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STATUTORY INSTRUMENTS

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**2007 No. 3072**

**The Renewable Transport Fuel Obligations Order 2007**

**PART 6**

**IMPOSITION OF CIVIL PENALTIES**

**Civil penalties**

**23.**—(1) The following provisions are designated for the purposes of section 129 of the 2004 Act: articles 7(2) and (6), 8(3), [<sup>F1</sup>12(4) and (7)], 13(5) and (7), 16(4), [<sup>F2</sup>16B(1) to (3),] 20(14) and 21(6).

(2) A supplier is liable to a civil penalty if that supplier contravenes article 7(2) or 21(6).

[<sup>F3</sup>(2A) A supplier is liable to a civil penalty if that supplier or other person fails to submit a verifier's report as required by article 16B(1) to (3).]

[<sup>F4</sup>(3) A supplier or other person is liable to a civil penalty if at the time that supplier or other person provides the information or produces the evidence (as the case may be) referred to in article 7(6), 8(3), 12(4) or (7), 13(5) or (7), 16(4) or 20(14)—

- (a) that supplier or other person has not taken reasonable steps to ensure that the information or evidence is accurate, or
- (b) that supplier or other person has taken reasonable steps to ensure that the information or evidence is accurate, but the condition set out in paragraph (4) or (5) is subsequently satisfied.]

(4) In the case of article 7(6) or 8(3), the condition is that the supplier or other person has subsequently—

- (a) become aware that the information or evidence may be inaccurate but has not informed the Administrator of that fact within [<sup>F5</sup>twenty] working days of so becoming aware,
- (b) been informed by the Administrator that the information or evidence may be inaccurate but has not investigated and remedied the inaccuracy within such period as may reasonably be allowed by the Administrator, or
- (c) become aware (other than by being informed by the Administrator) that the information or evidence may be inaccurate but has not investigated and remedied the inaccuracy within such period as may reasonably be allowed by the Administrator.

(5) In the case of article [<sup>F6</sup>12(4) or (7)], 13(5) or (7), 16(4) or 20(14), the condition is that the supplier or other person has subsequently, but on or before [<sup>F7</sup>the applicable date in paragraph (5A)]—

- (a) become aware that the information or evidence may be inaccurate, but has not informed the Administrator of that fact within [<sup>F8</sup>twenty] working days of so becoming aware,
- (b) been informed by the Administrator that the information or evidence may be inaccurate, but has not investigated and remedied the inaccuracy within such period as may reasonably be allowed by the Administrator, or

- (c) become aware (other than by being informed by the Administrator) that the information or evidence may be inaccurate, but has not investigated and remedied the inaccuracy within such period as may reasonably be allowed by the Administrator.
- [<sup>F9</sup>(5A) For the purposes of paragraph (5), the “applicable date” is—
- (a) in respect of an obligation period which ends on 14th April in a year, 16th November of that year (or the next working day after 16th November, if 16th November is not a working day);
- (b) in respect of an obligation period which ends on 31st December in a year, 16th August of the following year (or the next working day after 16th August, if 16th August is not a working day).]
- (6) For the purposes of section 129(2) of the 2004 Act, a civil penalty notice must be given by written notice to the defaulter.
- (7) For the purposes of section 129(3)(a), “the specified amount” is—
- (a) in the case of an account holder who has gained, or attempted to gain, one or more RTF certificates by contravening a provision referred to in paragraph (1), an amount equivalent to twice the value of the RTF certificates which the account holder has gained, or attempted to gain, and
- (b) in any other case, £50,000.
- [<sup>F10</sup>(8) For the purposes of paragraph (7)(a), the value of an RTF certificate is an amount equal to the amount that would be payable, in respect of the fuel to which the certificate relates, if that fuel were to fall within the development fuel target shortfall or the main obligation shortfall under article 21(7).]
- [<sup>F11</sup>(8A) In order to establish the value of an RTF certificate in accordance with paragraph (8), were the fuel to which it relates to fall within the main obligation shortfall under paragraph (7) of article 21, the multiplier for the purpose of calculating sum B referred to in *Step 4* of that paragraph [<sup>F12</sup>is—
- (a) where it relates to an application for an RTF certificate made on or before 31st December 2021, £0.30;
- (b) where it relates to an application for an RTF certificate made on or after 1st January 2022, £0.50].]
- (9) For the purposes of section 129(3)(b), the turnover of the specified business of the defaulter is the applicable turnover for the business year preceding the date of the civil penalty notice.
- (10) Where the business year preceding the date of the civil penalty notice does not equal 12 months, the turnover is the amount which bears the same proportion to the applicable turnover during that business year as 12 months does to the period of that business year.
- (11) Where there is no preceding business year, the turnover is the applicable turnover of the defaulter for the period of 12 months ending on the last day of the month preceding the month in which the date of the civil penalty notice falls.
- (12) Where in the application of paragraph (11) the defaulter has applicable turnover for a period of less than 12 months, the turnover is the amount which bears the same proportion to the applicable turnover during the period for which the defaulter has applicable turnover as 12 months does to that period.
- [<sup>F13</sup>(12A) Where a defaulter does not pay all or any part of the penalty to the Administrator by the date before which the civil penalty must be paid—
- (a) the sum outstanding is to increase at the rate specified in paragraph (12B) and the increase is to be calculated in accordance with paragraph (12C); and

(b) the increased sum is a debt due from the defaulter to the Administrator until it has been paid in full.

(12B) The rate for the purposes of paragraph (12A) is 5 percentage points above the base rate of the Bank of England as at the date before which the civil penalty must be paid to the Administrator.

(12C) The increase is to be calculated on a daily basis beginning on the date before which the civil penalty must be paid to the Administrator, and ending on the date on which payment is received by the Administrator.]

(13) In this article—

“applicable turnover” means the amounts, ascertained in conformity with normal accounting practice in the United Kingdom, which are—

- (a) derived by the defaulter from the supply of [<sup>F14</sup>petrol, diesel and renewable] transport fuel at or for delivery to places in the United Kingdom, and
- (b) computed on an accruals basis so that those amounts relating to the period for which the turnover is being determined are taken into account, without regard to the date of invoice or receipt of payment,

after deduction of trade discounts, value added tax and any other taxes based on such amounts;

“business year” means a period of more than six months in respect of which a defaulter publishes accounts or, if no such accounts have been published for the period, prepares accounts; and

“date of the civil penalty notice” means the date on which the Administrator gives notice under section 129(2) of the 2004 Act.

- F1 Words in art. 23(1) substituted (15.12.2011) by [The Renewable Transport Fuel Obligations \(Amendment\) Order 2011 \(S.I. 2011/2937\)](#), arts. 1, **21(1)(a)**
- F2 Words in art. 23(1) inserted (15.12.2011) by [The Renewable Transport Fuel Obligations \(Amendment\) Order 2011 \(S.I. 2011/2937\)](#), arts. 1, **21(1)(b)**
- F3 Art. 23(2A) inserted (15.12.2011) by [The Renewable Transport Fuel Obligations \(Amendment\) Order 2011 \(S.I. 2011/2937\)](#), arts. 1, **21(2)**
- F4 Art. 23(3) substituted (15.12.2011) by [The Renewable Transport Fuel Obligations \(Amendment\) Order 2011 \(S.I. 2011/2937\)](#), arts. 1, **21(3)**
- F5 Word in art. 23(4)(a) substituted (15.12.2011) by [The Renewable Transport Fuel Obligations \(Amendment\) Order 2011 \(S.I. 2011/2937\)](#), arts. 1, **21(4)**
- F6 Words in art. 23(5) substituted (15.12.2011) by [The Renewable Transport Fuel Obligations \(Amendment\) Order 2011 \(S.I. 2011/2937\)](#), arts. 1, **21(5)(a)**
- F7 Words in art. 23(5) substituted (15.4.2018) by [The Renewable Transport Fuels and Greenhouse Gas Emissions Regulations 2018 \(S.I. 2018/374\)](#), regs. 1, **25(2)**
- F8 Word in art. 23(5)(a) substituted (15.12.2011) by [The Renewable Transport Fuel Obligations \(Amendment\) Order 2011 \(S.I. 2011/2937\)](#), arts. 1, **21(4)**
- F9 Art. 23(5A) inserted (15.4.2018) by [The Renewable Transport Fuels and Greenhouse Gas Emissions Regulations 2018 \(S.I. 2018/374\)](#), regs. 1, **25(3)**
- F10 Art. 23(8) substituted (15.4.2018) by [The Renewable Transport Fuels and Greenhouse Gas Emissions Regulations 2018 \(S.I. 2018/374\)](#), regs. 1, **25(4)**
- F11 Art. 23(8A) inserted (31.12.2020) by [The Renewable Transport Fuel Obligations \(Amendment\) Order 2020 \(S.I. 2020/1541\)](#), arts. 1, **2(3)**
- F12 Words in art. 23(8A) substituted (1.1.2022) by [The Renewable Transport Fuel Obligations \(Amendment\) Order 2021 \(S.I. 2021/1420\)](#), arts. 1, **12** (with art. 16)
- F13 Art. 23(12A)-(12C) inserted (9.4.2013) by [The Renewable Transport Fuel Obligations \(Amendment\) Order 2013 \(S.I. 2013/816\)](#), arts. 1(1), **12**

**F14** Words in art. 23(13) substituted (15.12.2011) by [The Renewable Transport Fuel Obligations \(Amendment\) Order 2011 \(S.I. 2011/2937\)](#), arts. 1, **21(7)**

### **Objections to civil penalties**

**24.**—(1) For the purposes of section 130(2)(b) of the 2004 Act, the manner in which the notice of objection must be given to the Administrator is—

- (a) by delivering it to the Administrator,
- (b) by leaving it at the address of the Administrator, or
- (c) by sending it by post to the Administrator at that address,

and “delivering” includes transmitting by means of an electronic communications network, or by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.

(2) For the purposes of section 130(2)(b), the period within which the notice must be given is a period of 28 days beginning on the day immediately after the day on which the civil penalty notice is given.

(3) For the purposes of section 130(5), the manner in which the notification of the outcome of the Administrator's consideration must be given is—

- (a) by delivering it to the objector,
- (b) by leaving it at the objector's proper address, or
- (c) by sending it by post to the objector at that address,

and “delivering” includes transmitting by means of an electronic communications network, or by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.

(4) Section 193(3) to (7) of the 2004 Act applies in relation to the giving or sending of the notification to the objector under paragraph (3).

(5) For the purposes of section 130(5), the period before the end of which the notification must be given is a period of 28 days beginning on the day immediately after the day on which the notice of objection is given to the Administrator.

**Changes to legislation:**

There are currently no known outstanding effects for the The Renewable Transport Fuel Obligations Order 2007, PART 6.