
STATUTORY INSTRUMENTS

2019 No. 421

The Alternative Fuel Labelling and Greenhouse Gas Emissions (Miscellaneous Amendments) Regulations 2019

PART 3

Enforcement

Duty to enforce

- 7.—(1) These Regulations must be enforced by the Secretary of State.
- (2) The Secretary of State may authorise in writing any person who appears suitable to act on the Secretary of State’s behalf to—
- (a) carry out any functions under these Regulations, other than those under regulation 21, and
 - (b) exercise any of the powers provided by these Regulations.

Information notice

- 8.—(1) An enforcement authority may serve a notice (an “information notice”) on an infrastructure operator, a motor vehicle manufacturer, or a motor vehicle dealer, requesting such information as the enforcement authority considers necessary to enable it to monitor that person’s compliance with these Regulations.
- (2) An information notice must—
- (a) be in writing,
 - (b) set out the information required,
 - (c) specify the date by which the information must be provided,
 - (d) specify the person, and the address, to which the information must be provided.
- (3) A person served with an information notice must comply with its requirements by the date referred to in paragraph (2)(c).

Power of entry without warrant

- 9.—(1) Subject to paragraph (2), the enforcement authority may enter premises (other than premises used wholly or mainly as a private dwelling) or land, at reasonable hours—
- (a) where the enforcement authority considers it necessary to do so to enable it to investigate a person’s compliance with these Regulations, as a result of that person’s failure to comply with the requirements of an information notice served in accordance with regulation 8(3), or
 - (b) for the purpose of investigating whether there has been a breach of any other requirement of these Regulations.

(2) Before the enforcement authority exercises the power of entry in paragraph (1) the enforcement authority must serve on the occupier of the premises or land a notice (an “inspection notice”).

(3) An inspection notice must—

- (a) be in writing,
- (b) be served on the owner and any occupier of the premises or land at least two working days before the proposed date of entry,
- (c) set out the reason for which entry is required, and
- (d) specify the proposed date of entry.

(4) The enforcement authority must produce suitable identification to the owner and to any occupier of the premises or land, when requested to do so by them.

Power of inspection and removal

10. An enforcement authority exercising the power of entry under regulation 9(1) may—

- (a) inspect the premises, land and any refuelling point,
- (b) require any owner or occupier of the premises or land, to produce documents, records or any other information, in whatever form it is held, within such period as the enforcement authority considers reasonable, and
- (c) take photographs or measurements.

Power of entry with warrant

11.—(1) A justice of the peace may, by signed warrant, permit the enforcement authority to enter any premises or land, if necessary by reasonable force, if the justice of the peace in England and Wales on sworn information in writing, in Northern Ireland on a complaint on oath, or in Scotland by evidence on oath, is satisfied—

- (a) that there are reasonable grounds to enter those premises or land for the purposes of investigating whether there has been a breach of any of the requirements of these Regulations, and
- (b) that any of the conditions in paragraph (3) is met.

(2) Reference to a justice of the peace—

- (a) in Scotland, includes a sheriff,
- (b) in Northern Ireland is a reference to a lay magistrate.

(3) The conditions referred to in paragraph (1)(b) are that—

- (a) entry to the premises or land has been, or is likely to be, refused,
- (b) serving an inspection notice under regulation 9(2) would defeat the object of the entry,
- (c) entry is required urgently, or
- (d) the premises or land are unoccupied or the occupier is temporarily absent.

(4) A warrant granted under paragraph (1)—

- (a) is valid for one month beginning on the day of issue, and
- (b) must be produced on demand to the owner and any occupier of the premises or land.

(5) Where the enforcement authority enters premises or land under a warrant and those premises or land are unoccupied or from which the occupier is temporarily absent, the enforcement authority must—

- (a) leave a copy of the warrant at the premises or land, and
- (b) leave those premises or land as effectively secured against unauthorised entry as they were before entry.

Compliance notice

12.—(1) Where the enforcement authority is satisfied that there has been a breach of the obligations in regulations 4, 5 or 6, the enforcement authority may serve a notice (a “compliance notice”) on the person in breach.

- (2) The compliance notice must—
 - (a) be in writing,
 - (b) set out the reasons for which the compliance notice has been served,
 - (c) describe the steps required to remedy the breach,
 - (d) specify the date by which the breach must be remedied, and
 - (e) specify the likely amount of the civil penalty to be imposed if there is a failure to rectify the breach and the basis on which it is calculated.

Notice of civil penalty

13.—(1) Where a person does not comply with a compliance notice served under regulation 12 the enforcement authority may require the person in breach to pay a civil penalty calculated in accordance with regulation 14.

(2) Where the enforcement authority decides to impose a civil penalty, the enforcement authority must serve a notice (a “notice of civil penalty”) on the person in breach.

- (3) A notice of civil penalty must—
 - (a) be in writing,
 - (b) be dated,
 - (c) set out the reasons for which the penalty is imposed,
 - (d) set out the amount of the penalty and how it has been calculated,
 - (e) set out how to pay the civil penalty,
 - (f) require payment before the end of a period of 28 days beginning with the date of the notice of civil penalty,
 - (g) include an explanation of the steps the person in breach must take if the person in breach wishes to object to the civil penalty, including the manner and form in which any notice of objection must be served, and the effect of serving or withdrawing a notice of objection, and
 - (h) include an explanation of the steps the enforcement authority may take to recover any unpaid penalty.

Amounts of civil penalty

14.—(1) The maximum civil penalty for each breach of regulation 4(1) by an infrastructure operator is £500 for each fuel dispenser or nozzle which does not meet the requirements of regulation 4(1).

(2) The maximum civil penalty for each breach of regulation 5(1) by a motor vehicle manufacturer is—

- (a) £100 for each relevant vehicle which is not labelled in accordance with the requirements of regulation 5(1)(a), and
 - (b) £100 for each user manual which does not contain the information required by regulation 5(1)(b).
- (3) The maximum civil penalty for each breach of regulation 6 by a motor vehicle dealer is—
- (a) £100 for each relevant vehicle which does not meet the requirements of regulation 6(a), and
 - (b) £100 for each relevant vehicle which does not meet the requirements of regulation 6(b).

Objection to a civil penalty

15.—(1) A person in receipt of a notice of civil penalty may object to the penalty by serving on the enforcement authority a notice (a “notice of objection”) before the end of the period of 28 days after the date of the notice of civil penalty.

(2) The notice of objection must be in writing and must set out the reasons for the objection.

(3) Where a notice of objection is served, any sum required to be paid by the notice of civil penalty is not payable before the end of the period of 28 days beginning with the date of a notice served by an enforcement authority under regulation 16(2) upholding or reducing the civil penalty (but see regulation 17(3)).

(4) Where an objection to a civil penalty is withdrawn before a notice under regulation 16(2) is served, payment of the civil penalty must be made—

- (a) within the period for payment specified in the notice of civil penalty, or
- (b) where the period for payment in the notice of civil penalty has expired, within seven days of withdrawal of the objection.

Consideration and notification of outcome of objection

16.—(1) The enforcement authority must consider a notice of objection served in accordance with regulation 15.

(2) When the enforcement authority has considered the notice of objection it must—

- (a) cancel the civil penalty,
- (b) reduce it, or
- (c) uphold it, and

serve on the person who made an objection under regulation 15 a notice containing the information set out in paragraph (3) and, where applicable, paragraph (4).

(3) The notice referred to in paragraph (2) must—

- (a) specify, with reasons, whether the civil penalty has been cancelled, reduced or upheld, and
- (b) be dated.

(4) Where the civil penalty has been reduced or upheld, the notice must also—

- (a) specify the amount of the civil penalty,
- (b) provide an explanation of how the amount was calculated (whether or not it was reduced),
- (c) require payment before the end of a period of 28 days beginning with the date of the notice, and
- (d) include information about the right of appeal to the First-tier Tribunal against the decision to impose a civil penalty, and the time within which, and the manner in which, such right of appeal may be exercised.

Appeals against civil penalties

17.—(1) A person who has received a notice referred to in regulation 16(2) may, within 28 days of the date of that notice, appeal to the First-tier Tribunal against the enforcement authority's decision made under regulation 16, on the grounds that the decision was—

- (a) based on an error of fact, or
- (b) wrong in law.

(2) An appeal may be brought only if the appellant has served a notice of objection and the enforcement authority has—

- (a) reduced the civil penalty under regulation 16(2)(b), or
- (b) upheld it under regulation 16(2)(c).

(3) Where a person appeals under this regulation, the amount of the civil penalty referred to in regulation 16(4)(a) is not payable until the appeal is finally determined or withdrawn.

(4) The First-tier Tribunal may—

- (a) dismiss the appeal and uphold the civil penalty,
- (b) cancel or reduce the civil penalty, or
- (c) remit the matter to the enforcement authority—
 - (i) generally, or
 - (ii) for determination in accordance with a finding made or direction given by the Tribunal.

Service

18.—(1) Any notice which may be served on a person under these Regulations may be served—

- (a) by post,
- (b) by delivering it to that person in person, or
- (c) with the consent of that person and subject to paragraphs (4) and (5), by electronic means.

(2) Where the person on whom a notice is to be served is—

- (a) a body corporate, the notice may be served on the director, secretary or other officer of that body,
- (b) a partnership, the notice may be served on a partner or person having control or management of the partnership business.

(3) For the purposes of this regulation the proper address of any person in relation to the service on the person of a notice under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of a body corporate, the registered or principal office of that body, and
- (b) in any other case, the last known address of that person at the time of the service.

(4) A notice may be served by electronic transmission only where the recipient of the notice has given prior consent to the use of electronic transmission for the purposes of these Regulations.

(5) Where a person is no longer willing to accept the use of electronic transmission for the purposes of these Regulations that person must serve a notice in writing revoking consent to the use of electronic transmission for the purposes of these Regulations.

Enforcement of civil penalty decision

19.—(1) This regulation applies where a civil penalty is payable to the enforcement authority.

(2) In England and Wales, the civil penalty is recoverable as if it were payable under an order of the County Court in England and Wales.

(3) In Northern Ireland, the civil penalty is recoverable as if it were payable under an order of the County Court in Northern Ireland.

(4) In Scotland, the civil penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the Sheriff Court of any sheriffdom in Scotland.

Proceeds of civil penalties

20. Any civil penalty received by the enforcement authority must be paid into the Consolidated Fund.

Review

21.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 1st April 2024.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015 requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations of Directive 014/94/EU are implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).