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## STATUTORY INSTRUMENTS

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# 2010 No. 1996

## The Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010

### PART 11

#### Appeals

##### General

- 52.**—(1) A UK operator may appeal to the appeal body where the regulator has—
- (a) refused the UK operator’s application for a benchmarking plan by—
    - (i) notice under regulation 10(1); or
    - (ii) deemed refusal under regulation 10(4);
  - (b) refused to submit the UK operator’s report to the Secretary of State by—
    - (i) notice under regulation 13(1)(b); or
    - (ii) deemed refusal under regulation 13(4);
  - (c) served on the UK operator a notice under regulation 30 in relation to a civil penalty under regulation 39(1);
  - (d) served on the UK operator a notice under regulation 29(1).
- (2) An eligible UK operator may appeal to the appeal body where the regulator has refused to submit the eligible UK operator’s application for an allocation of allowances from the special reserve to the Secretary of State by—
- (a) notice under regulation 17(1)(b); or
  - (b) deemed refusal under regulation 17(3).
- (3) An aircraft operator may appeal to the appeal body where the regulator has—
- (a) refused the aircraft operator’s application for an emissions plan by—
    - (i) notice under regulation 19(1) or (5); or
    - (ii) deemed refusal under regulation 19(6);
  - (b) served on the aircraft operator a notice under regulation 22(2)(c), 25 or 30.
- (4) A person may appeal to the appeal body where the regulator has served on the person a notice under regulation 30(1) in relation to a civil penalty under regulation 36(1) or (2) or 41.
- (5) An aerodrome operator may appeal to the appeal body where the regulator has served on the aerodrome operator a notice under regulation 30(1) in relation to a civil penalty under regulation 40.
- (6) In determining an appeal under this regulation the appeal body may—
- (a) affirm the notice or deemed refusal;
  - (b) quash all or part of the notice or deemed refusal;
  - (c) vary the notice;

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- (d) give directions to the regulator in relation to the subject matter of the appeal;
  - (e) substitute a deemed refusal by the regulator with a decision of the appeal body.
- (7) An appeal brought under paragraph (1)(a) or (b), (2) or (3)(a) does not suspend the operation of the notice or deemed refusal.
- (8) An appeal brought under paragraph (1)(c) or (d), (3)(b), (4) or (5) suspends the operation of the notice pending the final determination or the withdrawal of the appeal.
- (9) The “appeal body” means—
- (a) in respect of an appeal against a notice or deemed refusal of the Environment Agency—
    - (i) the Welsh Ministers, where the UK operator making the appeal has its registered office in Wales;
    - (ii) otherwise, the Secretary of State;
  - (b) in respect of an appeal against a notice or deemed refusal of the Scottish Environment Protection Agency, the Scottish Ministers;
  - (c) in respect of an appeal against a notice or deemed refusal of the chief inspector, the Planning Appeals Commission.

### **Procedure and appointment**

- 53.**—(1) Except where paragraph (4) applies, Schedule 3 has effect in relation to the making and determination of appeals under regulation 52.
- (2) Except where paragraph (4) applies, the appeal body may—
- (a) appoint any person to exercise on its behalf, with or without payment, the function of determining an appeal under regulation 52 or any matter or question involved in such an appeal; or
  - (b) refer any matter or question involved in an appeal under regulation 52 to such person as it may appoint for the purpose, with or without payment.
- (3) Schedule 4 has effect with respect to appointments under paragraph (2)(a).
- (4) Where an appeal under regulation 52 is made to the Planning Appeals Commission, Schedule 5 has effect in relation to the making and determination of the appeal.

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**Changes and effects yet to be applied to :**

- Regulations revoked by [S.I. 2012/3038 reg. 85\(d\)](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 4 para. 1(1) Sch. 4 para. 1 renumbered as Sch. 4 para. 1(1) by [S.I. 2011/765 reg. 4\(6\)\(b\)](#)
- Sch. 4 para. 1(2) inserted by [S.I. 2011/765 reg. 4\(6\)\(b\)](#)
- reg. 2A2B inserted by [S.I. 2011/765 reg. 3\(2\)](#)
- reg. 36(6) applied (with modifications) by SI 2012/3038 reg. 87(1A) (as amended) by [S.I. 2013/755 Sch. 4 para. 425](#)
- reg. 52(5A) inserted by [S.I. 2011/765 reg. 4\(2\)\(a\)](#)
- reg. 53(2A) inserted by [S.I. 2011/765 reg. 4\(3\)\(b\)](#)
- reg. 53(5) inserted by [S.I. 2011/765 reg. 4\(3\)\(d\)](#)
- reg. 55(1) reg. 55 renumbered as reg. 55(1) by [S.I. 2011/765 reg. 4\(4\)](#)
- reg. 55(2) inserted by [S.I. 2011/765 reg. 4\(4\)](#)
- reg. 60(5A) inserted by [S.I. 2011/765 reg. 4\(5\)\(b\)](#)