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SCOTTISH STATUTORY INSTRUMENTS

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**2000 No. 169**

**ENVIRONMENTAL PROTECTION**

**The Sulphur Content of Liquid  
Fuels (Scotland) Regulations 2000**

<i>Made</i>	- - - -	<i>3rd June 2000</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th June 2000</i>
<i>Coming into force</i>	- -	<i>30th June 2000</i>

The Scottish Ministers, in exercise of the powers conferred upon them by section 2(2) of the European Communities Act 1972<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Sulphur Content of Liquid Fuels (Scotland) Regulations 2000 and shall come into force on 30th June 2000.

(2) These Regulations extend to Scotland only.

**Interpretation**

2.—(1) In these Regulations—

- (a) “combustion plant” means any technical apparatus in which fuels are oxidised in order to use the heat generated;
- (b) “gas oil” means—
  - (i) any petroleum derived liquid fuel falling within CN code 2710 00 67 to 2710 00 68; or
  - (ii) any petroleum derived liquid fuel which, by reason of its distillation limits, falls within the category of middle distillates intended for use as fuel and of which at least 85 per cent by volume (including losses) distils at 350°C by the ASTM D86 method,

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(1) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

but shall not include diesel fuels, as defined in Article 2(2) of Council Directive [98/70/EC](#) relating to the quality of petrol and diesel fuels(2) and fuels used in non road mobile machinery and agricultural tractors;

- (c) “heavy fuel oil” means–
- (i) any petroleum derived liquid fuel falling within CN code 2710 00 71 to 2710 00 78; or
  - (ii) any petroleum derived liquid fuel, other than gas oil or marine gas oil which, by reason of its distillation limits, falls within the category of heavy oils intended for use as fuel and of which less than 65 per cent by volume (including losses) distils at 250°C by the ASTM D86 method or of which the distillation cannot be determined by that method;
- (d) “marine gas oil” means fuel intended for marine use which is gas oil or which has a viscosity or density falling within the ranges of viscosity or density defined for marine distillates in Table I of ISO 8217 (1996)(3);
- (e) “SEPA” means the Scottish Environment Protection Agency; and
- (f) “sulphur content of liquid fuels permit” has the meaning given in regulation 3(6)(b)(iii) below.
- (2) In paragraph (1) above–
- (a) “ASTM method” means the methods laid down by the American Society for Testing and Materials in the 1976 edition of standard definitions and specifications for petroleum and lubricating products(4); and
  - (b) the reference to a number of CN code is a reference to the code set out in the Integrated Customs Tariff of the United Kingdom (2000 edition) as the CN code with that number(5).
- (3) These Regulations do not apply to–
- (a) the use of fuel, other than of marine gas oil, by seagoing ships;
  - (b) the use of marine gas oil by ships crossing a frontier between a third country and a Member State;
  - (c) the use of fuel intended for processing prior to final combustion; and
  - (d) the use of fuel to be processed in the refining industry.
- (4) Words used in these Regulations which are also used in Council Directive [1999/32/EC](#)(6) have the same meaning as in that Directive.

### **Maximum sulphur content of heavy fuel oil**

3.—(1) Subject to the following provisions of this regulation, any person who uses heavy fuel oil on or after 1st January 2003 with a sulphur content exceeding 1 per cent by mass shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Paragraph (1) above shall not apply to the use of heavy fuel oil in a new large combustion plant which is operated in accordance with a condition in a permit which contains emission limit

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(2) O.J. L 350, 28.12.98, p.58.

(3) ISO 8217 (1996) is described in the British Standard entitled “Specification for Petroleum Fuels for marine oil engines and boilers”, published under the numbers BS MA 100 and ISO 8217: 1996, which came into effect on 15th August 1996.

(4) The ASTM method is described in the 1999 Annual Book of ASTM Standards: Section 5 – Petroleum Products, Lubricants and Fossil Fuels, published by the American Society for Testing and Materials, November 1999.

(5) The Integrated Customs Tariff of the United Kingdom (2000 edition) is published by HMSO (ISBN 0117818054).

(6) Council Directive of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive [93/12/EEC](#). O.J. L 121, 11.5.99, p.13.

values for sulphur dioxide which are at least as stringent as those set out for such plant in Annex IV to Directive 88/609/EEC(7).

(3) Paragraph (1) above shall not apply to the use of heavy fuel oil in a combustion plant which is not a new large combustion plant and which is operated in accordance with a condition in a permit which prohibits the emissions of sulphur dioxide from the plant exceeding 1,700 mg/Nm<sup>3</sup> at an oxygen content in the flue gas of 3 per cent by volume on a dry basis.

(4) Paragraph (1) above shall not apply to the use of heavy fuel oil in a combustion plant which—

- (a) is not a new large combustion plant;
- (b) is used for combustion in a refinery with other combustion plant; and
- (c) is operated in accordance with a condition in a permit which provides that the plant may only be operated if (irrespective of the type of fuel or fuel combination used) the monthly average of emissions of sulphur dioxide averaged over all of the plant in the refinery (excluding new large combustion plant) does not exceed 1,700 mg/Nm<sup>3</sup> at an oxygen content in the flue gas of 3 per cent by volume on a dry basis.

(5) SEPA shall ensure that appropriate monitoring of emissions of sulphur dioxide is carried out for the purpose of checking compliance with the conditions contained in a permit referred to in paragraphs (2) to (4) above.

(6) In this regulation—

- (a) “new large combustion plant” means new plant, within the meaning of Article 2(9) of Directive 88/609/EEC, which falls within the scope of that Directive; and
- (b) “permit” means, in relation to a combustion plant—
  - (i) an authorisation under Part I of the Environmental Protection Act 1990 (pollution control)(8), if the operation of the plant requires such an authorisation;
  - (ii) a permit under regulations made under section 2 of the Pollution Prevention and Control Act 1999 (regulation of polluting activities)(9), if the operation of the plant requires such a permit; or
  - (iii) in any other case, a permit granted for the purpose of these Regulations (a “sulphur content of liquid fuels permit”).

(7) Schedule 1 to these Regulations shall have effect in relation to applications for the grant of, and other matters relating to, sulphur content of liquid fuel permits.

### **Maximum sulphur content in gas oil**

4.—(1) Any person who, on or after 1st July 2000 and before 1st January 2008, uses gas oil or marine gas oil with a sulphur content exceeding 0.2 per cent by mass shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Any person who, on or after 1st January 2008, uses gas oil or marine gas oil with a sulphur content exceeding 0.1 per cent by mass shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### **Sampling and analysis**

5.—(1) The Scottish Ministers shall take all necessary measures to ensure that sampling is carried out of heavy fuel oil and gas oil used in Scotland to check that the use of the fuel complies with regulations 3(1) and 4(1) and (2) above.

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(7) O.J. L 336, 7.12.88, p.1.

(8) 1990 c. 43.

(9) 1999 c. 24.

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- (2) Sampling under paragraph (1) above shall begin—
- (a) for the purpose of checking for compliance with regulation 3(1) above, by 1st July 2003;
  - (b) for the purpose of checking for compliance with regulation 4(1) above, by 1st January 2001; and
  - (c) for the purpose of checking for compliance with regulation 4(2) above, by 1st July 2008.
- (3) Sampling under paragraph (1) above shall be carried out with sufficient frequency and in such a way that the samples are representative of the fuel examined.
- (4) Schedule 2 to these Regulations shall apply for the purpose of determining the sulphur content of fuel sampled under paragraph (1) above.

### **Revocation**

6. The Marketing of Gas Oil (Sulphur Content) Regulations 1994<sup>(10)</sup> are hereby revoked in so far as they extend to Scotland.

St Andrew's House,  
Edinburgh  
3rd June 2000

*SARAH BOYACK*  
A member of the Scottish Executive

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<sup>(10)</sup> S.I.1994/2249.

## SCHEDULE 1

Regulation 3(7)

### SULPHUR CONTENT OF LIQUID FUELS PERMITS

1. An operator of a combustion plant who wishes to rely on the exemption in regulation 3(3) or (4) of these Regulations may apply to SEPA for a sulphur content of liquid fuels permit if the operation of the plant does not require an authorisation under Part I of the Environmental Protection Act 1990 or a permit under regulations made under section 2 of the Pollution Prevention and Control Act 1999.

2. An application under paragraph 1 above shall be in writing (or in electronic form acceptable to SEPA), shall be accompanied by any charge which may be prescribed, in respect of the application, under section 41 of the Environment Act 1995 and shall contain the following information:—

- (a) the name of the applicant, the applicant's telephone number, address (including post code) and e-mail address (if any) and, if different, any address to which correspondence relating to the application should be sent;
- (b) the address of the site of the combustion plant, the rated thermal input of the plant (in megawatts) and the fuel used in the plant; and
- (c) the condition which the applicant wishes to be included in the permit, being a condition which would satisfy the requirements of regulation 3(3) or (4) of these Regulations.

3. An application under paragraph 1 above may be withdrawn at any time before it is determined.

4. Upon receipt of a duly made application under paragraph 1, SEPA shall grant a sulphur content of liquid fuels permit subject to the condition identified in the application.

5.—(1) A sulphur content of liquid fuels permit may be transferred by the holder of the permit to a person who proposes to operate the combustion plant in the holder's place.

(2) Where a permit is transferred under this paragraph, the person to whom it is transferred shall notify SEPA in writing (or in electronic form acceptable to SEPA) of that fact not later than the end of the period of 21 days beginning with the date of the transfer.

6.—(1) A sulphur content of liquid fuels permit may be surrendered by the holder of the permit by serving on SEPA notice in writing (or in electronic form acceptable to SEPA) of the surrender containing the date on which the surrender is to have effect.

(2) Where a surrender is notified under this paragraph, the permit shall cease to have effect on the date specified in the notification.

7. Section 41 of the Environment Act 1995(11) shall apply in respect of a sulphur content of liquid fuels permit for the purpose of prescribing charges payable under that section as it applies to environmental licences, within the meaning of Part I of that Act.

## SCHEDULE 2

Regulation 5(4)

### TECHNICAL REQUIREMENTS FOR ANALYSIS OF SAMPLES

1. The reference method adopted for determining the sulphur content of fuels sampled pursuant to regulation 5 above shall be that defined by—

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(11) 1995 c. 25.

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- (a) ISO method 8754 (1992) and PrEN ISO 14596 for heavy fuel oil and marine gas oil(12);
  - (b) EN method 24260 (1987), ISO 8754 (1992) and PrEN ISO 14596 for gas oil(13).
2. The arbitration method shall be PrEN ISO 14596.
  3. The statistical interpretation of the verification of the sulphur content of the gas oils used shall be carried out in accordance with ISO standard 4259 (1992)(14).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement, in Scotland, Council Directive [1999/32/EC](#) relating to a reduction in the sulphur content of certain liquid fuels.

The Regulations—

- (a) make it an offence to use heavy fuel oil on or after 1st January 2003 with a sulphur content exceeding 1 per cent, subject to certain exceptions (regulation 3);
- (b) make it an offence to use gas oil, including marine gas oil, on or after 1st July 2000 with a sulphur content exceeding 0.2 per cent by mass and to use such oil on or after 1st January 2008 with a sulphur content exceeding 0.1 per cent by mass (regulation 4);
- (c) require SEPA to monitor sulphur dioxide emissions for the purposes of permits referred to in regulation 3 and require the Scottish Ministers to check by sampling that the sulphur content of fuels used complies with the requirements of regulations 3 and 4;
- (d) revoke the Marketing of Gas Oil (Sulphur Content) Regulations 1994, in so far as they extend to Scotland, which are superseded by these Regulations;
- (e) provide for the granting of permits to enable an operator of a combustion plant who would not otherwise require a permit to operate the plant to apply for a permit so that such an operator can take advantage of the exemptions to the restriction on the use of heavy fuel oil (Schedule 1); and
- (f) set out technical requirements for the analysis of samples taken by SEPA under regulation 5 (Schedule 2).

A regulatory impact assessment has been prepared and copies can be obtained from the Air Quality Team, Rural Affairs Department, The Scottish Executive, Victoria Quay, Edinburgh EH6 6QQ. A copy has been placed in the library of the Scottish Parliament.

(12) SO method 8754 (1992) is described in the British Standard entitled “Petroleum Products – Determination of Sulphur content – Energy – dispersive X-ray fluorescence methods”, published under the numbers BS EN ISO 8754: 1995 and ISO 8754: 1992, which came into effect on 31st July 1995. PrEN ISO 14596 is described in the British Standard entitled “Petroleum Products – Determination of Sulphur Content – Wavelength – dispersive X-ray fluorescence spectrometry” published under the numbers BS EN ISO 14596: 1998 and ISO 14596: 1998, which came into effect on 15th December 1998.

(13) EN method 4260 (1987) is described in the British Standard entitled “Petroleum Products and Hydrocarbons – Determination of Sulphur Content – Wickbold combustion method” published under the numbers BS EN 24260: 1994 and ISO 4260: 1987, which came into effect on 30th September 1994.

(14) Described in the British Standard entitled “Petroleum Products – Determination and Application of precision data in relation to methods of test” published under the number BS EN ISO 4259: 1996 and ISO 4259: 1992, which came into effect on 15th February 1996.

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Copies of the British Standards publications referred to in these Regulations may be obtained from any of the outlets operated by the British Standards Institution, or by post from the British Standards Institution at Standards House, 389 Chiswick High Road, London W4 4AL. The “Integrated Customs Tariff of the United Kingdom,” which sets out the CN codes used in the definitions of “gas oil” and “heavy fuel oil”, are published by HMSO, and available from HMSO Bookshops. The 1999 Annual Book of ASTM Standards is available from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, USA.