply with or to contravene a condition of a greenhouse gas emissions permit (except where such failure to comply or contravention falls within regulation 33 or 34);
- (c) to fail to comply with regulation 12(1);
- (d) to fail to comply with the requirements of an enforcement notice;
- (e) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under regulation 8(6), 13(5), 14(8), 15(8) or 29(2);
- (f) to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—
 - (i) in purported compliance with a requirement imposed by a notice under regulation 8(6), 13(5), 14(8), 15(8) or 29(2);
 - (ii) for the purpose of obtaining the grant of a greenhouse gas emissions permit to himself or any other person, or the variation, transfer or surrender of a greenhouse gas emissions permit;
 - (iii) for the purpose of obtaining a certificate under regulation 11;
 - (iv) for the purpose of obtaining a notice authorising a pool under regulation 21; or
 - (v) as part of the verification of a report required under a monitoring and reporting condition;
- (g) to fail to correct any statement made before the entry into force of these Regulations in response to a request for information from the Secretary of State expressed to be for the purpose of developing a national allocation plan, if the making of that statement after the entry into force of these Regulations in purported compliance with a requirement imposed by a notice under regulation 29(2) would have been an offence under sub-paragraph (f);
- (h) intentionally to make a false entry in any record required to be kept under the condition of a greenhouse gas emissions permit;
- (i) with intent to deceive, to forge or use a document issued or authorised to be issued under a condition of a greenhouse gas emissions permit or required for any purpose under a

condition of such a permit or to make or to have in his possession a document so closely resembling any such document as to be likely to deceive.

- (2) A person guilty of an offence under paragraph (1) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (3) Where an offence under this regulation committed by—
- (a) a body corporate (other than a limited liability partnership) is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the body corporate or a person who was purporting to act in any such capacity;
 - (b) a limited liability partnership and is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any member of the limited liability partnership or a person who was purporting to act as such; or
 - (c) in Scotland, a partnership (other than a limited liability partnership) (a “Scottish partnership”) is proved to have been committed with the consent or connivance of, or have been attributable to any neglect on the part of, any partner or a person who was purporting to act as such,

that person as well as the body corporate, the limited liability partnership or the Scottish partnership, as the case may be, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate (other than a limited liability partnership) are managed by its members, paragraph (3) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(5) Where the commission by any person of an offence under this regulation is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.