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STATUTORY INSTRUMENTS

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**2017 No. 897**

**The Alternative Fuels Infrastructure Regulations 2017**

**Citation and commencement**

1. These Regulations may be cited as the Alternative Fuels Infrastructure Regulations 2017 and come into force on 9th October 2017.

**Interpretation**

2.—(1) In these Regulations —

“alternative fuel”(1) means fuel or power sources which serve, at least partly, as a substitute for fossil oil sources in the energy supply to transport and which have the potential to contribute to its decarbonisation and enhance the environmental performance of the transport sector and includes—

- (a) electricity;
- (b) hydrogen;
- (c) liquid or gaseous biofuels derived from biomass(2);
- (d) synthetic and paraffinic fuels;
- (e) natural gas, including biomethane in gaseous form (compressed natural gas) and liquefied form (liquefied natural gas (LNG)); and
- (f) liquefied petroleum gas;

“electric vehicle” means a motor vehicle equipped with a powertrain containing at least one non-peripheral electric machine as energy convertor with an electric rechargeable energy storage system, which can be recharged externally;

“enforcement authority” means the Secretary of State or, if a person has been authorised by the Secretary of State in accordance with regulation 7, that person;

“high power recharging point” means a recharging point that allows for a transfer of electricity to an electric vehicle with a power of more than 22kW;

“infrastructure operator” means the person responsible for operating a recharging point or refuelling point, whether as owner or on behalf of a third party;

“intelligent metering system” means an electronic system that can measure energy consumption, providing more information than a conventional meter and can transmit and receive data using a form of electronic communication(3);

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(1) “alternative fuels” is defined in [Directive 2014/94/EU](#) of the European Parliament and Council of 22nd October 2014 on the deployment of alternative fuels infrastructure, Article 2(1), OJ No L 307 28.10.2014, p1.

(2) “biofuels” is defined in Article 2(i) of [Directive 2009/28/EC](#) of the European Parliament and Council of 23rd April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing [2001/77/EC](#) and [2003/30/EC](#), OJ No L 140 5.6.2009, p16.

(3) “intelligent metering system” is defined in [Directive 2012/27/EU](#) of the European Parliament and Council of 25th October 2012 on energy efficiency, Article 2(28), OJ No L 315 14.11.2012, p1.

“normal power recharging point” means a recharging point accessible to the public that allows for a transfer of electricity to an electric vehicle with a power less than or equal to 22kW, excluding devices—

- (a) with a power less than or equal to 3.7kW, or
- (b) the primary purpose of which is not recharging vehicles;

“recharging point” means an interface which is accessible to the public and is capable of charging one electric vehicle at a time, or exchanging a battery of one electric vehicle at a time;

“refuelling point” means a refuelling facility which is accessible to the public for the provision of any alternative fuel, excluding LNG, through a fixed or mobile installation;

“renewed” in respect of a recharging point, refuelling point or shore-side electricity supply installation means the restoration or upgrade of the item’s operating capacity, excluding—

- (a) work to replace or repair a single internal component or part as a result of wear and tear or the end of its operational life, or
- (b) work to carry out repairs to the external structure (including connector sockets) without replacing that structure;

“shore-side electricity supply installation” means the provision of shore-side electrical power through a standardised interface to seagoing ships at berth falling within the scope of the technical specification in paragraph 4 of the Schedule; and

“statutory harbour authority” means—

- (a) in relation to Great Britain, a harbour authority within the meaning of the Harbours Act 1964(4); and
- (b) in relation to Northern Ireland, a harbour authority within the meaning of the Harbours Act (Northern Ireland) 1970(5).

(2) A recharging or refuelling point is accessible to the public if it is—

- (a) intended for use by members of the general public (including those situated in public car parks, whether or not those car parks are available only to consumers of specific goods or services); and
- (b) not intended for—
  - (i) exclusive use in respect of a vehicle produced by a specific manufacturer;
  - (ii) use by persons engaged in specific occupations;
  - (iii) use by persons whilst at their place of employment (including visitors); or
  - (iv) exclusive use by occupiers of, or visitors to, residential premises.

### **Standards for recharging and refuelling points and hydrogen supply in road transport**

3.—(1) Subject to paragraph (4), after 17th November 2017, where any of the infrastructure referred to in paragraph (2) is deployed or renewed the infrastructure operator must ensure that it complies with the technical specifications set out in the relevant paragraph of the Schedule specified in paragraph (3).

(2) The infrastructure referred to in paragraph (1) is—

- (a) a normal power recharging point;
- (b) a high power recharging point; and

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(4) 1964 c. 40; section 57. The definition of “harbour” was amended by the Local Government (Scotland) Act 1973 (c. 65), section 237(1), Schedule 29 and by the Merchant Shipping Act 1995 (c. 21); section 314(2), Schedule 13, and paragraph 33a. There are other amendments to this section which are not relevant to this instrument.

(5) 1970 c. 1 (N.I.); section 38.

- (c) a refuelling point supplying hydrogen.
- (3) The relevant paragraphs of the Schedule are—
  - (a) for a normal power recharging point, paragraph 1;
  - (b) for a high power recharging point, paragraph 2; and
  - (c) for a refuelling point supplying hydrogen, paragraph 3.
- (4) With respect to the infrastructure referred to in paragraphs (2)(a) and (2)(b), the requirements referred to in paragraphs (3)(a) and (3)(b) do not apply to wireless or inductive units.
- (5) The technical specifications referred to in paragraphs 1 and 2 of the Schedule are minimum standards.

#### **Shore-side electricity for seagoing ships**

4. A statutory harbour authority which operates a shore-side electricity supply installation for seagoing ships which is deployed or renewed after 17th November 2017 must ensure that the installation complies with the requirements set out in paragraph 4 of the Schedule.

#### **Recharging points: intelligent metering and ad-hoc access**

5.—(1) After 17th November 2017, an infrastructure operator must ensure that all recharging points for which that operator is responsible incorporate intelligent metering systems which comply with the requirements specified in paragraph 5 of the Schedule.

- (2) An infrastructure operator must provide to any person ad-hoc access to—
  - (a) all recharging points deployed after 17th November 2017; and
  - (b) all recharging points deployed on or before 17th November 2017, no later than 18th November 2018.

- (3) In this regulation—

“ad-hoc access” means the ability for any person to recharge an electric vehicle without entering into a pre-existing contract with an electricity supplier to, or infrastructure operator of, that recharging point.

#### **Data Accessibility**

6. After 17th November 2017 an infrastructure operator must make accessible to the public, on an open and non-discriminatory basis, data which is available to the infrastructure operator about the geographic location of recharging or refuelling points operated by that infrastructure operator.

#### **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 in regulation 20; and
  - (b) exercise any of the powers provided by these Regulations.

#### **Power of entry without warrant**

8.—(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 for the purpose of investigating whether there has been a breach of any of the requirements 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 written notice.

(3) A notice under paragraph (2) must—

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

(4) When requested, suitable identification and authorisation must be produced to the occupier of the premises or land by the enforcement authority.

### **Power of inspection, testing & removal**

9.—(1) The enforcement authority may in exercise of the power of entry under regulation 8—

- (a) inspect the premises or land and any recharging point or refuelling point or shore-side electricity supply installation, as well as related plant or machinery situated on those premises or land;
- (b) require any person on 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;
- (c) seize any documents, records or any other information, in whatever form it is held, any component or part of any infrastructure, plant or machinery to carry out tests on them on the premises or land or seize them and retain them to carry out tests on them elsewhere; and
- (d) take photographs or measurements.

(2) The enforcement authority must—

- (a) provide the occupier of the premises or land with a written record of the items which are seized and removed; and
- (b) retain seized items for no longer than absolutely necessary.

(3) Any object or document which is inspected or seized should, so far as possible, be retained in its original condition.

### **Power of entry with warrant**

10.—(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 a notice under regulation 8 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.
- (5) Where the enforcement authority enters premises or land under this power and those premises or land are unoccupied or from which the occupier is temporarily absent, the enforcement authority must leave those premises or land as effectively secured against unauthorised entry as they were before entry.

### **Compliance notice**

**11.**—(1) Where the enforcement authority considers that there has been a breach of the obligations in regulation 3(1), 4, 5(1), 5(2) or 6, the enforcement authority may serve a compliance notice on the person in breach.

- (2) The notice must—
- (a) be in writing;
  - (b) set out the reasons for which the 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**

**12.**—(1) Where a person does not comply with a compliance notice served under regulation 11 the enforcement authority may require the person in breach to pay a civil penalty in accordance with regulation 13.

(2) Where the enforcement authority decides to impose a civil penalty, the enforcement authority must serve 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 after the date of the notice;
  - (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
  - (h) include an explanation of the steps the enforcement authority may take to recover any unpaid penalty.

### **Amounts of civil penalty**

**13.**—(1) The maximum civil penalty for each breach of regulation 3(1) by an infrastructure operator is—

- (a) £500 for each normal power recharging point not meeting those requirements;
- (b) £4,000 for each high power recharging point not meeting those requirements; and
- (c) £10,000 for each refuelling point supplying hydrogen not meeting those requirements.

(2) The maximum civil penalty for each breach of regulation 4 by a statutory harbour authority is £300,000 for each shore-side electricity supply installation which does not meet those requirements.

(3) The maximum civil penalty for each breach of regulation 5(1), 5(2) or 6 by an infrastructure operator is—

- (a) £300 for each recharging point which does not meet the requirements of regulation 5(1);
- (b) £1,000 for each recharging point to which ad hoc access is not provided in accordance with regulation 5(2); and
- (c) £100 for each recharging point for which relevant data is not made available to the public in accordance with regulation 6.

### **Objection to a civil penalty**

**14.**—(1) A person in receipt of a notice of civil penalty may object to the penalty by serving on the enforcement authority 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 as a civil penalty is not payable before the end of the period of 28 days after the date of a notice under regulation 15(3).

(4) Where the objection to the civil penalty is withdrawn before a notice under regulation 15(3) 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 7 days of withdrawal of the objection.

### **Consideration and notification of outcome of objection**

**15.**—(1) The enforcement authority must consider a notice of objection served in accordance with regulation 14.

(2) Following that consideration the enforcement authority may—

- (a) cancel the civil penalty;
- (b) reduce it; or
- (c) uphold it.

(3) Following consideration of the objection, the enforcement authority must serve on the person who made an objection under regulation 14 a notice containing the information set out in paragraph (4) and, where applicable, paragraph (5).

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

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

(5) 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 after the date of the notice; and
- (d) set out relevant information with respect to a right of appeal to the First-Tier Tribunal against the decision to impose a civil penalty.

### **Appeals against civil penalties**

**16.**—(1) Any appeal against the enforcement authority’s decision to impose a civil penalty under these Regulations must be made to the First-Tier Tribunal.

(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 15(2)(b); or
- (b) upheld it under regulation 15(2)(c).

(3) Where an appeal is made under this regulation, the amount of the civil penalty referred to in regulation 15(5)(a) is not payable until the appeal is finally determined or withdrawn.

(4) The First-Tier Tribunal may—

- (a) cancel the civil penalty;
- (b) reduce it; or
- (c) uphold it.

### **Service**

**17.**—(1) Any notice required to be served for the purposes of these Regulations may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served; or
- (c) with the consent of the recipient and subject to paragraphs (4) and (5), by electronic means.

(2) Where the person on whom a notice is to be served is a body corporate, the notice may be served on the director, secretary or other similar officer of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978 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**

**18.**—(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**

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

### **Review**

**20.**—(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 9th October 2022.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015<sup>(6)</sup> requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations of [Directive 2014/94/EU](#)<sup>(7)</sup> 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).

7th September 2017

*Chris Grayling*  
Secretary of State  
Department for Transport

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<sup>(6)</sup> 2015 c. 26; section 30(3) was amended by the Enterprise Act 2016 (c. 12), section 19.

<sup>(7)</sup> [Directive 2014/94/EU](#) of the European Parliament and of the Council of 22nd October 2014 on the deployment of alternative fuels infrastructure. OJ No L 307 28.10.2014, p1.