SCOTTISH STATUTORY INSTRUMENTS

2000 No. 169

ENVIRONMENTAL PROTECTION

The Sulphur Content of Liquid Fuels (Scotland) Regulations 2000

Made - - - -	*3rd June 2000*
Laid before the Scottish Parliament - - - -	*8th June 2000*
Coming into force - -	*30th June 2000*

The Scottish Ministers, in exercise of the powers conferred upon them by section 2(2) of the European Communities Act 1972(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Sulphur Content of Liquid Fuels (Scotland) Regulations 2000 and shall come into force on 30th June 2000.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

(a) "combustion plant" means any technical apparatus in which fuels are oxidised in order to use the heat generated;

(b) "gas oil" means–

(i) any petroleum derived liquid fuel falling within CN code 2710 00 67 to 2710 00 68; or

(ii) any petroleum derived liquid fuel which, by reason of its distillation limits, falls within the category of middle distillates intended for use as fuel and of which at least 85 per cent by volume (including losses) distils at 350°C by the ASTM D86 method,

(**1**) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

but shall not include diesel fuels, as defined in Article 2(2) of Council Directive 98/70/EC relating to the quality of petrol and diesel fuels(**2**) and fuels used in non road mobile machinery and agricultural tractors;

(c) "heavy fuel oil" means–

(i) any petroleum derived liquid fuel falling within CN code 2710 00 71 to 2710 00 78; or

(ii) any petroleum derived liquid fuel, other than gas oil or marine gas oil which, by reason of its distillation limits, falls within the category of heavy oils intended for use as fuel and of which less than 65 per cent by volume (including losses) distils at 250°C by the ASTM D86 method or of which the distillation cannot be determined by that method;

(d) "marine gas oil" means fuel intended for marine use which is gas oil or which has a viscosity or density falling within the ranges of viscosity or density defined for marine distillates in Table I of ISO 8217 (1996)(**3**);

(e) "SEPA" means the Scottish Environment Protection Agency; and

(f) "sulphur content of liquid fuels permit" has the meaning given in regulation 3(6)(b)(iii) below.

(2) In paragraph (1) above–

(a) "ASTM method" means the methods laid down by the American Society for Testing and Materials in the 1976 edition of standard definitions and specifications for petroleum and lubricating products(**4**); and

(b) the reference to a number of CN code is a reference to the code set out in the Integrated Customs Tariff of the United Kingdom (2000 edition) as the CN code with that number(**5**).

(3) These Regulations do not apply to–

(a) the use of fuel, other than of marine gas oil, by seagoing ships;

(b) the use of marine gas oil by ships crossing a frontier between a third country and a Member State;

(c) the use of fuel intended for processing prior to final combustion; and

(d) the use of fuel to be processed in the refining industry.

(4) Words used in these Regulations which are also used in Council Directive 1999/32/EC(**6**) have the same meaning as in that Directive.

Maximum sulphur content of heavy fuel oil

3.—(1) Subject to the following provisions of this regulation, any person who uses heavy fuel oil on or after 1st January 2003 with a sulphur content exceeding 1 per cent by mass shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Paragraph (1) above shall not apply to the use of heavy fuel oil in a new large combustion plant which is operated in accordance with a condition in a permit which contains emission limit

(**2**) O.J. L 350, 28.12.98, p.58.
(**3**) ISO 8217 (1996) is described in the British Standard entitled "Specification for Petroleum Fuels for marine oil engines and boilers", published under the numbers BS MA 100 and ISO 8217: 1996, which came into effect on 15th August 1996.
(**4**) The ASTM method is described in the 1999 Annual Book of ASTM Standards: Section 5 – Petroleum Products, Lubricants and Fossil Fuels, published by the American Society for Testing and Materials, November 1999.
(**5**) The Integrated Customs Tariff of the United Kingdom (2000 edition) is published by HMSO (ISBN 0117818054).
(**6**) Council Directive of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC. O.J. L 121, 11.5.99, p.13.

values for sulphur dioxide which are at least as stringent as those set out for such plant in Annex IV to Directive 88/609/EEC(**7**).

(3) Paragraph (1) above shall not apply to the use of heavy fuel oil in a combustion plant which is not a new large combustion plant and which is operated in accordance with a condition in a permit which prohibits the emissions of sulphur dioxide from the plant exceeding 1,700 mg/Nm^3 at an oxygen content in the flue gas of 3 per cent by volume on a dry basis.

(4) Paragraph (1) above shall not apply to the use of heavy fuel oil in a combustion plant which–

(a) is not a new large combustion plant;

(b) is used for combustion in a refinery with other combustion plant; and

(c) is operated in accordance with a condition in a permit which provides that the plant may only be operated if (irrespective of the type of fuel or fuel combination used) the monthly average of emissions of sulphur dioxide averaged over all of the plant in the refinery (excluding new large combustion plant) does not exceed 1,700 mg/Nm^3 at an oxygen content in the flue gas of 3 per cent by volume on a dry basis.

(5) SEPA shall ensure that appropriate monitoring of emissions of sulphur dioxide is carried out for the purpose of checking compliance with the conditions contained in a permit referred to in paragraphs (2) to (4) above.

(6) In this regulation–

(a) "new large combustion plant" means new plant, within the meaning of Article 2(9) of Directive 88/609/EEC, which falls within the scope of that Directive; and

(b) "permit" means, in relation to a combustion plant–

(i) an authorisation under Part I of the Environmental Protection Act 1990 (pollution control)(**8**), if the operation of the plant requires such an authorisation;

(ii) a permit under regulations made under section 2 of the Pollution Prevention and Control Act 1999 (regulation of polluting activities)(**9**), if the operation of the plant requires such a permit; or

(iii) in any other case, a permit granted for the purpose of these Regulations (a "sulphur content of liquid fuels permit").

(7) Schedule 1 to these Regulations shall have effect in relation to applications for the grant of, and other matters relating to, sulphur content of liquid fuel permits.

Maximum sulphur content in gas oil

4.—(1) Any person who, on or after 1st July 2000 and before 1st January 2008, uses gas oil or marine gas oil with a sulphur content exceeding 0.2 per cent by mass shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Any person who, on or after 1st January 2008, uses gas oil or marine gas oil with a sulphur content exceeding 0.1 per cent by mass shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Sampling and analysis

5.—(1) The Scottish Ministers shall take all necessary measures to ensure that sampling is carried out of heavy fuel oil and gas oil used in Scotland to check that the use of the fuel complies with regulations 3(1) and 4(1) and (2) above.

(**7**) O.J. L 336, 7.12.88, p.1.
(**8**) 1990 c. 43.
(**9**) 1999 c. 24.