

**2010 No. 3035**

**MERCHANT SHIPPING**

**PUBLIC HEALTH**

**The Motor Fuel (Composition and Content) and Merchant  
Shipping (Prevention of Air Pollution from Ships) (Amendment)  
Regulations 2010**

<i>Made</i> - - - -	20th December 2010
<i>Laid before Parliament</i>	23rd December 2010
<i>Coming into force</i> - -	14th January 2011

The Secretary of State for Transport makes the following regulations—

- (a) in exercise of the powers conferred by sections 30, 31, 32(1) and 63(1) of the Clean Air Act 1993 (“the 1993 Act”)(a); and
- (b) being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the environment(c) and in relation to measures relating to maritime transport(d) and consumer protection(e), in exercise of the powers conferred by that section.

In accordance with section 30(2) of the 1993 Act he has consulted persons appearing to him to represent manufacturers and users of motor vehicles, persons appearing to him to represent the producers and users of fuel for motor vehicles and persons appearing to him to be conversant with problems of air pollution.

In accordance with section 31(2) of the 1993 Act he has consulted persons appearing to him to represent producers and users of oil fuel, persons appearing to him to represent manufacturers and users of plant and equipment for which oil fuel is used and persons appearing to him to be conversant with problems of air pollution.

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- (a) 1993 c.11; section 30(4) was amended by the Statute Law (Repeals) Act 1998 (c.43), section 1(1) and (2), Schedule 1, Part X, Group 5 and Schedule 2, paragraph 13; section 30(5) was amended by the Statute Law (Repeals) Act 2004 (c.14), section 1(1), Schedule 1, Part 13; section 63(1) was amended, in relation to Scotland only, by the Environment Act 1995 (c.25), section 120, Schedule 22, paragraph 199.
  - (b) 1972 c.68; section 2(2) of the 1972 Act was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51).
  - (c) S.I. 2008/301.
  - (d) S.I. 1994/757, to which there are amendments not relevant to these Regulations.
  - (e) S.I. 1993/2661, to which there are amendments not relevant to these Regulations.

## PART 1

### Preliminary

#### **Citation and commencement**

1. These Regulations may be cited as the Motor Fuel (Composition and Content) and Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2010 and come into force on 14th January 2011.

## PART 2

### Amendment of the Motor Fuel (Composition and Content) Regulations 1999

#### **Amendment of Regulations**

2. The Motor Fuel (Composition and Content) Regulations 1999<sup>(a)</sup> are amended as follows.

#### **Amendment of regulation 2**

3.—(1) Regulation 2 (general interpretation) is amended as follows.

(2) In the definition of “the Directive”, for “Directive 2003/17/EC” substitute “Directive 2009/30/EC”.

(3) In the definition of “distribute”, after “refinery”, insert—

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and “distribution” is to be construed accordingly”.

(4) For the definition of “motor fuel” substitute—

““motor fuel” means—

(a) petrol;

(b) diesel fuel;

(c) gas oil; or

(d) other liquid fuel;”.

(5) In the definition of “sell”, for sub-paragraph (b) substitute—

“(b) in relation to motor fuel which is gas oil or other liquid fuel, to sell to a person for use by that person,

and cognate expressions are to be construed accordingly.”

#### **Amendment of regulation 3**

4. In regulation 3 (interpretation of requirements relating to petrol and diesel fuel), for paragraph (2) to the end substitute—

“(2) Unless it is petrol to which paragraph (5) applies, petrol complies with the winter petrol requirement if its composition and content meet the environmental specifications in Annex I of the Directive, but with the qualification that the requirement of the parameter “Vapour pressure, summer period” does not apply.

(3) Unless it is petrol to which paragraph (5) applies, petrol complies with the summer petrol requirement if its composition and content meet the environmental specifications in

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(a) S.I. 1999/3107, amended by S.I. 2001/3896, 2003/3078 and 2007/1608.

Annex I of the Directive, but with the qualification that it may have a vapour pressure not exceeding 70 kPa.

(4) Diesel fuel complies with the diesel fuel requirement if its composition and content meet the environmental specifications in Annex II of the Directive.

(5) This paragraph applies to super unleaded petrol sold at a filling station before 1st January 2014 if, in the calendar year prior to which it is sold, the total amount of petrol and diesel fuel sold at that filling station was not less than 3 million litres.

(6) In a case where paragraph (5) applies, super unleaded petrol will not comply with a specified requirement unless, in addition to the requirements of paragraphs (2) or (3), it has—

- (a) an oxygen content of no more than 2.7% by volume; and
- (b) an ethanol content of no more than 5% by volume.

(7) In this regulation “super unleaded petrol” means petrol that has—

- (a) a research octane number of not less than 97 measured in accordance with the test method specified in Annex I of the Directive; and
- (b) a motor octane number of not less than 86 measured in accordance with the test method specified in Annex I of the Directive.”

#### **Amendment of regulation 4**

**5.** In regulation 4 (restrictions on the distribution of petrol or diesel fuel), after paragraph (3), add—

“(4) Subject to the provisions of these regulations, no person shall, before 1st January 2014, distribute—

- (a) petrol, or
- (b) diesel fuel,

containing more than 6mg of manganese per litre.

(5) Subject to the provisions of these regulations, no person shall, on or after 1st January 2014, distribute—

- (a) petrol, or
- (b) diesel fuel,

containing more than 2mg of manganese per litre.”

#### **Amendment of regulation 5**

**6.** In regulation 5 (restrictions on the sale of petrol or diesel fuel), after paragraph (6), add—

“(7) Paragraph (6)(a) shall not apply to diesel fuel where—

- (a) the sole reason for its failing to comply with the diesel fuel requirement is that it has a biofuel content in excess of 7%; and
- (b) the dispenser from which it is sold complies with regulation 3 of the Biofuel (Labelling) Regulations 2004(a).

(8) No person shall sell, or offer for sale—

- (a) petrol, or
- (b) diesel fuel,

containing metallic additives unless the requirement in paragraph (9) is complied with.

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(a) S.I. 2004/3349, amended by S.I. 2005/3355 and 2009/3277.

(9) The requirement referred to in paragraph (8) is that the words “Contains metallic additives” are displayed prominently on the dispenser from which the petrol or, as the case may be, diesel fuel is sold or offered for sale.”

### **Substitution of regulation 5A**

7. For regulation 5A (restrictions on the sale of gas oil), substitute—

#### **“Restrictions on the marketing of marine diesel oil and marine gas oil**

**5A.**—(1) The placing on the market of marine diesel oil is prohibited if the sulphur content exceeds 1.50 per cent by mass.

(2) The placing on the market of marine gas oil is prohibited if the sulphur content exceeds 0.10 per cent by mass.

(3) Analysis of marine fuel to determine its sulphur content must be in accordance with the provisions of paragraphs (4) and (5).

(4) The reference method adopted for determining the sulphur content is to be that defined by PrEN ISO 14596(a) or ISO method 8754 (2003)(b) as appropriate.

(5) The arbitration method is to be that specified in PrEN ISO 14596.

(6) This regulation does not apply to marine fuel—

- (a) intended for the purpose of research and testing;
- (b) intended for processing prior to final combustion; or
- (c) to be processed in the refining industry.

(7) For the purposes of this regulation—

“marine diesel oil” means any marine fuel which has a viscosity or density falling within the ranges of viscosity or density defined for DMB or DMC grades in Table I of ISO 8217 (2005)(c);

“marine gas oil” means any marine fuel which has a viscosity or density falling within the ranges of viscosity or density defined for DMX or DMA grades in Table I of ISO 8217 (2005);

“marine fuel” means any petroleum based liquid fuel intended for use or in use on board a vessel including those fuels defined in ISO 8217 (2005);

“placing on the market” means supplying or making available to third persons, against payment or free of charge, anywhere within the United Kingdom marine fuels for on-board combustion, but excludes supplying or making available marine fuels for export in ships’ cargo tanks.

#### **Restrictions on the distribution and sale of gas oil and other liquid fuel**

**5B.**—(1) Subject to the provisions of these regulations, no person shall distribute, for use within the United Kingdom, gas oil or other liquid fuel if—

- (a) that person knows that the gas oil, or as the case may be, other liquid fuel is intended for use in—
  - (i) non-road mobile machinery, including inland waterway vessels which do not normally operate at sea;
  - (ii) agricultural tractors;

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(a) Described in the British Standard “Petroleum Products – Determination of Sulphur content – Wavelength-dispersive X-ray fluorescence spectrometry; BS EN ISO 14596 2007 and ISO 14596 2007, which came into effect on 31st October 2007.

(b) Described in the British Standard “Petroleum Products – Determination of Sulphur content – Energy-dispersive X-ray fluorescence methods; BS EN ISO 8754 2003 and ISO 8754 2003, which came into effect on 14th August 2003.

(c) ISO Standard – Petroleum Products – Fuels (class F) – Specification of Marine Fuels: ISBN 0 580 475 468.

- (iii) forestry tractors; or
- (iv) recreational craft which do not normally operate at sea; and

(b) the sulphur content exceeds 10 mg/kg at the point of distribution.

(2) Subject to the provisions of these regulations, no person shall sell, for use within the United Kingdom, gas oil or other liquid fuel if—

(a) that person knows that the gas oil, or as the case may be, other liquid fuel is intended for use in—

- (i) non-road mobile machinery, including inland waterway vessels which do not normally operate at sea;
- (ii) agricultural tractors;
- (iii) forestry tractors; or
- (iv) recreational craft which do not normally operate at sea; and

(b) the sulphur content exceeds 20 mg/kg at the point of sale.

(3) No person shall, in the circumstances set out in paragraph (1)(a), sell, or offer for sale—

- (a) gas oil, or
- (b) other liquid fuel,

containing metallic additives unless the requirement in paragraph (4) is complied with.

(4) The requirement referred to in paragraph (3) is that the words “Contains metallic additives” are displayed prominently on the dispenser from which that gas oil or, as the case may be, other liquid fuel is sold or offered for sale.

(5) Subject to the provisions of these regulations, no person shall, before 1st January 2014, in the circumstances set out in paragraph (1)(a), distribute—

- (a) gas oil, or
- (b) other liquid fuel,

containing more than 6 mg of manganese per litre.

(6) Subject to the provisions of these regulations, no person shall, on or after 1st January 2014, in the circumstances set out in paragraph (1)(a), distribute—

- (a) gas oil, or
- (b) other liquid fuel,

containing more than 2 mg of manganese per litre.

(7) For the purposes of this regulation—

- (a) consignments of gas oil or other liquid fuel placed in a storage tank after sale are presumed to be dispensed from that tank for use in the same order as they were introduced;
- (b) the terms “non-road mobile machinery” and “inland waterway vessel” have the meanings given by Article 2 of Council Directive 97/68/EC(a);
- (c) the terms “agricultural tractor” and “forestry tractor” have the meanings given by Article 1 of Council Directive 2000/25/EC(b);
- (d) the term “recreational craft” has the meaning given by Article 1(3) of Council Directive 94/25/EC(c);

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(a) OJ L 59, 27.2.1998, p1; relevant amending instruments are Council Directive 2004/26/EC of the European Parliament and of the Council of 21st April 2004, OJ L 146, 30.4.2004, p1 and the Corrigendum in respect of Directive 2004/26/EC, OJ L 225, 25.6.2004, p3.

(b) OJ L 173, 12.7.2000, p1, to which there are amendments not relevant to these Regulations.

(c) OJ L 164, 30.6.1994, p15; amended by Directive 2003/44/EC of the European Parliament and of the Council of 16th June 2003, OJ L 214, 26.8.2003, p18; there are other amending instruments but none is relevant.

- (e) an inland waterway vessel or a recreational craft does not normally operate at sea if it does not normally operate—
  - (i) beyond the limits of waters in categories A and B, or
  - (ii) in waters in category C, but excluding deep lakes and lochs where the significant wave height (calculated as four times the square root of the area under the wave energy spectrum) could not be expected to exceed 1.2 metres at any time,

where categories A, B and C have the meanings given to them in Merchant Shipping Notice 1776(M) issued by the Maritime and Coastguard Agency.

### **Offences and penalties**

**5C.**—(1) A person who—

- (a) places on the market marine diesel oil in contravention of regulation 5A(1); or
- (b) places on the market marine gas oil in contravention of regulation 5A(2),

is guilty of an offence and punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment by a fine.

(2) In any proceedings for an offence under paragraph 1 it is a defence for the person charged to prove that that person took all reasonable steps and exercised all due diligence to ensure that the regulation in question was complied with.

(3) A person who contravenes or fails to comply with regulation 5B(3), (5) or (6) in so far as that contravention or failure relates to motor fuel not intended for use in motor vehicles, shall be guilty of an offence and liable—

- (a) on conviction on indictment, to a fine; and
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

(4) A person who contravenes or fails to comply with regulation 5B(1) or (2) in Northern Ireland, in so far as that contravention or failure relates to motor fuel not intended for use in motor vehicles, shall be guilty of an offence and liable—

- (a) on conviction on indictment, to a fine; and
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

(5) It shall be the duty of—

- (a) every local authority in Great Britain to enforce within its area regulation 5B(3), (5) and (6) in relation to motor fuel not intended for use in motor vehicles; and
- (b) the Department of Enterprise, Trade and Investment in Northern Ireland to enforce within Northern Ireland regulation 5B in relation to motor fuel not intended for use in motor vehicles,

but nothing in this paragraph shall be taken to authorise a local authority in Scotland to institute proceedings for any offence.

(6) In so far as they apply to motor fuel not intended for use in motor vehicles, regulation 5B(3), (5) and (6), and regulation 5B(1) and (2) in so far as they apply to Northern Ireland, shall apply to gas oil or other liquid fuel used for, and to persons in, the public service of the Crown as they apply to motor fuel used for other purposes and to other persons.

(7) Schedule A1 shall have effect with regard to the enforcement of—

- (a) regulation 5B(3), (5) and (6) in Great Britain; and
- (b) regulation 5B in Northern Ireland,

in relation to gas oil and other liquid fuel not intended for use in motor vehicles and related matters.

(8) A local authority in Great Britain, and the Department of Enterprise, Trade and Investment in Northern Ireland, shall not be entitled by virtue of paragraph (6) to exercise,

in relation to motor fuel used for and persons in the public service of the Crown, any power conferred on it by virtue of paragraphs 2 to 4 of Schedule A1.”

#### **Amendment of regulation 6**

**8.**—(1) Regulation 6 (exemptions relating to the distribution or sale of motor fuel) is amended as follows.

(2) In paragraphs (1) and (3), for “Regulations 4, 5 and 5A” substitute “Regulations 4, 5 and 5B”.

(3) In paragraph (5) for “regulations 4, 5 and 5A” substitute “regulations 4, 5 and 5B”.

(4) After paragraph (5) add—

“(6) Notwithstanding the provisions of regulation 5B a person may, before 1st January 2012, distribute or sell gas oil containing up to 1000 mg/kg of sulphur if that person knows that it is intended solely for use in railcars or rail locomotives.”

#### **Amendment of regulation 7**

**9.** In paragraph 1 of regulation 7 (power of the Secretary of State to grant exemptions), for “regulations 4 and 5” substitute “regulations 4, 5 and 5B”.

#### **Amendment of regulation 9**

**10.**—(1) Regulation 9 (leaded petrol permits: general) is amended as follows.

(2) For paragraph (3) substitute—

“(3) The Secretary of State shall not issue leaded petrol permits authorising in total the distribution and sale of more than 0.03% by mass of total petrol sales in the previous calendar year during any calendar year.”

(3) In paragraph (5)(c), for “leaded petrol” substitute “petrol which is for use”.

#### **Amendment of regulation 10**

**11.**—(1) Regulation 10 (grant of a leaded petrol permit) is amended as follows.

(2) In paragraph (6)(a)(i), for “in” substitute “which is for use within”.

(3) In paragraph (6)(a)(iii), after “petrol” insert “which is for use”.

#### **Insertion of new Schedule A1**

**12.** Before Schedule 1 insert—

### **“SCHEDULE A1**

Regulation 5C(7)

**Enforcement of regulation 5B(3), (5) and (6) in Great Britain, and enforcement of regulation 5B in Northern Ireland, in relation to gas oil and other liquid fuel not intended for use in motor vehicles and related matters**

#### **Liability of persons other than principal offender**

**1.**—(1) Where an offence under regulation 5C(3) or (4) which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—



- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

that person, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members sub-paragraph (1) shall apply in relation to the acts and defaults of a member in connection with that person's functions of management as if that person were a director of the body corporate.

(3) Where an offence under regulation 5C(3) is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(4) Where the commission by any person of an offence under regulation 5C(3) or (4) is due to the act or default of some other person, that other person shall be guilty of the offence.

(5) A person may be charged with and convicted of an offence by virtue of regulation 5C(3) or (4) whether or not proceedings for the offence are taken against any other person.

### **Rights of entry and inspection**

2.—(1) Any person authorised in that respect by a local authority in Great Britain, or by the Department of Enterprise, Trade and Investment in Northern Ireland, may at any reasonable time—

- (a) enter upon any land or vessel in the authority's area, or as the case may be in Northern Ireland, for the purpose of—
  - (i) performing the duty conferred on the authority, the Department or that person by regulation 5C(5),
  - (ii) determining whether, in so far as they relate to gas oil or other liquid fuel in either case not intended for use in motor vehicles, regulation 5B(3), (5) and (6) in Great Britain, and in Northern Ireland regulation 5B, are being complied with; and
- (b) carry out such inspections, measurements and tests on any gas oil or liquid fuel on the land or vessel and take away such samples of gas oil or liquid fuel as the authorised person considers appropriate for such a purpose.

(2) Sub-paragraph (1) does not apply in relation to a private dwelling.

(3) If it is shown to the satisfaction of a justice of the peace on sworn information in writing that—

- (a) in respect of any land or vessel which a person is entitled to enter in pursuance of sub-paragraph (1)—
  - (i) admission has been refused to that person;
  - (ii) refusal of admission is anticipated;
  - (iii) the land or vessel is unoccupied;
  - (iv) the occupier is temporarily absent; or
  - (v) an application for admission would defeat the object of the entry; and
- (b) there are reasonable grounds for entry upon the land or vessel for the purpose for which entry is required,

then, subject to sub-paragraph (4), the justice may by warrant authorise that person to enter the land or vessel, if need be by force.

(4) A justice of the peace shall not issue a warrant in pursuance of sub-paragraph (3) in respect of any land or vessel unless satisfied—



- (a) that admission to the land or vessel in pursuance of sub-paragraph (1) was sought after not less than seven days notice of the intended entry had been served on the occupier;
  - (b) that the land or vessel is unoccupied; or
  - (c) that an application for admission to the land or vessel would defeat the object of the entry.
- (5) A warrant issued in pursuance of this paragraph shall continue in force until the purpose for which the entry is required has been satisfied.
- (6) In the application of this paragraph to Scotland—
- (a) any reference to a justice of the peace shall be construed as including a reference to the sheriff; and
  - (b) in sub-paragraph (3) for “on sworn information in writing” there is substituted “by evidence on oath”.

**Provisions supplementary to paragraph 2 (rights of entry and inspection)**

3.—(1) A person authorised to enter upon any land or vessel in pursuance of paragraph 2 shall, if so required, produce evidence of such authority before entering upon the land or vessel.

(2) A person so authorised may take on to the land or vessel in question such other persons and such equipment as may be necessary.

(3) Admission with heavy equipment to any land or vessel shall not, except in a case where the land or vessel is unoccupied, be demanded as of right under paragraph 2(1) unless notice of the intended entry has been served on the occupier not less than seven days before the demand.

(4) A person who, in the exercise of powers conferred under paragraph 2 or this paragraph, enters upon any land or vessel which is unoccupied or from which the occupier is temporarily absent shall leave the land or vessel as effectually secured against unauthorised entry as that person found it.

(5) It shall be the duty of a local authority in Great Britain, and the Department of Enterprise, Trade and Investment in Northern Ireland, to make full compensation to any person who has sustained damage by reason of—

- (a) the exercise by a person authorised by the authority or the Department of any of the powers conferred by virtue of paragraph 2 or this paragraph; or
- (b) the failure of a person so authorised to perform the duty imposed by sub-paragraph (4),

except where the damage is attributable to the default of the person who sustained it.

(6) Any dispute as to a person’s entitlement to compensation under sub-paragraph (5) or as to the amount of the compensation shall be determined by arbitration.

(7) A person who wilfully obstructs another person acting in the exercise of any powers conferred on that other person by virtue of paragraph 2 or this paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**Power of enforcement authorities to obtain information**

4.—(1) A local authority in Great Britain, and the Department of Enterprise, Trade and Investment in Northern Ireland, may serve on any person a notice requiring that person to provide to the authority or the Department, within a period or at times specified in the notice and in a form so specified, any information which the authority or the Department reasonably considers that it needs for the purposes of any function conferred upon it by regulation 5C and paragraphs 1 to 3 of this Schedule.

- (2) Any person who—
- (a) fails without reasonable excuse to comply with the requirements of a notice served in pursuance of this paragraph; or
  - (b) in furnishing any information in compliance with such a notice, makes any statement which the person knows to be false in a material particular or recklessly makes any statement which is false in a material particular,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

#### **Amendment of Schedule 1**

**13.**—(1) Schedule 1 (information and evidence required in relation to an application for a leaded petrol permit) is amended as follows.

- (2) In paragraph 2(a) and (c), after “petrol” insert “which is for use”.
- (3) In paragraph 5, after “distributor of petrol” insert “which is for use”.

#### **Amendment of Schedule 2**

**14.** In paragraph 5 of Schedule 2 (mandatory terms and conditions for a leaded petrol permit), for “internet address” substitute “website address”.

## **PART 3**

### **Amendment of the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008**

#### **Amendment of Regulations**

**15.** The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008(a) are amended as follows.

#### **Amendment of regulation 32**

- 16.**—(1) Regulation 32 (offences) is amended as follows.
- (2) In paragraph (3A)(a), for “paragraph 7 or 8” substitute “paragraph 6 or 7”.
  - (3) Omit paragraph (3B).

#### **Amendment of Schedule 2A**

- 17.**—(1) Schedule 2A (sulphur oxides) is amended as follows.
- (2) In paragraph 1 (interpretation), omit the definitions of “marine diesel oil”, “marine gas oil” and “placing on the market”.
  - (3) In paragraph 4 (maximum content of marine fuel used by ships at berth and inland waterway vessels)—
    - (a) in the heading, omit “and inland waterway vessels”;
    - (b) omit sub-paragraph (1)(a);
    - (c) in sub-paragraph (2)(c) after “berth,” insert “or”;
    - (d) omit sub-paragraph (2)(d);
    - (e) in sub-paragraph (3) omit “or an inland waterway vessel”;

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(a) S.I. 2008/2924, amended by S.I. 2010/895.

- (f) in sub-paragraph (4) omit “or inland waterway vessel”;
  - (g) in sub-paragraph (5) omit the definition of “inland waterway vessel”.
- (4) Omit paragraphs 8 (restriction on the marketing of marine diesel oil) and 9 (restriction on the marketing of marine gas oil).

Signed by the authority of the Secretary of State

*Norman Baker*  
Parliamentary Under Secretary of State  
Department for Transport

20th December 2010

### **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”) and, to a lesser extent, the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (S.I. 2008/2924) (“the 2008 Regulations”).

These Regulations transpose Articles 1 to 4, 8a and Annexes I and II of Directive 98/70/EC of the European Parliament and of the Council of 13th October 1998 relating to the quality of petrol and diesel fuels (OJ L 350, 28.12.1998, pp. 58–68) as amended by Directive 2009/30/EC of the European Parliament and of the Council of 23rd April 2009 (OJ L 140, 5.6.2009, pp. 88–113). They also transpose the free-standing Article 2(2) of Directive 2009/30/EC.

*Regulation 3* amends the definition of “the Directive” so as to refer to Directive 98/70/EC in its most recently amended form. This regulation also amends the definitions of “motor fuel” and “sell” to include references to liquid fuel other than petrol, diesel fuel and gas oil.

*Regulation 4* amends regulation 3 to remove a number of obsolete provisions and to update references to the technical Annexes of the Directive. This regulation also specifies that, where super unleaded petrol is sold at filling stations at which more than 3 million litres of petrol and diesel fuel is sold in a given year, super unleaded petrol sold at that filling station in the subsequent calendar year will only satisfy the specified requirements if it has an oxygen content of no more than 2.7% and an ethanol content of no more than 5%. This requirement applies until the end of 2013.

*Regulation 5* inserts new paragraphs 4 and 5 into regulation 4 limiting the manganese content of petrol and diesel fuel to 6 milligrammes per litre until 31st December 2013 and to 2 milligrammes per litre thereafter.

*Regulation 6* inserts new paragraph 7 into regulation 5 which has the effect of permitting the sale of diesel fuel with a biofuel content of between 7% and 30% on condition that the dispenser from which it is sold is prominently labelled “Not suitable for all vehicles: consult vehicle manufacturer before use”. This regulation also inserts new paragraphs 8 and 9 into regulation 5 prohibiting the sale of petrol or diesel fuel containing metallic additives unless the dispenser from which it is sold is prominently labelled “Contains metallic additives”.

*Regulation 7* substitutes new regulations 5A to C. New regulation 5A re-enacts the restrictions on the marketing of marine diesel oil and marine gas oil previously set out at paragraphs 8 and 9 of Schedule 2A to the 2008 Regulations. It also sets out relevant associated provisions. The corresponding offences are re-enacted at new regulation 5C(1). New regulation 5C(2) sets out the

associated defence. These provisions transpose Articles 4a(7) and 4b(3) of Directive 1999/32/EC of 26th April 1999 relating to a reduction in the sulphur content of certain liquid fuels (OJ L 121, 11.5.1999, p. 13) as amended.

New regulation 5B prohibits the distribution of gas oil and other liquid fuel intended for use in non-road mobile machinery including inland waterway vessels which do not normally operate at sea, agricultural tractors, forestry tractors or recreational craft which do not normally operate at sea if its sulphur content is more than 10 mg/kg. However, to allow for minor contamination in the supply chain, a maximum sulphur content of 20 mg/kg is allowed at the point of sale. These provisions are made in reliance on section 30 of the Clean Air Act 1993 ('the 1993 Act') to the extent that they apply to fuel intended for use in motor vehicles. In relation to other liquid fuel they are made under section 31 of the 1993 Act save in respect of Northern Ireland where they are made under section 2(2) of the European Communities Act 1972 ('the 1972 Act'). To the extent that these provisions are made under the 1972 Act they are not subject to the criminal offence set out at section 32(2) of the 1993 Act. Accordingly a separate criminal offence of breach of these provisions in Northern Ireland is created by new regulation 5C(4).

This regulation also prohibits the sale of gas oil or other liquid fuel intended for such use and containing metallic additives unless the dispenser from which it is sold is prominently labelled "Contains metallic additives". In addition this regulation limits the manganese content of gas oil or other liquid fuel intended for such use to 6 milligrammes per litre until 31st December 2013 and to 2 milligrammes per litre thereafter. These provisions are made in reliance on section 30 of the 1993 Act to the extent that they apply to fuel intended for use in motor vehicles. In relation to other liquid fuel they are made under section 2(2) of the 1972 Act and are therefore not subject to the criminal offence set out at section 32(2) of the 1993 Act. Accordingly a separate criminal offence of breach of these provisions is created by new regulation 5C(3).

*Regulation 8* amends regulation 6 for consistency with the changes made by regulation 7 of these regulations and inserts new paragraph 6 which, by way of an exception to regulation 5B, permits the distribution and sale of gas oil with a sulphur content of up to 1000 mg/kg for use in rail vehicles but only until the end of 2011.

*Regulation 9* amends paragraph 1 of regulation 7 to permit the Secretary of State to act pursuant to article 7 of the Directive to relax the gas oil specification requirements in regulation 5B if exceptional events cause a sudden change in the supply of crude oils or petroleum products.

*Regulation 10* amends paragraph 3 of regulation 9 to reduce the total sales of leaded petrol that the Secretary of State may authorise by permit to 0.03% of the previous year's total national petrol sales. This regulation also amends paragraph (5)(c) of the same regulation to correct a minor inconsistency with regulation 10(6)(a)(iii) as to the criteria to be satisfied by an applicant for a leaded petrol permit.

*Regulation 11* amends paragraph 6 of regulation 10 to correct further minor inconsistencies with regulation 9 as to the criteria to be satisfied by an applicant for a leaded petrol permit.

*Regulation 12* inserts new Schedule A1 and provides for matters relating to the enforcement of offences under regulation 5C(3) and (4) alone. Paragraph 1 sets out the circumstances in which persons other than the principal offender may be liable for these offences and provides that such liability can arise regardless of whether proceedings are taken against the principal offender. Paragraph 2 provides local authorities in Great Britain, and the Department of Enterprise, Trade and Investment in Northern Ireland, with powers to search premises and to take samples in order effectively to enforce an offence. Paragraph 3 contains safeguards for occupiers of land whose premises the enforcement authority wishes to search including a right to compensation where damage is caused in the course of a search. This paragraph also makes it a criminal offence to obstruct an officer exercising the power to search premises and to take samples. Paragraph 4 provides enforcement authorities with powers to require persons to provide information reasonably required to allow it effectively to enforce offences under regulation 5C(3) and (4). This paragraph also makes it an offence to fail without reasonable excuse to comply with such a request or to provide false information, whether intentionally or recklessly, in complying with such a request.

*Regulation 13* amends Schedule 1 for consistency with the changes made by regulations 10 and 11 of these regulations.

*Regulation 14* amends paragraph 5 of Schedule 2 to update the terminology used.

*Regulations 15 to 17* amend the 2008 Regulations to revoke the provisions re-enacted in these regulations, and to revoke further provisions regulating the maximum sulphur content of fuels used by inland waterway vessels in accordance with Article 2(2) of Directive 2009/30/EC.

A Transposition Note in respect of the relevant parts of Directive 98/70/EC as amended and Article 2(2) of Directive 2009/30/EC has been laid before each House of Parliament.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Cleaner Fuels and Vehicles Division, Department for Transport, Great Minster House, 76 Marsham Street, London SW1P 4DR (telephone 020 7944 2958). That impact assessment and an Explanatory Memorandum are available alongside the instrument on the UK legislation website, [www.legislation.gov.uk](http://www.legislation.gov.uk). A copy of the impact assessment has been placed in the library of each House of Parliament.

A copy of the Directives referred to in this Explanatory Note may be obtained from the Office of Public Sector Information or viewed in the Official Journal of the European Union via the EUR-Lex website at <http://eur-lex.europa.eu/>.

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**MERCHANT SHIPPING**

**PUBLIC HEALTH**

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