STATUTORY RULES OF NORTHERN IRELAND

2002 No. 28

ENVIRONMENTAL PROTECTION

The Sulphur Content of Liquid Fuels Regulations (Northern Ireland) 2002

Made - - - -	*29th January 2002*
Coming into operation	*11th March 2002*

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

Citation and commencement

1. These Regulations may be cited as the Sulphur Content of Liquid Fuels Regulations (Northern Ireland) 2002 and shall come into operation on 11th March 2002.

Interpretation

2.—(1) In these Regulations—

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

(b) "gas oil" means—

(i) any petroleum derived liquid fuel falling within CN code 2710 00 67 or 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) distills at 350°C by the ASTM D86 method,

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(**3**) and fuels used in non-road mobile machinery and agricultural tractors;

(c) "heavy fuel oil" means—

(**1**) S.I.1988/785
(**2**) 1972 c. 68
(**3**) O.J. No. L350, 28.12.98, p. 58

(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) distills 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)(**4**);

(e) "sulphur content of liquid fuels permit" has the meaning given in regulation 3(6)(*b*)(ii);

(f) "the 1997 Order" refers to "The Industrial Pollution Control (Northern Ireland) Order 1997"(**5**).

(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(**6**);

(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) as the CN code with that number(**7**).

(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 relating to a reduction in the sulphur content of certain liquid fuels(**8**) have the same meaning as in that Directive.

(5) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to the Act of the Northern Ireland Assembly.

Maximum sulphur content of heavy fuel oil

3.—(1) Subject to the following provisions of this regulation, any person who, on or after lst January 2003, uses heavy fuel oil 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) 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 values for sulphur dioxide which are at least as stringent as those set out for such plant in Annex IV to Council Directive 88/609/EEC(**10**).

(**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 MA1 00 and ISO 8217:1996, which came into effect on 15th August 1996
(**5**) S.I. 1997/2777 (N.I. 18)
(**6**) 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
(**7**) The Integrated Customs Tariff of the United Kingdom (2000 edition) is published by HMSO (ISBN 0117818054)
(**8**) O.J. No. L121, 11.5.99, p. 13
(**9**) 1954 c. 33 (N.I.)
(**10**) O.J. No. L336, 7.12.88, p. 1

(3) Paragraph (1) 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) 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) An authority which grants a permit referred to in paragraphs (2) to (4) shall ensure that the appropriate monitoring of emissions of sulphur dioxide is carried out for the purpose of checking compliance with the conditions referred to in those paragraphs.

(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;

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

(i) an authorisation under Article 6 of the 1997 Order, if the operation of the plant requires such an authorisation;

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

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

Maximum sulphur content in gas oil

4.—(1) Any person who, on or after 11th March 2002 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 Department shall take all necessary measures to ensure that sampling is carried out of heavy fuel oil and gas oil used in Northern Ireland to check that the use of the fuel complies with regulations 3(1) and 4(1) and 4(2).

(2) Sampling under paragraph (1) shall begin—

(a) for the purpose of checking for compliance with regulation 3(1), by 1st July 2003;

(b) for the purpose of checking for compliance with regulation 4(1), by 11th March 2002;

(c) for the purpose of checking for compliance with regulation 4(2), by 1st July 2008.

(3) Sampling under paragraph (1) shall be carried out with sufficient frequency and in such a way that the samples are representative of the fuel examined.