

EXPLANATORY MEMORANDUM TO
THE PETROLEUM (CONSOLIDATION) ACT (AMENDMENT OF
LICENSING PROVISIONS) REGULATIONS (NORTHERN IRELAND) 2012

S.R. 2012 No. 11

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment (DETI) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under Articles 17(1), (2) and (3), 40, 54(1) and 55(2) of, and paragraphs 1(1), 2(2) and 3 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978 and is subject to the negative resolution procedure.
- 1.3 The Rule is due to come into operation on 19th March 2012.

2. Purpose

- 2.1 The Statutory Rule will amend the Petroleum (Consolidation) Act (Northern Ireland) 1929 (1929 c. 13) (“the 1929 Act”).
- 2.2 The Rule is made for the clarification of the powers available to a local authority in relation to petroleum-spirit licences and to introduce new procedures in relation to the granting of those licences, including a new appeals procedure.
- 2.3 This Rule does not introduce any new duties on the public.

3. Background

- 3.1 Petrol is one of the most hazardous of substances that members of the public come into contact with on a day by day basis and has been subject to legislative control for over 120 years. The intrinsic hazards of petrol, and the fact that the public are often present (or nearby) when it is being dispensed were a primary consideration when the 1929 Act was introduced. Controlling the design and operation of petrol filling stations is even more relevant today when you consider that in the intervening years car ownership has increased exponentially and self-service at petrol filling stations has become the norm. Currently all 26 District Councils in Northern Ireland discharge petroleum licensing functions by virtue of the 1929 Act with licences issued to persons wishing to store petroleum-spirit above certain prescribed limits.
- 3.2 In accordance with Article 10 of the Deregulation and Contracting Out (Northern Ireland) Order 1996, the Deregulation (Model Appeal Provisions) Order (Northern Ireland) Order 1997 set out certain model

rules determining the procedure to be followed before enforcement action is taken and concerning the conduct of the appeals against such enforcement action. These provisions have been prescribed with a view to being incorporated, if thought fit and with or without modification, in enactments which include provision for such enforcement action. Article 41 of the Health and Safety at Work (Northern Ireland) Order 1978 was modified to provide that any person who is aggrieved by a decision of an authority having powers to issue licences under any of the relevant statutory provisions –

- (a) refusing to issue a licence, to renew a licence held by him, or to transfer to him a licence held by another;
- (b) issuing him a licence on or subject to any term, condition or restriction whereby he is aggrieved;
- (c) varying or refusing to vary any term, condition or restriction on or subject to which the licence is held by him; or
- (d) revoking a licence held by him,

may make representations to the Department concerned in accordance with the model rules.

- 3.3 The Petroleum (Consolidation) Act (Northern Ireland) 1929 is a relevant statutory provision and Section 1 of that Act provides for the issue of licences.
- 3.4 Section 3 of the 1929 Act sets out the procedure for appeals from refusals by local authorities to grant licences, which is not compatible with requirements of the model rules. In addition, it has become apparent that there is potential for uncertainty regarding the procedures to be followed under Article 41 of the 1978 Order. Accordingly, to provide clarification for licence holders, the 1929 Act will be amended to specify the procedures in question. These Regulations, therefore, replace section 3 of the 1929 Act in order to clearly provide for the procedure to be followed before certain local authority actions in relation to a petroleum-spirit licence (i.e. refusal to grant the licence, attachment of any condition to the licence, variation or refusal to vary the conditions of the licence or the revocation of the licence) and to provide for a right of appeal in accordance with the model rules.
- 3.5 The Statutory Rule inserts a new section 1A into the 1929 Act to make it clear that the local authority (e.g. council) may vary the conditions attached to any licence or revoke the licence.

4. Consultation

- 4.1 A consultation exercise has not been conducted for this Statutory Rule as it is made for the purpose of clarifying the scope of the powers available

to licensing officers and the appeals procedure for petroleum-spirit licence holders.

5. Equality Impact

5.1 The Statutory Rule has been screened for any possible impact on equality of opportunity affecting the groups listed in section 75 of the Northern Ireland Act 1998 and no adverse or differential aspects were identified.

6. Regulatory Impact

6.1 A regulatory impact assessment was not prepared on these changes as there will be no new impact on Northern Ireland business. There is no impact on charities, social enterprise or voluntary bodies.

7. Financial Implications

7.1 None. The Statutory Rule will have no effect on business as it is simply intended to clarify the scope of the powers available to licensing officers and the appeals procedure for petroleum-spirit licence holders.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered the matter of Convention rights and is satisfied that there are no matters of concern.

9. EU Implications

9.1 None. This Statutory Rule does not implement any European Directives.

10. Parity of Replicatory Measure

10.1 This Statutory Rule is specific to Northern Ireland.

11. Additional Information

11.1 Not applicable.

Department of Enterprise, Trade and Investment
17th January 2012