STATUTORY INSTRUMENTS

2017 No. 897

ENERGY

The Alternative Fuels Infrastructure Regulations 2017

Made - - - -	*7th September 2017*
Laid before Parliament	*11th September 2017*
Coming into force - -	*9th October 2017*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**).

The Secretary of State is a Minister designated(**2**) for the purpose of that section in relation to energy and energy sources.

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"(**3**) 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(**4**);

(d) synthetic and paraffinic fuels;

(**1**) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a) and the European Union (Amendment) Act 2008 (c. 7), section 3(3) and Schedule, Part 1.

(**2**) S.I. 2010/761.

(**3**) "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.

(**4**) "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.

(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(**5**);

"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(**6**); and

(b) in relation to Northern Ireland, a harbour authority within the meaning of the Harbours Act (Northern Ireland) 1970(**7**).

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

(**5**) "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.

(**6**) 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.

(**7**) 1970 c. 1 (N.I.); section 38.

(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

(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.