

2022 No. 1082

PUBLIC HEALTH, NORTHERN IRELAND

**The Motor Fuel (Composition and Content) (Amendment)
(Northern Ireland) Regulations 2022**

Made - - - - *24th October 2022*

Coming into force - - *1st November 2022*

The Secretary of State, in exercise of the powers conferred by sections 30(1) and (3), 32(1) and 63(1) of the Clean Air Act 1993(a), makes the following Regulations.

In accordance with section 30(2) of the Clean Air Act 1993, the Secretary of State has consulted such persons as appeared to the Secretary of State to represent manufacturers and users of motor vehicles, and to represent the producers and users of fuel for motor vehicles, and to be conversant with the problems of air pollution, as the Secretary of State considers appropriate.

In accordance with paragraph 13(1) of Schedule 8 to the European Union (Withdrawal) Act 2018(b), a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Motor Fuel (Composition and Content) (Amendment) (Northern Ireland) Regulations 2022 and come into force on 1st November 2022.

(2) These Regulations extend to Northern Ireland only.

Amendments to the Motor Fuel (Composition and Content) Regulations 1999

2. The Motor Fuel (Composition and Content) Regulations 1999(c) are amended in accordance with regulations 3 to 7.

Amendments to regulation 2

3. In regulation 2(d)—

(a) at the appropriate places, insert—

““blending facility” means a facility, that is not a refinery, where motor fuel is blended with ethanol or FAME;”;

(a) 1993 c. 11. There are amendments to section 63(1) not relevant to these Regulations.
(b) 2018 c. 16. Paragraph 13(1) was amended by the European Union (Withdrawal Agreement) Act 2020 (c. 1), section 41(4), Schedule 5, paragraph 54(1) and (8)(a).
(c) S.I. 1999/3107.
(d) Regulation 2 was amended by S.I. 2003/3078, 2010/3035, 2012/2567 and 2015/1796 and, in relation to England and Wales and Scotland, by S.I. 2021/894.

““FAME” means fatty acid methyl ester;”;

““premium 95 grade petrol” means petrol that has a research octane number of at least 95 but less than 97 measured in accordance with the test method specified in Annex 1 of the Directive;”;

- (b) in the definition of “distribute”, in paragraph (b), after “refinery” insert “or from a blending facility”.

Amendments to regulation 3

4. In regulation 3(a)—

- (a) in paragraph (5)—

- (i) omit “before 1st January 2017”;
- (ii) for “3” substitute “1”;

- (b) after paragraph (7) insert—

“(8) Premium 95 grade petrol will not comply with a specified requirement unless, in addition to the requirements of paragraph (2) or (3), it has a minimum ethanol content of 5.5% by volume measured in accordance with the test method specified in Annex 1 of the Directive.”.

Amendment to regulation 4

5. In regulation 4(b), in paragraph (2), after sub-paragraph (b) insert—

“,

except where petrol is distributed from a blending facility in which case the period begins on 16th May”.

Amendment to regulation 5

6. In regulation 5(c), after paragraph (1) insert—

“(1A) Paragraph (1) does not apply to premium 95 grade petrol which is sold during the period beginning on 1st November 2022 and ending on 1st January 2023 if that petrol complies with the winter petrol requirement, except for the minimum ethanol content specified in regulation 3(8).”.

Amendments to regulation 6

7. In regulation 6(d)—

- (a) omit paragraph (4);

- (b) after paragraph (6) insert—

“(7) Where, as a consequence of any issue occurring at a refinery or at a blending facility, there is a shortage of premium 95 grade petrol that has the required minimum ethanol content then, notwithstanding regulation 4(1) and (2), a person may, during the periods specified in paragraph (8), distribute premium 95 grade petrol which except for the required minimum ethanol content complies with specified requirements.

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- (a) Regulation 3 was substituted by S.I. 2007/1608 and amended by S.I. 2010/3035 and 2013/2897 and, in relation to England and Wales and Scotland, by S.I. 2021/894.
- (b) Regulation 4 was amended by S.I. 2003/3078 and 2010/3035 and, in relation to England and Wales and Scotland, by S.I. 2021/894.
- (c) Regulation 5 was amended by S.I. 2003/3078 and 2010/3035 and, in relation to England and Wales and Scotland, by S.I. 2021/894.
- (d) Regulation 6 was amended by S.I. 2007/1608 and 2010/3035 and, in relation to England and Wales and Scotland, by S.I. 2021/894.

(8) The periods specified for the purposes of paragraph (7) are—

- (a) the relevant period, and
- (b) any period for which consent is given under paragraph (11).

(9) A person must, within 2 working days beginning with the date on which the relevant period begins, notify the Secretary of State that they are distributing, or will distribute, premium 95 grade petrol pursuant to paragraph (7) and the notification must also provide—

- (a) details of the issue referred to in paragraph (7) and the date on which it first occurred,
- (b) the name and address of the refinery or blending facility at which the issue occurred, and
- (c) information on any steps that are being taken to address the issue.

(10) A person may, at the same time as they notify the Secretary of State under paragraph (9), request the Secretary of State's consent to distribute premium 95 grade petrol pursuant to paragraph (7) for longer than the relevant period.

(11) The Secretary of State may consent to the request referred to in paragraph (10) if the Secretary of State considers that, at the end of the relevant period, the issue referred to in paragraph (7) is unlikely to be resolved.

(12) A person who distributes petrol pursuant to paragraph (7) must, before the end of the period of 30 days beginning with the date on which the relevant period ends or, where consent is given under paragraph (11) to distribute for a longer period, beginning with the date on which that period ends, provide the Secretary of State with details of the measures that have been taken to prevent a reoccurrence of the issue mentioned in paragraph (7).

(13) A person must not distribute premium 95 grade petrol pursuant to paragraph (7) more than 3 times in any 12 month period as a consequence of an issue occurring at the same refinery or blending facility.

(14) Notwithstanding regulation 4(1) and (2), a person may, with the Secretary of State's consent, distribute premium 95 grade petrol which, except for the required minimum ethanol content, complies with specified requirements, from premises where it—

- (a) is not technically feasible to blend ethanol with petrol in commercial volumes, and
- (b) was not technically feasible to do so during the previous calendar year,

and for the purpose of this paragraph, "distribute" includes distribution from those premises.

(15) An application for the Secretary of State's consent to distribute petrol pursuant to paragraph (14) must include—

- (a) the applicant's full name,
- (b) the name and address of the premises from which the petrol will be distributed, and
- (c) a declaration by the applicant that the matters mentioned in paragraph (14)(a) and (b) apply.

(16) On a first application made under paragraph (15), the Secretary of State may give consent for a person to distribute petrol pursuant to paragraph (14) for a period of 2 years.

(17) On subsequent applications made under paragraph (15), the Secretary of State may, after consulting with such persons as the Secretary of State considers appropriate, give consent for a person to distribute petrol pursuant to paragraph (14) for a period of up to 2 years at a time.

(18) Notwithstanding regulation 4(1) and (2), a person may distribute premium 95 grade petrol which, except for the required minimum ethanol content, complies with specified requirements, to a filling station mentioned in paragraph (19)(a) or (b).

(19) Notwithstanding regulation 5(1) and (2), a person may sell premium 95 grade petrol which, except for the required minimum ethanol content, complies with specified requirements, from a filling station which—

- (a) is in an area specified in Schedule 1 to the Hydrocarbon Oil and Biofuels (Road Fuel in Defined Areas) (Reliefs) Regulations 2011(a),
- (b) in the previous calendar year sold less than a total amount of 1 million litres of petrol and diesel fuel,
- (c) receives petrol distributed by virtue of paragraph (7), or
- (d) receives petrol distributed by virtue of paragraph (14).

(20) In this regulation—

“relevant period” means a period of 10 working days beginning with the date on which the issue causing the shortage of premium 95 grade petrol that has the required minimum ethanol content first occurred;

“required minimum ethanol content” means the minimum ethanol content specified in regulation 3(8);

“working day” means a day other than a Saturday or Sunday, Good Friday, Christmas Day or a day which is a bank holiday in Northern Ireland.”.

Review

8.—(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 the end of the period of 5 years beginning with the date on which this regulation comes into force.

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

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(b) 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;
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) 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).

Signed by authority of the Secretary of State for Transport

24th October 2022

Lucy Frazer
Minister of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Motor Fuel (Composition and Content) Regulations 1999 (S.I. 1999/3107) (“the 1999 Regulations”) in relation to Northern Ireland.

(a) S.I. 2011/2935. Schedule 1 was inserted by S.I. 2015/550.

(b) 2015 c. 26.

These Regulations amend the 1999 Regulations to make provision in relation to the distribution and sale in Northern Ireland of premium 95 grade petrol that has a minimum ethanol content of 5.5% by volume.

Regulation 3 amends regulation 2 of the 1999 Regulations by inserting a definition of “premium 95 grade petrol” and “FAME”, by amending the definition of “distribute” to include distribution from a blending facility and by inserting a definition of “blending facility”.

Regulation 4(b) inserts paragraph (8) into regulation 3 of the 1999 Regulations to provide that premium 95 grade petrol will not meet the summer or winter petrol requirement unless it also has a minimum ethanol content of 5.5% by volume (“required minimum ethanol content”). Paragraph (a) amends paragraph (5) of regulation 3 to provide for the supply, from certain filling stations, of super unleaded petrol with a maximum ethanol content of 5% by volume and a maximum oxygen content of 2.7% by volume.

Regulation 5 amends regulation 4(2) of the 1999 Regulations to provide for the period during which petrol distributed from a blending facility must satisfy the summer petrol requirement.

Regulation 6 inserts paragraph (1A) into regulation 5 of the 1999 Regulations to provide that during the period beginning on 1st November 2022 and ending on 1st January 2023, a person can sell premium 95 grade petrol which does not have the required minimum ethanol content but which otherwise satisfies the winter petrol requirement.

Regulation 7(b) amends regulation 6 of the 1999 Regulations to provide exemptions to the requirement that premium 95 grade petrol that is distributed and sold must have a minimum ethanol content of 5.5% by volume. Regulation 7(a) removes an obsolete provision in regulation 6.

Regulation 8 provides for the Secretary of State to undertake a review of the regulatory provisions contained in these Regulations on a five-yearly basis.

A draft of these Regulations was notified to the European Commission on 16th September 2021 in accordance with the Technical Standards Directive (Directive (EU) 2015/1535) and the notification number is 2021/7011/X1. This complies with Article 5(4) of, and Annex 2 to, the Protocol on Ireland/Northern Ireland to the EU withdrawal agreement.

An impact assessment has not been produced for this instrument as the effect of this instrument on the costs of business, the voluntary sector and the public sector is covered by the impact assessment published with S.I. 2021/894 at <https://www.legislation.gov.uk/ukSI/2021/894/impacts> and is also available from the Department of Transport, 33 Horseferry Road, London, SW1P 4DR. An Explanatory Memorandum is published alongside this instrument on <https://www.legislation.gov.uk>.

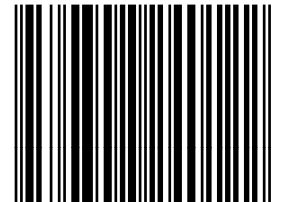
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