
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 258

**The Sulphur Content of Liquid
Fuels (Scotland) Regulations 2014**

Citation, commencement and extent

1.—(1) The Regulations may be cited as the Sulphur Content of Liquid Fuels (Scotland) Regulations 2014 and come into force on 13th November 2014.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“the 2007 Regulations” means the Sulphur Content of Liquid Fuels (Scotland) Regulations 2007⁽¹⁾;

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

“[Directive 2001/80/EC](#)” means [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⁽²⁾;

“[Directive 2010/75/EU](#)” means [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control)⁽³⁾;

“existing plant” has the meaning given in Article 2(10) of [Directive 2001/80/EC](#);

“gas oil” means any petroleum-derived liquid fuel, other than marine fuels, diesel fuels (as defined in Article 2(2) of Council [Directive 98/70/EC](#) of the European Parliament and of the Council relating to the quality of petrol and diesel fuels and amending Council [Directive 93/12/EEC](#))⁽⁴⁾ and fuels used by non-road mobile machinery and agriculture tractors—

(a) which falls within CN codes 2710 19 25, 2710 19 29, 2710 19 47, 2710 19 48, 2710 20 17 or 2710 20 19; 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;

“heavy fuel oil” means any petroleum-derived liquid fuel, other than marine fuel and gas oil, which—

(a) falls within CN code 2710 19 51 to 2710 19 68, 2710 20 31, 2710 20 35 or 2710 20 39;

(b) 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

(1) [S.S.I. 2007/27](#).

(2) OJ L 309, 27.11.2001, p.1 as last amended by Council [Directive 2009/31/EC](#) (OJ L 140, 5.6.2009, p.114).

(3) OJ L 334, 17.12.2010, p.17.

(4) OJ L 350, 28.12.1998, p.58.

(c) where the distillation cannot be determined by the ASTM D86 method, is as categorised as heavy fuel 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(5);

“new plant” has the meaning given in Article 2(9) of [Directive 2001/80/EC](#);

“SEPA” means the Scottish Environment Protection Agency”; and

“sulphur content of liquid fuels permit” means a permit granted in accordance with the Schedule to these Regulations or treated as so granted under regulation 8(3).

(2) In paragraph (1)—

(a) “ASTM D86 method” means that method as set out in the American Society for Testing and Materials 1976 edition of standard definitions and specifications for petroleum and lubricating products(6); and

(b) the reference to a numbered CN code is a reference to the code set out in Annex I to Council Regulation 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff(7).

(3) Other expressions used in these Regulations and in Council [Directive 1999/32/EC](#) relating to a reduction in the sulphur content of certain liquid fuels and amending [Directive 93/12/EEC](#)(8) have the same meaning as they do in that Directive.

Scope

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 with a sulphur content exceeding 1 per cent by mass.

(2) Until 1st January 2016 paragraph (1) does not apply to the use of heavy fuel oil—

(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 new plants in Annex IV to [Directive 2001/80/EC](#);

(b) in an existing plant that is—

(i) 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 new plants in Part A of Annex IV to [Directive 2001/80/EC](#); or

(ii) a participating plant operated in accordance with a permit containing a condition prohibiting the monthly average emissions of sulphur dioxide from the plant from exceeding 1,700 mg/Nm³ at an oxygen content in the flue gas of 3 per cent by volume on a dry basis;

(5) ISO 8217:1996 is described in the British Standard entitled “Specification for Petroleum Fuels for marine oil engines and boilers”, published under the numbers BSMA 100:1996 and ISO 8217:2012.

(6) The ASTM method is described in the 2014 Annual Book of the ASTM Standards.

(7) OJ L 256, 7.9.1987, p.1, last amended by Council Regulation (EU) 1326/2013, (OJ L 334, 13.12.2013, p.4).

(8) OJ L 121, 11.5.1999, p.13, last amended by Directive 2012/33/EU (OJ L 327, 27.11.2012, p.1).

- (c) in a combustion plant (other than a plant to which sub-paragraph (a) or (b) applies), which is operated in accordance with a permit which contains a condition which prohibits the monthly average of 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 a combustion plant forming part of a refinery (other than a gas engine, a gas turbine or a plant to which sub-paragraph (a) or (b) applies), which is operated in accordance with a permit which contains a condition that the monthly average of emissions of sulphur dioxide averaged over all plants in the refinery, irrespective of the fuel type or fuel combination used, does not exceed 1,700mg/Nm³ at an oxygen content in the flue gas of 3 per cent by volume on a dry basis.
- (3) As from 1st January 2016, paragraph (1) does not apply to the use of heavy fuel oil—
- (a) in a combustion plant that—
 - (i) falls within the scope of Chapter III of Directive 2010/75/EU; and
 - (ii) is operated in accordance with a permit containing a condition that emission limit values for sulphur dioxide are at least as stringent as those set out in Annex V to that Directive;
 - (b) in a combustion plant that—
 - (i) falls within the scope of Chapter III of Directive 2010/75/EU;
 - (ii) is not subject to the emission limit values for sulphur dioxide set out in Annex V to that Directive; and
 - (iii) is operated in accordance with a permit containing a condition prohibiting the monthly average emissions of sulphur dioxide from the plant from exceeding 1,700 mg/Nm³ at an oxygen content in the flue gas of 3 per cent by volume on a dry basis;
 - (c) in a combustion plant (other than a plant to which sub-paragraph (a) or (b) applies), that is operated in accordance with a permit containing a condition prohibiting the monthly average emissions of sulphur dioxide from 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 a combustion plant forming part of a refinery (other than a gas engine, a gas turbine or a plant to which sub-paragraph (a) or (b) applies), which is operated in accordance with a permit containing a condition that the monthly average of emissions of sulphur dioxide averaged over all combustion plants in the refinery, irrespective of the fuel type or fuel combination used, does not exceed 1,700 mg/Nm³ at an oxygen content in the flue gas of 3 per cent per volume on a dry basis.
- (4) SEPA must ensure that appropriate monitoring of emissions of sulphur dioxide is carried out to ensure that the limitations on emissions contained in a permit referred to in paragraph (2) or (3) are not exceeded.
- (5) In this regulation—
- “gas engine” and “gas turbine” have the meaning given in Article 3(34) and (33) respectively of Directive 2010/75/EU;
 - “participating plant” has the meaning given in regulation 3(1)(b) of the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007(9);
 - “permit” means either—
 - (a) if the operation of the combustion plant requires an authorisation or permit—

(9) [S.I. 2007/2325](#), relevantly amended by [S.S.I. 2012/360](#).

- (i) an authorisation under Part I of the Environmental Protection Act 1990 (pollution control)(**10**);
 - (ii) a permit under regulations made under section 2 of the Pollution Prevention and Control Act 1999 (regulation of polluting activities)(**11**); or
 - (iii) an authorisation under regulations made under section 18 of the Regulatory Reform (Scotland) Act 2014(**12**); or
- (b) a sulphur content of liquid fuels permit.
- (6) The Schedule (sulphur content of liquid fuels permits) has effect.

Maximum sulphur content in gas oil

5. No person shall use any gas oil with a sulphur content exceeding 0.1 per cent by mass.

Sampling and analysis

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

(2) Sampling must be carried out with sufficient frequency and quantities and in such a way that the Scottish Ministers are satisfied that the samples are representative of the fuels examined.

(3) The samples must be analysed without undue delay.

(4) The reference method adopted for determining the sulphur content of fuels sampled pursuant to paragraph (1) must be defined by EN ISO method 8754:2003 or EN ISO method 14596:2007(**13**).

Offences and penalties

7.—(1) Any person who contravenes regulation 4(1) or 5, or causes or permits another person to do so, commits an offence.

(2) Any person who commits an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(3) Where—

(a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association; and

(b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—

(i) a relevant individual; or

(ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.

(10) 1990 c.43. Section 6 (authorisations : general provisions) of the 1990 Act was amended by the Environment Act 1995 (c.25) Schedule 22, paragraph 48, and by the Pollution Prevention and Control (Scotland) Regulations 2012 (S.S.I. 2012/360).

(11) 1999 c.24.

(12) 2014 asp 3. No Regulations have been made under section 18.

(13) EN ISO method 8754:2003 is described in the British Standard entitled, "Petroleum Products – Determination of Sulfur content – Energy-dispersive X-ray fluorescence methods", published under the number BS EN ISO method 8754:2003, which came into effect on 14 August 2003 as amended by Amendment No. 14812 Corrigendum No. 1, which came into effect on 27th October 2003. EN ISO method 14596:2007 is described in the British Standard entitled, "Petroleum Products – Determination of sulfur content – Wavelength-dispersive X-ray fluorescence spectrometry", published under the number EN ISO method 14596:2007, which came into effect on 31st October 2007.

- (4) In paragraph (3), “relevant individual” means—
- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, a member;
 - (b) in relation to a Scottish partnership, a partner;
 - (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Revocation and transitional provision

8.—(1) Subject to the following provisions of this regulation the 2007 Regulations are revoked.

(2) Where an operator of a combustion plant—

- (a) has submitted an application for a permit, to which these Regulations would have applied had they been in force, in accordance with Schedule 1 to the 2007 Regulations; and
- (b) the application has not been determined at the date these Regulations come into force,

the application shall be treated as if made under these Regulations, and anything done in relation to the application under the 2007 Regulations is to be treated as done under these Regulations.

(3) Any permit to which these Regulations would have applied had they been in force, which was granted in accordance with Schedule 1 to the Sulphur Content of Liquid Fuels (Scotland) Regulations 2000⁽¹⁴⁾ or Schedule 1 to the 2007 Regulations and which is still subsisting at the date of coming into force of these Regulations shall—

- (a) continue to have effect; and
- (b) be treated for the purposes of these Regulations as if it was a permit granted in accordance with the Schedule to these Regulations.

St Andrew’s House,
Edinburgh
25th September 2014

PAUL WHEELHOUSE
Authorised to sign by the Scottish Ministers