STATUTORY RULES OF NORTHERN IRELAND

2007 No. 272

ENVIRONMENTAL PROTECTION

The Sulphur Content of Liquid Fuels Regulations (Northern Ireland) 2007

Made - - - -	*3rd May 2007*
Coming into operation	*31st May 2007*

The Department of the Environment, being designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the control of air pollution, makes the following Regulations in exercise of the powers conferred on it by section 2(2) of that Act:

Citation and commencement

1. These Regulations may be cited as the Sulphur Content of Liquid Fuels Regulations (Northern Ireland) 2007 and shall come into operation on 31st May 2007.

Interpretation

2.—(1) In these Regulations—

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

"gas oil" means any petroleum–derived liquid fuel—

(a) which falls within CN code 2710 19 25, 2710 19 29, 2710 19 45 or 2710 19 49; or

(b) where less than 65 per cent by volume (including losses) distils at 250°C and at least 85 per cent by volume (including losses) distils at 350°C by the ASTM D86 method,

but excluding marine fuel, diesel fuels (as defined in Article 2(2) of Council Directive 98/70/EC relating to the quality of petrol and diesel fuels(**3**) and fuels used in non–road mobile machinery and agricultural tractors;

"heavy fuel oil" means any petroleum–derived liquid fuel—

(a) which falls within CN code 2710 19 51 to 2710 19 69;

(**1**) S.I.1988/785
(**2**) 1972 c. 68
(**3**) OJ L 350, 28.12.1998, p.58.

(b) 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

(c) where the distillation cannot be determined by the ASTM D86 method, which is categorised as heavy fuel oil,

but excluding marine fuel and gas oil;

"marine fuel" means any petroleum–derived liquid fuel intended for use or in use on board a vessel, including those fuels defined in ISO 8217(**4**);

"sulphur content of liquid fuels permit" has the meaning given in regulation 4(4)(b)(ii).

"the 1997 Order" means "The Industrial Pollution Control (Northern Ireland) Order 1997"(**5**)

"the 2003 Regulations" means "The Pollution Prevention and Control Regulations (Northern Ireland) 2003"(**6**)

(2) In paragraph (1)—

(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(**7**); and

(b) the reference to a numbered CN code is a reference to the code set out in the Integrated Customs Tariff of the United Kingdom (2000 edition) and the CN code within that number(**8**).

(3) Expressions used in these Regulations that also appear in Council Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels as amended by Directive 2005/33/EC of the European Parliament and of the Council(**9**) have the same meaning as they do in that Directive.

(4) The Interpretation Act (Northern Ireland) 1954(**10**) shall apply to these Regulations as it applies to the Act of the Northern Ireland Assembly.

Application

3. These Regulations do not apply to heavy fuel oil or gas oil intended for—

(a) the purposes of research and testing;

(b) processing prior to final combustion; or

(c) processing in the refining industry.

Maximum sulphur content of heavy fuel oil

4.—(1) Subject to paragraph (2), no person shall use any heavy fuel oil which has a sulphur content that exceeds 1 per cent by mass.

(2) Paragraph (1) shall not apply to the use of heavy fuel oil—

(**4**) 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.
(**5**) S.I. 1997/2777 (N.I. 18)
(**6**) S.R. 2003 No. 46
(**7**) The ASTM method is described in the 1999 Annual Book of the ASTM Standards: Section 5-Petroleum Products, Lubricants and Fossil Fuels, published by the American Society for Testing and Materials, November 1999.
(**8**) The Integrated Customs Tariff of the United Kingdom (2000 edition) is published by HMSO (ISBN 0117818054).
(**9**) OJL 191 22.7.2005, p. 59
(**10**) 1954 c. 33 (N.I.)

(a) in a new plant which is operated in accordance with a permit which contains a condition that emission limit values for sulphur dioxide are at least as stringent as those set out for such plant in Annex IV to Directive 2001/80/EC of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from large combustion plants(**11**);

(b) in an existing plant which—

(i) before 1st January 2008, is operated in accordance with a permit which contains a condition which prohibits the emissions of sulphur dioxide from the plant exceeding 1,700 mg/Nm3 at an oxygen content in the flue gas of 3 per cent by volume on a dry basis; or

(ii) on and after 1st January 2008, is operated in accordance a permit which contains a condition that emission limit values for sulphur dioxide are at least as stringent as those set out for new plants in Part A of Annex IV to Directive 2001/80/EC;

(c) in a combustion plant other than a new or existing plant to which sub-paragraphs (a) or (b) apply which is operated in accordance with a permit which contains a condition which prohibits the emissions of sulphur dioxide from the plant exceeding 1,700 mg/Nm3 at an oxygen content in the flue gas of 3 per cent by volume on a dry basis; or

(d) in combustion plants forming part of a refinery other than—

(i) a new plant to which paragraph (a) applies; or

(ii) an existing plant to which subparagraph (b)(ii) applies,

and where the combustion plants are operated in accordance with a permit which contains a condition that their monthly average of emissions of sulphur dioxide averaged over all plants in the refinery, irrespective of the fuel or fuel combination used, does not exceed 1,700 mg/Nm3.

(3) An enforcing authority which grants a permit referred to in paragraph (2) shall carry out appropriate monitoring of emissions of sulphur dioxide to ensure that the limitations on emissions contained in that permit are met.

(4) In this regulation—

(a) "existing plant" and "new plant" shall have the meanings given in Articles 2(10) and 2(9) respectively of Directive 2001/80/EC; and

(b) "permit" means—

(i) either—

(aa) an authorisation under Article 6 of the 1997 Order; or

(bb) a permit granted under regulation 10 of the 2003 Regulations

if the operation of the combustion plant requires such an authorisation or permit,

or

(ii) a sulphur content of liquid fuels permit which—

(aa) was granted for the purposes of the Sulphur Content of Liquid Fuels Regulations (Northern Ireland) 2002(**12**) and which is still subsisting; or

(bb) is granted under these Regulations.

(5) Schedule 1 (Sulphur content of liquid fuel permits) has effect.

(**11**) OJL 309, 27.11.2001, p. 1 as amended by the 2003 Act of Accession

(**12**) S.R. 2002 No. 28

Maximum sulphur content in gas oil

5. No person shall use gas oil—

(a) Before 1st January 2008, with a sulphur content exceeding 0.2 percent by mass; or

(b) on and after 1st January 2008, with a sulphur content exceeding 0.1 percent by mass.

Sampling and analysis

6.—(1) The Department shall take all necessary measures to ensure that sampling is carried out of heavy fuel oil and gas oil to check that the use of those fuels complies with, respectively, regulation 4(1) and regulation 5.

(2) Sampling shall be carried out with sufficient frequency and in such a way that the Department is satisfied that the samples are representative of the fuels examined.

(3) Sampling in respect of compliance with regulation 5(b) shall commence no later than 1st July 2008.

(4) Schedule 2 shall have effect in relation to the technical requirements for determining the sulphur content of fuel sampled under paragraph (1).

Offences and penalties

7.—(1) A person is guilty of an offence if he contravenes regulation 4(1) or 5, or causes or permits another person to do so.

(2) Any person guilty of an offence under paragraph (1) shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

(3) For the purposes of these Regulations section 20(2) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the words "the liability of whose members is limited" and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Revocation and saving

8.—(1) Subject to paragraph (2), the Sulphur Content of Liquid Fuels Regulations (Northern Ireland) 2002 are revoked.

(2) Where an operator of a combustion plant—

(a) has submitted an application for a sulphur content of liquid fuels permit in accordance with Schedule 1 to the Sulphur Content of Liquid Fuels Regulations (Northern Ireland) 2002; and

(b) that application has not been determined at the date these Regulations come into force,

such application shall continue to be determined under those Regulations.