
STATUTORY INSTRUMENTS

2010 No. 1996

**The Aviation Greenhouse Gas Emissions
Trading Scheme Regulations 2010**

PART 10

Other sanctions

Naming of operators

49. The regulator must, by 30th June in each year, publish a list of aircraft operators that were liable to a civil penalty under regulation 38 in the preceding 12 months.

Application for an operating ban

50.—(1) Where the Secretary of State intends to make a request to the European Commission under Article 16(5) of the EU ETS Directive to impose an operating ban on an aircraft operator, the Secretary of State must first—

- (a) receive consent from—
 - (i) the Scottish Ministers, where the Scottish Environment Protection Agency is the regulator;
 - (ii) the Welsh Ministers, where the registered office of the aircraft operator is in Wales;
 - (iii) the Department of the Environment in Northern Ireland, where the chief inspector is the regulator; and
- (b) give notice to the regulator.

(2) A notice under paragraph (1)(b) may require relevant information to be provided by the regulator including—

- (a) evidence that the aircraft operator has not complied with obligations under these Regulations; and
- (b) any enforcement action that has been taken by the regulator;

in a timescale specified in the notice.

(3) Following the giving of notice under paragraph (1)(b) and, where applicable, the provision of information under paragraph (2), the Secretary of State must give notice to the aircraft operator.

(4) A notice under paragraph (3) must—

- (a) include a copy of any information provided under paragraph (2);
- (b) include a copy of the request that the Secretary of State intends to send to the European Commission;
- (c) give the aircraft operator an opportunity to make representations before the Secretary of State makes the request; and
- (d) set out the timescale in which those representations must be made.

Enforcement of an operating ban

51.—(1) Where the European Commission has adopted a decision to impose an operating ban on an operator under Article 16(10) of the EU ETS Directive, the regulator must take all reasonable steps to ensure that the banned operator does not operate a flight that departs from or arrives in the United Kingdom.

(2) The steps a regulator may take under paragraph (1) include—

(a) subject to paragraph (3), issuing to aerodrome operators (or to any other person) any direction that the regulator deems necessary to enforce the ban;

(b) detaining and selling an aircraft of the operator in accordance with Part 9.

(3) Before issuing a direction under paragraph (2)(a) the regulator must receive approval from the authority and (where different) the relevant authority.

(4) A person must comply with any direction issued to that person under paragraph (2)(a).

(5) A person is entitled to recover from the regulator a sum equal to any expense reasonably incurred by that person in complying with a direction issued under paragraph (2)(a).

(6) The regulator is entitled to recover as a civil debt from the operator concerned all sums incurred under paragraph (5).

(7) In paragraph (3)—

“authority” means in respect of an operating ban on—

(a) a UK operator, the authority as defined by regulation 7;

(b) any other operator, the Secretary of State;

“relevant authority” means, where the principal place of business of the person to be directed is—

(a) in Wales, the Welsh Ministers;

(b) in Scotland, the Scottish Ministers;

(c) in Northern Ireland, the Department of the Environment in Northern Ireland;

(d) not in Wales, Scotland or Northern Ireland, the Secretary of State.