
STATUTORY INSTRUMENTS

1991 No. 324

**The Control of Pollution (Silage, Slurry and
Agricultural Fuel Oil) Regulations 1991**

Citation and commencement

1. These Regulations may be cited as the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991 and shall come into force on 1st September 1991.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“construct” includes install and cognate expressions shall be construed accordingly;

“fuel oil” means oil intended for use as a fuel for the production of heat or power but does not include oil intended for use exclusively as a fuel for heating a farmhouse or other residential premises on a farm and stored separately from other oil;

“livestock” means—

- (a) any animals kept for the production of food or wool; or
- (b) any birds kept for the production of food;

“reception pit” means a pit used for the collection of slurry before it is transferred into a slurry storage tank or for the collection of slurry discharged from such a tank;

“relevant substance” means slurry, fuel oil or, as the case may be, the crop being made into silage;

“slurry” means—

- (a) excreta produced by livestock whilst in a yard or building; or
- (b) a mixture consisting wholly or mainly of such excreta, bedding, rainwater and washings from a building or yard used by livestock or any combination of these,

of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process;

“slurry storage system” means—

- (a) a slurry storage tank;
- (b) any reception pit and any effluent tank used in connection with the slurry storage tank; and
- (c) any channels and pipes used in connection with the slurry storage tank, any reception pit or any effluent tank; and

“slurry storage tank” includes a lagoon, pit (other than a reception pit) or tower used for the storage of slurry.

Making of silage

3.—(1) Subject to regulation 7 below, no person shall have custody or control of any crop which is being made into silage unless —

- (a) it is kept in a silo in relation to which the requirements of Schedule 1 are satisfied or which is an exempt structure by virtue of regulation 6 below; or
- (b) it is compressed in the form of bales which are wrapped and sealed within impermeable membranes (or are enclosed in impermeable bags) and are stored at least 10 metres from any inland or coastal waters which effluent escaping from the bales could enter.

(2) No person having custody or control of any crop which is being, or has been, made into silage in the manner described in paragraph (1)(b) above shall open or remove the wrapping of any bales unless he does so at a place at least 10 metres from any inland or coastal waters which silage effluent could enter as a result.

Storage of slurry

4.—(1) Subject to paragraph (2) below, a person having custody or control of slurry shall store it only in a slurry storage system in relation to which the requirements of Schedule 2 are satisfied or which is an exempt structure by virtue of regulation 6 below.

(2) Paragraph (1) above shall not apply to slurry whilst it is stored temporarily in a tanker with a capacity not exceeding 18,000 litres which is used for transporting slurry on roads or about a farm.

Storage of fuel oil on farms

5.—(1) Subject to paragraph (2) below, no person shall have custody or control of fuel oil on a farm unless it is stored—

- (a) in a fuel storage tank within a storage area in relation to which the requirements of Schedule 3 are satisfied;
- (b) in drums within such a storage area;
- (c) temporarily in a tanker used for transporting fuel oil on roads or about the farm;
- (d) in a fuel storage tank which is an exempt structure by virtue of regulation 6 below; or
- (e) in an underground fuel storage tank.

(2) Paragraph (1) above shall not apply if the total quantity of fuel stored on the farm does not exceed 1500 litres.

Exemptions

6. A silo, slurry storage system or fuel storage tank is for the time being an exempt structure if—

- (a) it was used before 1st March 1991 for the purpose of making silage, storing slurry or, as the case maybe, storing fuel oil;
- (b) where it was not used before 1st March 1991 for that purpose, it was constructed before that date for such use; or
- (c) a contract for its construction was entered into before 1st March 1991 or its construction was commenced before that date and in either case was completed before 1st September 1991,

and it has not ceased to be an exempt structure by virtue of regulation 8(1) below.

7.—(1) Subject to the following provisions of this regulation and regulation 8(2) below, regulation 3 above shall not apply where a person makes silage on a farm—

(a) otherwise than in a silo;
(b) by a method different from that described in regulation 3(1)(b) above,
and made the majority of his silage on that farm by that method in the period of 3 years immediately before 1st March 1991.

- (2) A person shall not be entitled to rely on the exemption conferred by paragraph (1) above—
- (a) unless he has given notice to the Authority before 1st September 1991 of his intention to do so and he keeps any crop which is being made into silage in a place at least 10 metres from any inland or coastal waters which silage effluent could enter if it were to escape;
 - (b) on or after 1st September 1996.

Loss of exemption

8.—(1) A structure which is an exempt structure by virtue of regulation 6 above shall cease to be an exempt structure if—

- (a) any requirement of a notice under regulation 9 below is not complied with within the period stated in the notice; or
- (b) at any time on or after 1st March 1991 it is substantially enlarged or substantially reconstructed unless a contract for the work was entered into or the work was commenced before that date and in either case the work was completed before 1st September 1991.

(2) The exemption conferred by regulation 7 above shall cease if any requirement of a notice under regulation 9 below is not complied with within the period stated in the notice.

(3) Any reference in paragraphs (1) and (2) above to the period stated in a notice is to that period as extended if it has been extended under regulation 9(4) below or by virtue of regulation 10(5) below; and any reference in those paragraphs to a requirement of a notice is to that requirement as modified if it has been modified under regulation 9(4) below.

Notice requiring works etc.

9.—(1) Where the Authority is satisfied that there is a significant risk of pollution of controlled waters as a result of—

- (a) the use of an exempt structure mentioned in regulation 6 above for storage of a relevant substance; or
- (b) the making of silage in circumstances in which the exemption conferred by regulation 7 above applies,

it may serve notice on the person having custody or control of the relevant substance requiring him to carry out such works and to take such precautions and other steps as it considers appropriate, having regard to the requirements of Schedule 1, Schedule 2 or, as the case may be, Schedule 3, for reducing that risk to a minimum.

(2) The notice shall specify or describe the works, precautions or other steps which the person is required to carry out or take, state the period within which any such requirement is to be complied with and inform him of the effect in relation to the notice of regulation 10 below.

(3) The period for compliance stated in the notice shall be such period as is reasonable in the circumstances and shall not in any case be less than 28 days.

- (4) The Authority may at any time—
- (a) withdraw the notice;
 - (b) extend the period for compliance with any requirement of the notice;

(c) with the consent of the person on whom the notice is served, modify the requirements of the notice,
and shall do so if so directed by the Secretary of State under regulation 10(4) below.

Appeals against notices requiring works etc.

10.—(1) A person served with a notice under regulation 9 above may within the period of 28 days beginning with the day on which that notice is served (or within such longer period as the Secretary of State may allow) appeal to the Secretary of State against the notice.

(2) An appeal under this regulation shall be made by the appellant serving notice on the Secretary of State and the notice shall contain or be accompanied by a statement of the grounds of appeal.

(3) Before determining an appeal under this regulation the Secretary of State shall, if requested to do so by the appellant or the Authority, afford them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) On determining an appeal under this regulation the Secretary of State shall have power to direct the Authority to withdraw the notice under regulation 9 above, to modify any of its requirements, to extend the period for compliance with any requirement or to dismiss the appeal.

(5) The period for compliance with a notice under regulation 9 above shall, subject to any direction under paragraph (4) above, be extended by a period equal to the period beginning with the date on which notice of appeal is served and ending on the date on which the Secretary of State finally determines the appeal or, if the appeal is withdrawn, the date on which it is withdrawn.

Notice of construction etc.

11. A person who proposes to have custody or control of any relevant substance which is to be kept or stored on a farm in a silo, slurry storage system or, as the case may be, fuel storage area constructed, substantially enlarged or substantially reconstructed on or after 1st September 1991 shall serve notice on the Authority specifying the type of structure to be used and its location at least 14 days before it is to be used for such keeping or storage.

Criminal offences

12.—(1) A person who contravenes regulation 3(1) or (2), 4(1) or 5(1) above shall be guilty of an offence and liable—

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

(2) A person who contravenes regulation 11 above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

22nd February 1991

Michael Heseltine
Secretary of State for the Environment

22nd February 1991

David Hunt
Secretary of State for Wales