
STATUTORY INSTRUMENTS

1991 No. 346 (S.35)

PUBLIC HEALTH, SCOTLAND

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

<i>Made</i>	- - - -	<i>26th February 1991</i>
<i>Laid before Parliament</i>		<i>27th February 1991</i>
<i>Coming into force</i>		
<i>for the purpose of regulation 10(2)</i>		<i>20th March 1991</i>
<i>for all other purposes</i>		<i>1st September 1991</i>

The Secretary of State, in exercise of the powers conferred on him by sections 31A, 104(1)(a) and 105(1) of the Control of Pollution Act 1974(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 1991 and shall come into force, for the purpose of regulation 10(2), on 20th March 1991 and for all other purposes on 1st September 1991.

(2) These Regulations shall extend to Scotland only.

(3) In these Regulations, unless the context otherwise requires—

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

“farm” means land occupied as a unit for agricultural purposes;

“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 which is 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;

(1) 1974 c. 40; section 31A was inserted by the Water Act 1989 (c. 15), Schedule 23, paragraph 4 and section 31A(2)(c)(i) was amended by the Environmental Protection Act 1990 (c. 43), section 145(2); section 105(1) contains definitions of “prescribed” and “regulations” which are relevant to the exercise of the statutory powers under which these Regulations are made.

“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 which is being made into silage;

“river purification authority” means the river purification authority within whose area the silo, slurry storage system or fuel storage tank in question is situated or, in a case to which regulation 6(2)(a) applies, within whose area the crop which is being made into silage is kept;

“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, feed residues, rainwater and washings from a building or yard used by livestock or any combination of these, provided such excreta is always present,

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;

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

(4) In these Regulations, any reference to a numbered regulation or Schedule is a reference to the regulation in, or Schedule to, these Regulations bearing that number and any reference in a regulation or Schedule to a numbered paragraph is a reference to the paragraph in that regulation or Schedule bearing that number.

Making of silage

2.—(1) Subject to regulation 6, 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 5; 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) 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

3.—(1) Subject to paragraph (2), a person having custody or control of slurry shall store it 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 5.

(2) Paragraph (1) shall not apply to slurry while 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

4.—(1) Subject to paragraph (2), 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; or
- (d) in a fuel storage tank which is an exempt structure by virtue of regulation 5; or
- (e) in an underground fuel storage tank.

(2) Paragraph (1) shall not apply if the total quantity of fuel stored on the farm does not exceed 1,250 litres.

Exemptions

5.—(1) Subject to paragraph (2), a silo, slurry storage system or fuel storage tank is for the time being an exempt structure if—

- (a) it was used or constructed before 1st March 1991 for the purpose of making silage or for storing slurry or fuel oil, as the case may be; or
- (b) a contract for its construction was entered into before 1st March 1991 or its construction was commenced before that date and in either case the work was completed before 1st September 1991,

and it has not ceased to be an exempt structure by virtue of regulation 7(1).

(2) A structure is not an exempt structure if it was substantially enlarged or substantially reconstructed at any time on or after 1st March 1991 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.

6.—(1) Subject to paragraph (2), regulation 2 shall not apply where a person makes bulk bagged silage on a farm in bags which are—

- (a) made of 3 ply 1000 gauge polyethylene or material of at least equivalent impermeability and durability, and
- (b) kept sealed to prevent the escape of silage effluent.

(2) A person shall not be entitled to rely on the exemption conferred by paragraph (1) unless—

- (a) he gives at least 30 days' notice to the river purification authority of his intention to make silage by the method described in that paragraph in each year that he intends to use that method; and
- (b) he stores any bags in which silage is being made at a place at least 10 metres from any inland or coastal waters which effluent escaping from the bags could enter.

(3) No person having custody or control of any crop which has been made into silage in the manner described in paragraph (1) shall open or empty any bag in which silage has been made 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.

Loss of exemption

7.—(1) A structure which is an exempt structure by virtue of regulation 5 shall cease to be an exempt structure if—

- (a) any requirement of a notice under regulation 8(1) is not complied with within the period stated in the notice; or
- (b) at any time on or after 1st September 1991, it is substantially enlarged or substantially reconstructed.

(2) Any reference in paragraph (1) to the period stated in a notice is to that period as extended if it has been extended under regulation 8(4) or by virtue of regulation 9(5) or (6) and any reference in that paragraph to a requirement of a notice is to that requirement as modified if it has been modified under regulation 8(4) or by virtue of regulation 9(5).

Notice requiring works etc. to exempt structures

8.—(1) Where the river purification authority is satisfied that there is a significant risk of pollution of controlled waters as a result of the use of an exempt structure mentioned in regulation 5 for storage of a relevant substance, it may serve notice on the person having custody or control of the relevant substance requiring him to carry out such of the works and to take such of the precautions and other steps contained within the requirements of Schedule 1, 2 or 3, as the case may be, as it considers appropriate 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 9.

(3) Any period for compliance stated in the notice shall be such period as the river purification authority may consider reasonable in the circumstances, but no period shall end earlier than on the expiry of the period of 28 days beginning on the day on which the notice is served.

(4) The river purification 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 9(5).

Appeals against notices

9.—(1) A person served with a notice under regulation 8 may within the period of 28 days beginning on 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) At the same time as he serves such notice on the Secretary of State, the appellant shall send a copy of the notice and any accompanying statement to the river purification authority.

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

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

(6) The period for compliance with a notice under regulation 8 shall, subject to any direction under paragraph (5), be extended by a period equal to the period beginning on 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.

Notification requirements

10.—(1) 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 river purification authority specifying the type of structure to be used and its location at least 14 days before it is to be used for such purpose.

(2) A person who intends to make silage in 1991 by the method described in regulation 6(1) shall give notice of such intention to the river purification authority before 1st May 1991.

Criminal offences

11. A person who contravenes regulation 2(1), 2(2), 3(1), 4(1), 6(3) or IO shall be guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

St Andrew's House,
Edinburgh
26th February 1991

James Douglas-Hamilton
Parliamentary Under Secretary of State, Scottish
Office

SCHEDULE 1

Regulation 2(1)(a)

REQUIREMENTS FOR SILOS

1. The requirements which have to be satisfied in relation to a silo are that—
 - (a) it complies with the following provisions of this Schedule; or
 - (b) it is designed and constructed in accordance with the standard on cylindrical forage tower silos published by the British Standards Institution and numbered BS 5061: 1974⁽²⁾.
2. The base of the silo shall, where the silo has retaining walls made other than of earth, extend beyond those walls and shall in all cases be provided with channels so constructed as to collect any silage effluent which may escape from the silo and adequate provision shall be made for the drainage of that effluent from the channels to an effluent tank through a channel or pipe.
3. The capacity of the effluent tank—
 - (a) in the case of a silo with a capacity of less than 1500 cubic metres, shall be not less than 3 cubic metres for each 150 cubic metres or part thereof of silo capacity;
 - (b) in the case of a silo with a capacity of 1500 cubic metres or more, shall be not less than 30 cubic metres plus 1 cubic metre for each 150 cubic metres or part thereof of silo capacity in excess of 1500 cubic metres.
4. The base of the silo, the base and walls of its effluent tank and channels and the walls of any pipes shall be impermeable.
5. The base and any walls of the silo, its effluent tank and channels and the walls of any pipes shall, so far as reasonably practicable, be resistant to attack by silage effluent and, where the walls are made of earth, they shall be lined with an impermeable membrane.
6. No part of the silo, its effluent tank or channels or any associated pipes shall be situated within 10 metres of any inland or coastal waters which silage effluent could enter if it were to escape.
7. If the silo has retaining walls—
 - (a) the retaining walls shall be capable of withstanding minimum wall loadings calculated on the assumptions and in the manner indicated by paragraph 13.9.1 to 13.9.9 of the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution and numbered BS 5502: Part 22: 1987⁽³⁾;
 - (b) the silo shall at no time be loaded to a depth exceeding the maximum depth consistent with the design assumption made in respect of the loadings of the retaining walls; and
 - (c) notices shall be displayed on the retaining walls in accordance with paragraph 13.9.9 of that Code of Practice.
8. Subject to paragraph 9, the silo, its effluent tank and channels and any pipes shall be designed and constructed so that with proper maintenance they are likely to satisfy the requirements of paragraphs 2 to 5 and, if applicable, 7(a) for a period of at least 20 years.
9. Where any part of an effluent tank is installed below ground level, it shall be designed and constructed in accordance with that Code of Practice so that with proper maintenance it is likely to satisfy the requirements of paragraphs 4 and 5 for a period of at least 20 years.

(2) The International Standard Book Number (ISBN) in respect of BS 5061: 1974 is 0 580 080706.

(3) The International Standard Book Number (ISBN) in respect of BS 5502: Part 22: 1987 is 0 580 162869.

SCHEDULE 2

Regulation 3(1)

REQUIREMENTS FOR SLURRY STORAGE SYSTEMS

1. The requirements which have to be satisfied in relation to a slurry storage system are as follows.
2. The base of the slurry storage tank, the base and walls of any effluent tank, channels and reception pit and the walls of any pipes shall be impermeable.
3. The base and walls of the slurry storage tank, any effluent tank, channels and reception pit and the walls of any pipes shall be protected against corrosion in accordance with paragraph 7.2 of the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution and numbered IS 5502: Part 50: 1989(4).
4. The base and walls of the slurry storage tank and any reception pit shall be capable of withstanding characteristic loads calculated on the assumptions and in the manner indicated by paragraph 5 of that Code of Practice.
- 5.—(1) Any facilities used for the temporary storage of slurry before it is transferred to a slurry storage tank shall have adequate capacity to store the maximum quantity of slurry which (disregarding any slurry which will be transferred directly into a slurry storage tank) is likely to be produced on the premises in any two day period.
(2) Where slurry flows into a channel before discharging into a reception pit and the flow of slurry out of the channel is controlled by means of a sluice, the capacity of the reception pit shall be adequate to store the maximum quantity of slurry which can be released by opening the sluice.
- 6.—(1) Subject to sub-paragraph (2), the slurry storage tank shall have adequate storage capacity for the likely quantities of slurry produced from time to time on the premises in question having regard to—
 - (a) the proposed method of disposal of the slurry (including the likely rates and times of disposal); and
 - (b) the matters mentioned in sub-paragraph (3) below.
(2) Where it is proposed to dispose of the slurry on the premises by spreading it on the land, nothing in sub-paragraph (1) shall require the tank to have a greater storage capacity than is adequate, having regard to the matters mentioned in subparagraph (3), to store the maximum quantity of slurry which is likely to be produced in any continuous six month period.
(3) The matters to which regard is to be had under sub-paragraphs (1) and (2) are—
 - (a) the storage capacity of any other slurry storage tank on the premises in question;
 - (b) the likely quantities of rainfall (including any fall of snow, hail or sleet) which may fall or drain into the slurry storage tank during the likely maximum storage period; and
 - (c) the need to make provision for not less than 750 millimetres of freeboard in the case of a tank with walls made of earth and 300 millimetres of freeboard in all other cases.
7. No part of the slurry storage tank or any effluent tank, channels or reception pit shall be situated within 10 metres of any inland or coastal waters which slurry could enter if it were to escape.
8. The slurry storage tank and any effluent tank, channels, pipes and reception pit shall be designed and constructed so that with proper maintenance they are likely to satisfy the requirements of paragraphs 2 to 4 for a period of at least 20 years.
9. Where the walls of the slurry storage tank are not impermeable, the base of the tank shall extend beyond its walls and shall be provided with channels designed and constructed so as to collect

(4) The International Standard Book Number (ISBN) in respect of BS 5502: Part 50: 1989 is 0 580 172112.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

any slurry which may escape from the tank and adequate provision shall be made for the drainage of the slurry from the channels to an effluent tank through a channel or pipe.

10.—(1) Subject to sub-paragraph (2), where the slurry storage tank, any effluent tank or reception pit is fitted with a drainage pipe, there shall be two valves in series on the pipe and each valve shall be capable of stopping the flow of slurry through the pipe and shall be kept shut and locked in that position when not in use.

(2) Sub-paragraph (1) does not apply in relation to a slurry storage tank which drains through the pipe into another slurry storage tank of equal or greater capacity or where the tops of the tanks are at the same level.

11. In the case of a slurry storage tank with walls which are made of earth, the tank shall not be filled to a level which allows less than 750 millimetres of freeboard, and in all other cases the tank shall not be filled to a level which allows less than 300 millimetres of freeboard.

SCHEDULE 3

Regulation 4(1)

REQUIREMENTS FOR FUEL OIL STORAGE AREAS

1. The requirements which have to be satisfied in relation to a fuel oil storage area are as follows.
2. The fuel oil storage area shall be surrounded by a bund capable of retaining within the area—
 - (a) in a case where all the fuel oil within the storage area is contained in one fuel storage tank, a volume of fuel oil not less than 110 per cent of the capacity of the tank;
 - (b) in a case where all the fuel oil within the storage area is contained in more than one fuel storage tank, a volume of fuel oil not less than whichever is the greater of—
 - (i) 110 per cent of the capacity of the largest tank within the storage area; and
 - (ii) 25 per cent of the total volume of such oil which could be stored in tanks within the area;
 - (c) in any other case, a volume of fuel oil not less than whichever is the greater of—
 - (i) 110 per cent of the capacity of the largest container within the storage area; and
 - (ii) 25 per cent of the total volume of such oil at any time stored within the area.
3. The bund and the base of the storage area shall be impermeable and shall be designed and constructed so that with proper maintenance they are likely to remain so for a period of at least 20 years.
4. Every part of any fuel storage tank shall be within the bund.
5. Any tap or valve permanently fixed to the tank through which fuel oil can be discharged to the open shall also be within the bund, shall be so arranged as to discharge vertically downwards and shall be shut and locked in that position when not in use.
6. Where fuel from the tank is discharged through a flexible pipe which is permanently attached to the tank—
 - (a) it shall be fitted with a tap or valve at its end which closes automatically when not in use; and
 - (b) it shall be kept locked in a way which ensures that it is kept within the bund when not in use.
7. No part of the fuel oil storage area or the bund enclosing it shall be situated within 10 metres of any inland or coastal waters which fuel oil could enter if it were to escape.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations which extend to Scotland only, require persons with custody or control of a crop being made into silage, of livestock slurry or of certain fuel oil to carry out works and take precautions and other steps for preventing pollution of waters which are controlled waters for the purposes of Part 11 of the Control of Pollution Act 1974.

The Regulations provide exemptions from their requirements and for the loss of those exemptions in certain circumstances. They also confer a right of appeal to the Secretary of State and provide that contravention of certain regulations is a criminal offence.

Copies of the documents published by the British Standards Institution referred to in the Regulations may be obtained from any of the sales outlets of the British Standards Institution or by post from the British Standards Institution, Linford Wood, Milton Keynes, MK14 6LE (Telephone number: Milton Keynes (STD 0908) 220022).