

EXPLANATORY MEMORANDUM TO

THE PETROLEUM (CONSOLIDATION) REGULATIONS 2014

2014 No. 1637

1. This Explanatory Memorandum has been prepared by the Health and Safety Executive (HSE) on behalf of the Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument consolidates, modernises and simplifies existing petroleum storage legislation. The legislation primarily covers storage of petrol at workplaces where petrol is dispensed (petrol filling stations), non-workplace premises (e.g. private homes) and petrol containers. The consolidation meets the requirement to implement Professor Löfstedt's recommendation to undertake a programme of sector-specific consolidations as detailed in [‘Reclaiming health and safety for all’ \(Löfstedt Review\)](#). The instrument revokes the following legislation:

- The London County Council (General Powers) Act 1912 (1912/c.civ)
- [Petroleum \(Consolidation\) Act 1928 \(1928/c32\)](#)
- [The Petroleum Spirit \(Motor Vehicles, etc\) Regulations 1929 \(S.I. 1929/952\)](#)
- [The Petroleum \(Mixtures\) Order 1929 \(S.I. 1929/983\)](#)
- [Petroleum \(Transfer of Licenses\) Act 1936 \(1936/c27\)](#)
- [The Petroleum \(Liquid Methane\) Order 1957 \(S.I. 1957/859\)](#)
- [The Petroleum \(Regulation\) Acts 1928 and 1936 \(Repeals and Modifications\) Regulations 1974 \(S.I. 1974/1942\)](#)
- [The Petroleum \(Consolidation\) Act 1928 \(Enforcement\) Regulations 1979 \(S.I. 1979/427\)](#)
- [The Petroleum Spirit \(Plastic Containers\) Regulations 1982 \(S.I. 1982/630\)](#)
- [The Health and Safety \(Explosives and Petroleum Fees\) \(Modification\) Regulations 1987 \(S.I. 1987/52\)](#)
- [The Carriage of Dangerous Goods by Road Regulations 1996 \(S.I. 1996/2095\)](#)
- [The Carriage of Dangerous Goods by Rail Regulations 1996 \(S.I. 1996/2089\)](#)

2.2 The following two documents will be withdrawn as part of the petroleum consolidation work.

- [Approved Code of Practice \(COP6\) – Petroleum-Spirit \(Plastic Containers\) Regulations 1982: Requirements for testing and marking or labelling.](#)
- [Approved Document \(L93\) – Approved tank requirements: The provisions for bottom loading and vapour recovery systems of mobile containers carrying petrol.](#)

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 There have been specific legislative controls on the storage and use of petroleum for over 120 years. The requirements of the older legislation were

consolidated and modified by the [Petroleum \(Consolidation\) Act 1928](#) and subsequent legislation to cater for specific purposes at various points in time followed. For example, [The Petroleum Spirit \(Motor Vehicles, etc\) Regulations 1929](#) is mainly concerned with storage in metal containers and the provisions for doing so. Whereas, the more modern [Petroleum-Spirit \(Plastic Containers\) Regulations 1982](#) were introduced to cater for developments in the plastics industry and manufacturing of plastic containers. The introduction of the [Dangerous Substances and Explosive Atmospheres Regulations 2002 \(DSEAR\)](#) superseded the petrol storage aspects in relation to workplaces not involved in petrol dispensing.

4.2 The 2014 Regulations consolidate the existing petroleum legislation into a single set of regulations. They are made under the Health and Safety at Work etc. Act 1974. Section 1 of the Act includes, as one of the “general purposes” of Part I of the Act the statement: “*controlling the keeping and use of explosive or highly flammable or otherwise dangerous substances, and generally preventing the unlawful acquisition, possession and use of such substances*”.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain. Northern Ireland has its own equivalent legislation.

6. European Convention on Human Rights

6.1 The Minister of State for Disabled People, Rt. Hon Mike Penning MP, has made the following statement regarding Human Rights: “In my view the provisions of the Petroleum (Consolidation) Regulations 2014 are compatible with the Convention Rights.”

7. Policy background

What is being done and why

7.1 The primary policy objective is to consolidate the existing complicated set of legislation on storage of petrol whilst maintaining existing safety standards. In doing this, HSE will meet the requirement to implement Professor Löfstedt’s recommendation to undertake a programme of sector-specific consolidations as detailed in [‘Reclaiming health and safety for all’ \(Löfstedt Review\)](#). Modernisation and consolidation of existing petroleum storage legislation forms part of the Government’s Better Regulation agenda, and HSE’s programme to make the legislative framework simpler and easier to understand, while maintaining the same standards of protection for those in the workplace or affected by work activities.

7.2 The provisions in the 2014 Regulations continue to support a system to ensure that storage and dispensing facilities at workplaces that dispense petrol (i.e. petrol filling stations) are constructed and remain fit to store (and dispense) petrol safely. The regulations also maintain proportionate enforcement oversight to ensure that these are delivered. The main change is to replace licensing with the introduction of a petroleum storage certificate at petrol filling stations. The change will not impose additional burdens on those in the sector as they are not required by law to do anything different under the 2014 Regulations. The proposals were developed through establishment of a working group with key stakeholders from industry and enforcing authorities.

7.3 This legislation also applies to storage of petrol by private individuals. The 2014 Regulations modernise and clarify the requirements for doing so, consolidating

the provisions into a single set of regulations rather than across three pieces of legislation as at present.

Consolidation

7.4 The 2014 Regulations revoke and replace the legislation listed in paragraph 2.1 and consolidate those provisions to be retained into a single set of regulations.

8. Consultation outcome

8.1 The consultation ran for 8 weeks; the length of the consultation period reflected the previous level of engagement with stakeholders in developing the framework that was consulted on. The [consultation document](#) was made available on the HSE website and stakeholders were alerted to its publication. HSE received 74 responses to the consultation.

8.2 Overall, the consultation was well received and the responses did not require a fundamental shift in any of the policy proposals. The majority of the proposals were strongly supported, many with over 70% of responses in agreement. This high level of agreement reflects work carried out with stakeholders in advance of developing the draft regulations. In particular, HSE worked closely with a group of key industry and enforcement representatives to develop proposals to replace the current licensing regime for petrol filling stations with a certification scheme which was strongly supported.

8.3 Some responses from petroleum licensing authorities contained views that the draft regulations did not include responsibilities for site operators to notify certain changes/incidents as required under current licence conditions. A number of the changes cited related directly to operational matters rather than the physical arrangements for storing petrol and do not directly affect the validity of the petroleum storage certificate. Licence conditions are not formally included in the current legislative framework but HSE has slightly revised the draft regulations to ensure stakeholder comments regarding significant changes were captured and will work with stakeholders to ensure other notification requirements are covered in guidance so these aspects are not lost. An analysis of the responses is available on the [HSE website](#).

9. Guidance

9.1 HSE's website will be updated to ensure the information on petrol storage is up-to-date. Guidance explaining the changes will be published in early July in line with regulatory timescales. HSE is working closely with a stakeholder working group involving manufacturers, suppliers, distributors and enforcing authorities to develop guidance on petrol containers.

9.2 The Petroleum Enforcement Liaison Group (PELG), a joint industry / enforcement authority group, is developing guidance on transitional and new arrangements to help industry and enforcing authorities. This will be published alongside existing guidance on the [Energy Institute](#) website.

10. Impact

10.1 The impact on business and civil society is minimal as the 2014 Regulations consolidate existing legislation and do not place any additional burdens on petrol retailers or those who manufacture/supply petrol containers.

10.2 The impact on the public sector is minimal as the regulations do not change the current enforcement responsibilities. Petroleum Licensing Authorities will be

renamed to Petroleum Enforcing Authorities and will retain responsibility for enforcement activities at workplaces where petrol is stored and dispensed.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11 Regulating small business

11.1 The legislation applies to small businesses. There are many retail petrol filling stations that are small businesses and placing the storage of such a highly flammable substance outside of legislative control could pose significant hazards, particularly given the presence of the public at petrol filling stations. The 2014 Regulations do not introduce any new duties on business and their regulatory requirements remain risk based and proportionate.

11.2 Prior to consultation, HSE engaged with small business representatives when drafting the proposed framework for the revised legislation.

11.3 As the 2014 Regulations do not introduce any new duties on business and there is no net cost to business, the impact on firms employing up to 20 people will be minimal.

12 Monitoring & review

12.1 The Regulations will be reviewed in line with Government policy after five years. The first report of this review is to be published before 1 October 2020, which is the fifth year of the period established under the 2014 Regulations.

13. Contact

13.1 Mark Flynn at the Health and Safety Executive (Tel: 0151 951 4609 or email: mark.flynn@hse.gsi.gov.uk) can answer any queries regarding the instrument.