

EXECUTIVE NOTE

The Sulphur Content of Liquid Fuels (Scotland) Regulations 2007 SSI/2007/27

1. Background

The above instrument is made using the powers conferred by section 2(2) of the European Communities Act 1972. The regulations give effect to Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC as amended by Directive 2005/33/EC of the European Parliament and of the Council of 6 July 2005 (“the Directive”) in relation to Scotland and in so far as the Directive applies to heavy fuel oil and gas oil other than marine fuel.

The instrument is subject to negative resolution procedure. Regulations are to be brought forward by the United Kingdom government to transpose the Directive in so far as it relates to marine fuel on a United Kingdom basis due to the reserved nature of the Marine and Coastguard Agency, the enforcement agency for such purposes.

2. Policy Objectives

Directive 1999/32/EC was transposed in Scotland through the Sulphur Content of Liquid Fuels (Scotland) Regulations 2000 (“The 2000 Regulations”). The purpose of the Sulphur Content of Liquid Fuels (Scotland) Regulations 2007 (“the 2007 Regulations”) is to maintain in statute the land based elements of Directives 1999/32/EC as amended by 2005/33/EC. The 2007 Regulations revoke most of the 2000 Regulations except for the marine gas oil aspects. These aspects will be revoked once the UK Regulations, which will cover all of the marine aspects of Directive 1999/32/EC as amended by Directive 2005/33/EC, come into force.

The Directives are part of the legislative mechanisms to reduce emissions of acidifying pollutants which are carried by the wind and have harmful effects on ecosystems, human health, vegetation and buildings, often hundreds of miles from their source. The purpose of the land based elements of the Directive and these regulations is to reduce the emissions of sulphur dioxide resulting from the combustion of certain liquid fuels. It continues to set maximum permissible levels for the sulphur content of heavy fuel oil (1%) as well as the gas oil (0.2% up to 31 December 2007 and 0.1% after 1 January 2008).

Since the Directive makes it an offence to use fuels which exceed the sulphur limits, the Regulations include offences and penalties provisions. Such provisions would only come into play if there was not compliance with the sampling and analysis regime which is referred to in the Directive and also included in the Regulations.

In order to comply with the Directives, permit variations have been and will continue to be issued in relation to authorisations for processes covered by the Integrated Pollution Control and Local Air Pollution Control Regimes. However certain exceptions are allowed with respect to the sulphur content of heavy fuel oil because of provisions laid out in Directive 2001/80/EC (the Large Combustion Plants Directive). The regulations also continue the separate permitting system for small combustion plants not authorised by these regimes and established under the previous Regulations.

The functions of the Scottish Ministers relating to sampling and analysis under regulation 6 of the Regulations and under section 108(1) of the Environment Act 1995 in so far as relating

to such sampling and analysis are to be specified for the purposes of section 93 of the Scotland Act 1998. An Order under section 93(3) of the 1998 Act will be laid before the Scottish Parliament in due course.

Implementation of the earlier regulations and these ones will continue the reduction of sulphur dioxide emissions from heavy fuel oil and gas oil in Scotland. The principal beneficiaries are members of the public living and working in urban areas. There are also benefits to the natural environment in terms of a reduction in the area of critical load exceedence of acidity and a reduction in damage to buildings.

3. Consultation

A consultation exercise was undertaken during the preparation of this instrument. The consultation paper was sent to representatives of environmental groups, the oil industry, other industry groups, local government and SEPA, as well as being placed on the Scottish Executive web site. Four responses were received and all were generally in favour of making the Regulations.

4. Financial Effects

None beyond the cost of running of the sampling regime to fulfil the requirements of the Directive. The sampling regime was set up to fulfil the requirements of the 1999 Directive and will continue.

Claire Dodd
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