



STATUTORY INSTRUMENTS.

**S.I. No. 155 of 2011**

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EUROPEAN COMMUNITIES ACT, 1972 (ENVIRONMENTAL SPECIFICATIONS FOR PETROL, DIESEL FUELS AND GAS OILS FOR USE BY NON-ROAD MOBILE MACHINERY, INCLUDING INLAND WATERWAY VESSELS, AGRICULTURAL AND FORESTRY TRACTORS, AND RECREATIONAL CRAFT) REGULATIONS 2011

**(Prn. A11/0519)**

EUROPEAN COMMUNITIES ACT, 1972 (ENVIRONMENTAL SPECIFICATIONS FOR PETROL, DIESEL FUELS AND GAS OILS FOR USE BY NON-ROAD MOBILE MACHINERY, INCLUDING INLAND WATERWAY VESSELS, AGRICULTURAL AND FORESTRY TRACTORS, AND RECREATIONAL CRAFT) REGULATIONS 2011

I, PHIL HOGAN, Minister for the Environment, Heritage and Local Government in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2009/30/EC<sup>1</sup> of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC<sup>2</sup> as regards the specification of petrol, diesel and gas-oil and amending Council Directive 1999/32/EC<sup>3</sup> as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC<sup>4</sup>, hereby make the following regulations:

*Citation*

1. These Regulations may be cited as the European Communities Act, 1972 (Environmental Specifications for Petrol, Diesel Fuels and Gas Oils for use by non-road mobile machinery, including inland waterway vessels, agricultural and forestry tractors, and recreational craft) Regulations 2011.

*Entry into Force*

2. These Regulations shall come into effect on 31 March 2011.

*Definitions*

3. (1) In these Regulations—

“authorised person” means a person who is appointed in writing by a local authority to be an authorised person for the purposes of these Regulations or an officer of the Revenue Commissioners;

“Annex I to Directive 98/70/EC as amended” means Annex I of Directive 98/70/EC<sup>2</sup> of the European Parliament and of the Council of 13 October 1998 as amended by Commission Directive 2000/71/EC<sup>5</sup> of 7 November 2000; Directive 2003/17/EC<sup>6</sup> of the European Parliament and of the Council of 3 March 2003; Regulation (EC) No. 1882/2003<sup>7</sup> of the European Parliament and of the Council of 29 September 2003 and Directive 2009/30/EC<sup>1</sup> of the European Parliament

<sup>1</sup>OJ L 140, 5.6.2009, p. 88-113

<sup>2</sup>OJ L 350, 28.12.1998, p. 58-68

<sup>3</sup>OJ L 121, 11.5.1999, p. 13-18

<sup>4</sup>OJ L 74, 27.3.1993, p. 81-83

<sup>5</sup>OJ L287, 14.11.2000, p. 46-50

<sup>6</sup>OJ L 076, 22.03.2003, p. 10 -19

<sup>7</sup>OJ L 284, 31.10.2003, p. 1-53

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 5th April, 2011.*

and of the Council of 23 April 2009 relating to the quality of petrol, diesel fuels and gas oils;

“Annex II to Directive 98/70/EC as amended” means Annex II of Directive 98/70/EC<sup>2</sup> of the European Parliament and of the Council of 13 October 1998 as amended by Commission Directive 2000/71/EC<sup>5</sup> of 7 November 2000; Directive 2003/17/EC<sup>6</sup> of the European Parliament and of the Council of 3 March 2003; Regulation (EC) No. 1882/2003<sup>7</sup> of the European Parliament and of the Council of 29 September 2003 and Directive 2009/30/EC<sup>1</sup> of the European Parliament and of the Council of 23 April 2009 relating to the quality of petrol, diesel fuels and gas oils;

“Directive 98/70/EC as amended” means Directive 98/70/EC<sup>2</sup> of the European Parliament and of the Council of 13 October 1998 as amended by Commission Directive 2000/71/EC<sup>5</sup> of 7 November 2000; Directive 2003/17/EC<sup>6</sup> of the European Parliament and of the Council of 3 March 2003; Regulation (EC) No. 1882/2003<sup>7</sup> of the European Parliament and of the Council of 29 September 2003 and Directive 2009/30/EC<sup>1</sup> of the European Parliament and of the Council of 23 April 2009 relating to the quality of petrol, diesel fuels and gas oils;

“Directive 2009/30/EC” means Directive 2009/30/EC<sup>1</sup> of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC<sup>2</sup> as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC<sup>3</sup> as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC<sup>4</sup>;

“distributing” means the distribution of petrol or diesel fuels for consumption in road transport or the distribution of gas oils intended for use by non-road mobile machinery (including inland waterway vessels when not at sea), agricultural and forestry tractors, and recreational craft (when not at sea) from the point of first production in the State or first importation into the State;

“gas oils intended for use by non-road mobile machinery (including inland waterway vessels), agricultural and forestry tractors, and recreational craft” means any petroleum-derived liquid, falling within CN codes 2710 19 41 and 2710 19 45, intended for use in compression ignition engines referred to in Directives 94/25/EC<sup>8</sup>, 97/68/EC<sup>9</sup> and 2000/25/EC<sup>10</sup>;

“market” means to distribute to or sell by wholesale or retail at a service station petrol or diesel fuels or to distribute to or sell by wholesale or retail at any premises gas oils for use by non-road mobile machinery, (including inland waterway vessels), agricultural and forestry tractors, and recreational craft;

“service station” means any premises used, or intended to be used, for the sale of petrol or diesel fuel to the public;

<sup>8</sup>OJ L 164, 30.6.1994, p. 15-38

<sup>9</sup>OJ L 59, 27.2.1998, p. 1-86

<sup>10</sup>OJ L 173, 12.7.2000, p. 1-34

“supplier” means the entity responsible for passing fuel or energy through an excise duty point or any other relevant entity designated by the Minister.

(2) In these Regulations—

- (a) any reference to an Annex which is not otherwise identified is a reference to an Annex to Directive 98/70/EC<sup>2</sup> as amended, including any footnotes or other requirements specified therein, and, for the avoidance of doubt, includes amendments to the Annexes adopted in accordance with the procedures specified in Article 10 of Directive 98/70/EC<sup>2</sup> as amended; and
- (b) a letter, word, phrase or symbol which has been assigned a meaning by Directive 98/70/EC<sup>2</sup> as amended, or is used in Directive 98/70/EC<sup>2</sup> as amended, has that meaning where the context requires except where otherwise indicated.

#### *Scope*

4. These Regulations set the technical specifications on health and environmental grounds for fuels to be used with positive ignition and compression-ignition engines in respect of road vehicles, and compression-ignition engines in respect of non-road mobile machinery, inland waterway vessels when not at sea, agricultural and forestry tractors, and recreational craft when not at sea, taking account of the technical requirements of those engines.

#### *Free Circulation of Fuels*

5. A person shall not be prohibited, restricted or prevented from placing on the market in the State petrol, diesel fuels or gas oils which comply with the requirements of these Regulations.

#### *Sampling of Fuels*

6. (1) An authorised person may take, at any place in the State, a sample of petrol, diesel fuels or gas oils for the purposes of these Regulations.

(2) The authorised person taking a sample shall—

- (a) notify forthwith an appropriate person that a sample is so taken;

and

- (b) if so required by the appropriate person at the time of the giving of the notification, divide the sample into two parts, seal and mark each part and leave one part with the appropriate person.

(3) In this Regulation “appropriate person” means the owner of, or any person who appears for the time being in charge of, the premises at which the sample is taken.

*Environmental Specifications for Petrol*

7. A person shall not market petrol in the State unless it complies with the environmental specifications set out in Annex I to Directive 98/70/EC<sup>2</sup> as amended.

8. Notwithstanding Regulation 7, suppliers of petrol in the State shall ensure that petrol with a maximum oxygen content of 2.7% and a maximum ethanol content of 5% will be placed on the market on a balanced geographical basis reflecting the demand for such petrol until 1 January, 2013. The labelling of petrol should be consistent with the relevant standard drawn up by the European Committee for Standardisation.

9. Persons or companies distributing petrol in the State shall ensure the provision of appropriate information to consumers concerning the biofuel content of petrol and, in particular, on the appropriate use of different blends of petrol.

*Environmental Specifications for Diesel Fuels*

10. A person shall not market diesel fuel in the State unless it complies with the environmental specifications set out in Annex II to Directive 98/70/EC<sup>2</sup> as amended.

11. Persons or companies distributing diesel fuels in the State shall ensure the provision of appropriate information to consumers concerning the biofuel, in particular the fatty acid methyl ester, content of diesel fuels.

*Environmental Specifications for Gas Oils*

12. (1) A person shall not market in the State gas oils intended for use by non-road mobile machinery (including inland waterway vessels), agricultural and forestry tractors, and recreational craft, the sulphur content of which exceeds 10 mg/kg.

(2) Notwithstanding Regulation 12(1), gas oils intended for use by non-road mobile machinery (including inland waterway vessels), agricultural and forestry tractors, and recreational craft are permitted to have a sulphur content of up to a maximum of 20 mg/kg at the final point of distribution to end users to accommodate minor contamination in the supply chain.

(3) Liquid fuels other than gas oils compliant with this Regulation may only be used in inland waterway vessels and recreational craft if the sulphur content of those liquid fuels does not exceed the gas oils specifications set out in Regulation 12(2).

(4) This Regulation does not apply to inland waterway vessels when at sea or recreational craft when at sea.

(5) Persons or companies distributing gas oils in the State shall ensure the provision of appropriate information to consumers concerning the biofuel content, if any, of gas oils intended for use by non-road mobile machinery (including inland waterway vessels), agricultural and forestry tractors, and recreational craft.

*Metallic Additives in Fuel*

13. (1) A person shall not market fuel the methylcyclopentadienyl manganese tricarbonyl (MMT) content of which exceeds 6 mg per litre of manganese.

(2) On or after 1 January 2014 a person shall not market fuel the methylcyclopentadienyl manganese tricarbonyl (MMT) content of which exceeds 2 mg per litre of manganese.

(3) A label which designates the metallic content of fuel shall be displayed at any point where fuel containing metallic additives is made available to consumers.

(4) The label shall—

(a) contain the following text “Contains metallic additives”;

(b) be attached to the place where information indicating the type of fuel is displayed, in a clearly visible position;

(c) be in letters at least 2 centimetres high and in a form which is clearly visible and easily legible.

*Fuel Quality Measurement and Monitoring*

14. (1) The measurement methods to be applied in relation to the environmental specifications for petrol shall be those analytical methods specified in Annex I to Directive 98/70/EC<sup>2</sup> as amended.

(2) The measurement methods to be applied in relation to the environmental specifications for diesel fuels shall be those analytical methods specified in Annex II to Directive 98/70/EC<sup>2</sup> as amended.

(3) The reference method for determining the sulphur content of gas oil shall be that defined by EN method 24260 (1987), ISO 8754 (1992) and prEN ISO 14596.

(4) The reference method for determining the manganese content of fuel shall be prEN16135 and prEN16136.

*Offences*

15. (1) Any person who contravenes any provision of these Regulations shall be guilty of an offence.

*Offences by bodies corporate*

16. (1) Where an offence under these Regulations has been committed by a body corporate 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 person being a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

*Prosecutions*

17. A prosecution for a summary offence under these Regulations may be taken by an authorised person.

*Penalties*

18. A person guilty of an offence under these Regulations is liable on summary conviction to a Class A fine or imprisonment for a term not exceeding 3 months or both.

*Revocations*

19. The following are revoked:

- (a) the Air Pollution Act 1987 (Environmental Specifications for Petrol and Diesel Fuels) Regulations 1999, (S.I. No. 407 of 1999);
- (b) the Air Pollution Act 1987 (Environmental Specifications for Petrol and Diesel Fuels) Regulations 2003 (S.I. No. 541 of 2003); and
- (c) the Air Pollution Act 1987 (Environmental Specifications for Petrol and Diesel Fuels) (Amendment) Regulations 2004 (S.I. No. 202 of 2004).



Given under the Official Seal of the Minister for the Environment,  
Heritage and Local Government,  
31 March 2011.

PHIL HOGAN,  
Minister for the Environment, Heritage and Local  
Government.

## EXPLANATORY NOTE

*(This is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations transpose Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 as regards the specification of petrol, diesel and gas-oil and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC.

These Regulations set the technical specifications for petrol and diesel fuels in respect of road vehicles. These Regulations permit the placing on the market of petrol with an ethanol content of up to 10%, diesel fuels with a fatty acid methyl ester content of up to 7% and require suppliers of fuels to provide appropriate information on the biofuel content and blend of such fuels. The Regulations provide for the marketing on an appropriate geographical basis of petrol with a maximum ethanol content of 5% until 1 January, 2013. In addition, suppliers of fuel are obliged to display a label which designates the metallic content of fuel at any point where fuel containing metallic additives is made available to consumers. These Regulations set a metallic additive methylcyclopentadienyl manganese tricarbonyl (MMT) content limit of 6 mg manganese per litre for fuel and a metallic additive methylcyclopentadienyl manganese tricarbonyl (MMT) content limit of 2 mg manganese per litre for fuel from 1 January, 2014.

These Regulations set a maximum sulphur content of 10 mg/kg for gas oils marketed for use by non-road mobile machinery, inland waterway vessels when not at sea, agricultural and forestry tractors, and recreational craft when not at sea. A maximum sulphur content of 20 mg/kg is permitted for gas oil intended for use by non-road mobile machinery, inland waterway vessels when not at sea, agricultural and forestry tractors, and recreational craft when not at sea at the final point of distribution to end users to accommodate minor contamination in the supply chain. Regulation 12(5) also requires that suppliers provide appropriate information to consumers concerning the biofuel content, if any, of gas oils intended for use by non-road mobile machinery, etc. This is necessary because gas oil with bio content is not suitable for use as marine fuel and may also oxidise if stored for periods longer than 6 months.

These Regulations revoke and replace the Air Pollution Act 1987 (Environmental Specifications for Petrol and Diesel Fuels) Regulations 1999, the Air Pollution Act 1987 (Environmental Specifications for Petrol and Diesel Fuels) Regulations 2003 and the Air Pollution Act 1987 (Environmental Specifications for Petrol and Diesel Fuels) (Amendment) Regulations 2004.



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