



STATUTORY INSTRUMENTS.

S.I. No. 630 of 2019



DANGEROUS SUBSTANCES (FLAMMABLE LIQUIDS AND FUELS
RETAIL STORES) REGULATIONS, 2019

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I, PAT BREEN, Minister of State at the Department of Business, Enterprise and Innovation, in exercise of the powers conferred on me by sections 23, 26 and 36 of the Dangerous Substances Act 1972 (No. 10 of 1972), section 58 of the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005) (as adapted by the Jobs, Enterprise and Innovation (Alteration of Name of Department and Title of Minister) Order 2017 (S.I. No. 364 of 2017)) and the Business, Enterprise and Innovation (Delegation of Ministerial Functions) Order 2017 (S.I. No. 569 of 2017), and after consultation with the Health and Safety Authority, hereby make the following regulations:

PART 1

Short title and commencement

1. (1) These Regulations may be cited as the Dangerous Substances (Flammable Liquids and Fuels Retail Stores) Regulations, 2019.
- (2) These Regulations repeal and replace the Dangerous Substances (Retail and Private Petroleum Stores) Regulations, 1979 (No. 311 of 1979).
- (3) These Regulations shall come into operation on 1 April 2020.

Definitions

2. (1) In these Regulations—

“the Act” means the Dangerous Substances Act 1972 (No. 10 of 1972), as amended;

“Act of 2005” means the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005);

“alternative fuels” means fuels or power sources which serve, at least partly, as a substitute for fossil oil sources in the energy supply to transport and which have the potential to contribute to its decarbonisation and enhance the environmental performance of the transport sector, and include, *inter alia*—

- (a) electricity,
- (b) hydrogen,

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“Iris Oifigiúil” of 13th December, 2019.*

- (c) biofuels,
- (d) synthetic and paraffinic fuels,
- (e) natural gas, including biomethane, in gaseous form (compressed natural gas (“CNG”)),
- (f) liquefied petroleum gas (“LPG”), and
- (g) liquefied natural gas (“LNG”);

“appeals authority” means the Health and Safety Authority;

“appropriate fire authority” means the fire authority, having the meaning assigned by the Fire Services Act 1981 (No. 30 of 1981) with functional responsibilities for the area in which the retail store or kerbside retail store concerned is located or the fire authority which gives the services of its fire brigade in relation to fire occurring in the sanitary district (or portion of the sanitary district) in which the store concerned is located;

“appropriate licensing authority” means the licensing authority with functional responsibilities for the area in which the retail store or kerbside retail store is located, or a licensing authority or group of licensing authorities designated as an appropriate licensing authority, or a body established to act on behalf of a licensing authority or group of licensing authorities and designated as an appropriate licensing authority. An appropriate licensing authority may also be an appropriate fire authority;

“approved” except where the context otherwise requires, means approved for the time being by the Minister;

“certificate of operation” means a licence with conditions issued by the appropriate licensing authority granting permission to continue to operate to a kerbside retail store, and describing any and all conditions required by the licensing authority and/or appropriate fire authority for said store to continue to operate”;

“competent person” means a person who, having regard to the task required to be performed and taking account of the inventory, size or hazards (or any combination of these) of the undertaking or establishment concerned, and taking account, as appropriate, of the framework of qualifications referred to in the Qualifications (Education and Training) Act 2012 (No. 28 of 2012), possesses sufficient training, experience and knowledge appropriate to the nature of the work to be undertaken;

“emergency works” refer to works which must be carried out as soon as possible due to the immediate potential for risk of injury, whether required by wear and tear, extreme weather, accidents, negligence, or other causes;

“flammable liquid” (and the categories thereof) means flammable liquid as defined and classified by criteria set out in Table 2.6.1 in Regulation (EC) No 1272 of 2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directive 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1), which Table is set out below;

Table 2.6.1

Criteria for flammable liquids

Category	Criteria
1	Flash point < 23°C and initial boiling point ≤ 35°C
2	Flash point < 23°C and initial boiling point > 35°C
3	Flash point ≥ 23°C and ≤ 60°C (1)

(1) For the purpose of this Regulation gas oils, diesel and light heating oils having a flash point between $\geq 55^{\circ}\text{C}$ and $\leq 75^{\circ}\text{C}$ may be regarded as Category 3.

“fuel” means a flammable liquid or gas, or an alternative fuel, intended for sale or supply to the public for use in engines and vehicles intended for use for transport by air, sea, road or rail;

“gas safety officer” means an authorised officer appointed under section 11(4) of the Electricity Regulation Act 1999 (No. 23 of 1999);

“kerbside retail store” means a retail store, premises or location where:

- (a) flammable liquids and fuels are stored for the purposes of sale or supply to the public and are dispensed to vehicles that are parked on a public road, whether the dispensing equipment is located on a public footpath or otherwise, or
- (b) the vehicle from which flammable liquids and fuels are transferred to the store is parked on a public road.

“licence” means a licence under the Act in respect of a retail store or kerbside retail store for the storage of flammable liquids and fuels at the store for the purposes of sale or supply to the public, and cognate words shall be construed accordingly;

“licensee” means a person, company, or other legal entity having a licence under the Act and is hereby deemed to include any person required to have a licence, (whether or not that person in fact holds a licence) in respect of any retail store or kerbside retail store for the storage of flammable liquids and fuels for the purposes of sale or supply to the public;

“licensing authority” means (as may be appropriate) a local authority for the purposes of the Local Government Act 2001 (No. 37 of 2001) (as amended by the Local Government Reform Act 2014 (No. 1 of 2014)) or a harbour authority within the meaning of section 2 (2) of the Act;

“major works” means works which lead to material changes, additions or modifications to the structure, operation, machinery, equipment, buildings or any other aspect of the store which alter how flammable liquids and fuels are stored, dispensed, or accessed. This includes, *inter alia*, additional pumps, the stocking of new fuels, the addition of new or differently sized tanks, whether underground or other, transfer or relocation of pumps, tanks or other equipment, the expansion of any structures on the site, the addition of structures/equipment such as car washes and tyre pumps, and changes to the entrance and exit which alter the path of vehicles through the store;

“the Minister” means the Minister for Business, Enterprise and Innovation;

“minor works” means works which do not lead to material changes, additions or modifications to the structure, operation, machinery, equipment, buildings or any other aspect of the store and which do not alter how flammable liquids and fuels are stored, dispensed, or accessed. This includes, *inter alia*, minor repairs to the premises, painting, hanging or replacing of signs, replacing pumps or tanks (provided that the location and size of the equipment and type of fuel is not altered), changes to the interior layout of any associated shop (where applicable), and changes to the interior layout of private staff areas;

“new retail store” means a purpose built establishment for which the licensee applies for the first licence after the date of commencement of these Regulations;

“owner” except where the context otherwise requires, means the legal owner of a premises or place at which a retail store or kerbside retail store operates, which is used or intended to be used in part or in full for the keeping of flammable liquids and fuels for sale or supply to the public; the owner may operate the premises themselves, designate a manager to operate the premises, or lease the premises to a person or company who carries out operations;

“operator” except where the context otherwise requires, means a person acting as an employer, whether they are the owner or a lease-holder, or designated by an owner or lease-holder as a manager who manages a retail store or a kerbside retail store (with or without a licence to operate) storing flammable liquids and fuels for the purposes of sale or supply to the public;

“public road” means a road as defined by the Roads Act 1993 (No. 14 of 1993) and includes public footpaths adjoining or adjacent to a public road;

“retail store” means a place or premises used or intended to be used for the keeping for sale or supply to the public under a licence flammable liquids and fuels for use in the propulsion of a vehicle or the running of an engine of any kind;

“risk assessment” means a written assessment identifying the hazards, frequency of occurrence, and actions necessary to mitigate the risk of injury posed by the operation of a retail store or kerbside retail store storing flammable liquids and fuels for the purposes of sale or supply to the public;

“risk of injury” means risk of injury either to people, property or damage to the environment where environmental pollution is an associated hazard from flammable liquids and fuels (or vapours of flammable liquids and fuels) because of ignition, fire, explosion, spillage, escape or leakage, while keeping, dispensing, selling, supplying or conveying such flammable liquids and fuels.

Application

3. (1) These Regulations apply to the storage and handling of flammable liquids and fuels stored at a retail store or a kerbside retail store for the purposes of sale or supply to the public and which potentially pose a risk of injury arising from the co-location of those substances or materials in the immediate vicinity of such flammable liquids and fuels.

(2) Unless otherwise specified, any reference to a Regulation refers to these Regulations, and any reference to a Schedule refers to a Schedule of these Regulations.

Application of Parts 2, 3 and 4 and Schedule 1

4. (1) Subject to paragraph (4), Part 2 of these Regulations applies to kerbside retail stores where flammable liquids and fuels are stored for the purposes of sale or supply to the public.

(2) Part 3 of these Regulations applies to a retail store licensed or required to be licensed under section 21(1) of the Act for the storage of flammable liquids and fuels for the purposes of sale or supply to the public.

(3) Part 4 of these Regulations applies to both retail stores and kerbside retail stores where flammable liquids and fuels are stored for the purposes of sale or supply to the public.

(4) The Minister may, subject to such conditions as may be specified therein, by certificate in writing (which said certificate he may revoke at any time) exempt from all or any of the provisions of these Regulations any person named in the certificate where he is satisfied that the requirements in respect of which the exemption is granted are not necessary for the protection of persons, property or the environment.

(5) Every licence issued under the Dangerous Substances (Retail and Private Petroleum Stores) Regulations, 1979 (S.I. No. 311 of 1979), and valid immediately before the commencement of these Regulations, shall, subject to any other provision of the Regulations, continue in force until the date of expiry of the licence, as though issued under the corresponding provision of these Regulations.

(6) Unless otherwise specified, any reference to a Regulation refers to these Regulations, and any reference to a Schedule refers to a Schedule of these Regulations.

Standards, Codes of Practice and Guidance Documents

5. (1) Part 1 of Schedule 1 lists Standards, Codes of Practice and Guidance Documents which must be adhered to by all stores insofar as is reasonably practicable and insofar as they do not conflict with relevant existing Irish or EU legislation.

(2) Part 2 of Schedule 1 lists Standards, Codes of Practice and Guidance Documents which must be adhered to when applicable, insofar as is reasonably practicable.

(3) Any reference in these Regulations to a Standard, Code of Practice or Guidance Document is a reference to that Standard, Code of Practice or Guidance Document as approved, amended or extended, whether before or after the commencement of these Regulations.

Existing retail stores

6. (1) Where an appropriate licensing authority is satisfied, taking into account the advice and recommendations of the appropriate fire authority and approval of a risk assessment prepared in accordance with Regulation 17, in relation to any retail store used for the keeping of flammable liquids and fuels for the purposes of sale or supply to the public, which was not required to keep a licence under the Dangerous Substances (Retail and Private Petroleum Stores) Regulations, 1979 (S.I. No. 311 of 1979) immediately before the commencement of these Regulations, that:

- (a) such store cannot at reasonable expense be made to comply with the requirements of Regulation 17;
- (b) all reasonably practicable steps have been taken in relation to that store to ensure a standard of protection approximating to that required under the Regulations specified in sub-paragraph (a) of this paragraph against risk of injury caused by flammable liquids and fuels and that risks have been made as low as is reasonably practicable; and
- (c) works, alterations or additions which would enable such store to comply with the Regulations specified in sub-paragraph (a) of this paragraph will be carried out within a specified period and a written undertaking to that effect has been given by the applicant for a licence to the appropriate licensing authority;

the appropriate licensing authority shall issue a licence subject to such conditions (including conditions relating to those works, alterations or additions) as it considers necessary to attach to the licence and specify in the licence.

(2) Where an appropriate licensing authority considers that the risk of injury is so significant that the continued use of a retail store or part thereof should be restricted or should be prohibited until specific measures have been taken to reduce the risk to as low as reasonably practicable the provisions of paragraph (1) of this Regulation shall not apply.

(3) A licence issued under paragraph (1) of this Regulation shall be in the form set out in Schedule 3.

(4) This Regulation shall not apply to kerbside retail stores.

New retail stores

7. New retail stores will be expected to be fully compliant with the appropriate requirements, Standards, Codes of Practice or Guidance Documents contained in Part 1 of Schedule 1, and where applicable, in Part 2 of Schedule 1.

PART 2**REQUIREMENTS FOR KERBSIDE RETAIL STORES ONLY****General requirements for kerbside retail stores**

8. (1) Subject to Regulation 4(4), in order to be eligible for the grant or renewal of permission to continue to operate, a kerbside retail store must comply with the appropriate requirements of these Regulations.

(2) Kerbside retail stores must obtain a valid Certificate of Operation from a licensing authority granting permission to continue to operate, as laid out in Schedule 4. To apply for a Certificate of Operation, the licensee or owner or operator of a kerbside retail store must carry out the following actions:

- (a) The licensee or owner or operator of a kerbside retail store shall carry out a risk assessment conducted by a competent person and in accordance with the criteria laid down in Regulation 17;
- (b) The risk assessment in respect of a kerbside retail store shall be submitted to the appropriate licensing authority and appropriate fire authority; and
- (c) The licensee or owner or operator of a kerbside retail store shall implement all recommendations made in the risk assessment and shall demonstrate to the reasonable satisfaction of the appropriate licensing authority and appropriate fire authority that the recommendations contained therein have been implemented, as per Regulation 17(5).

(3) Notwithstanding any other provisions of these Regulations, the licensee or owner or operator of a kerbside retail store shall take all reasonable actions to minimise the risk of injury.

9. (1) Any decision by an appropriate licensing authority to grant or refuse permission for a kerbside retail store to continue to operate shall be notified in writing to the licensee or owner or operator of said store and shall outline any and all conditions or reasons pertaining to the granting or refusal of such permission.

(2) Any decision by an appropriate licensing authority whether or not to permit a kerbside retail store to continue to operate, or to continue to operate subject to certain conditions, will be at the discretion of the appropriate

licensing authority, taking into account the advice and recommendations of the appropriate fire authority.

(3) The duration of any Certificate of Operation for a kerbside retail store granted by an appropriate licensing authority will be at the discretion of the appropriate licensing authority, taking into account the advice and recommendations of the appropriate fire authority, but shall not exceed a period of 3 years.

(4) In order to be eligible for the granting of permission for a kerbside retail store to continue to operate, or the renewal of such permission, the licensee or owner or operator of a kerbside retail store shall take cognisance of and comply with, as far as is practicable, and in agreement with the appropriate licensing authority, the applicable requirements, Standards, Codes of Practice or Guidance Documents contained in Part 1 of Schedule 1, and where applicable, in Part 2 of Schedule 1.

(5) The appropriate licensing authority shall, insofar as is reasonably practicable, assess the application within a period of 60 days from the date of receipt of the application for a Certificate of Operation and may:

- (a) approve the application;
- (b) seek further information, to be provided by the applicant within 30 days;
- (c) require works to be undertaken within a specified time;
- (d) approve the application subject to conditions; or
- (e) refuse the application.

(6) Where the appropriate licensing authority is unable to assess the application within a period of 60 days, the applicant shall be notified and provided with an explanation for the delay and a proposed deadline for completion of the assessment process.

(7) The appropriate licensing authority may, at their discretion, accept a risk assessment which was undertaken and previously accepted by said licensing authority if the licensee or owner or operator, when making a subsequent application for permission to continue operating, can verify that no major works or emergency works classed as major works have been carried out at the kerbside retail store in the intervening period and no new information related to accident causation and flammable liquids and fuels has become available in the interim period.

(8) Every kerbside retail store shall be maintained and used for the storage of flammable liquids and fuels in accordance with any conditions attached to the Certificate of Operation issued by the appropriate licensing authority.

(9) Every licensee or owner or operator of a kerbside retail store shall acquaint themselves with latest industry good practice relevant to the flammable liquids or fuels stored and those publications set out in Part 1 of Schedule 1, and where applicable, in Part 2 of Schedule 1 and shall implement said good practice as far as is reasonably practicable. Every employee at a kerbside retail store must fulfil the definition of a competent person for the task they are required to perform.

(10) A licensee or owner or operator of a kerbside retail store that has been refused a Certificate of Operation, or been the subject of an adjudication by the appropriate licensing authority on any matter related to the operation of a store, may appeal the decision of the licensing authority to the relevant District Court, no later than 30 days following the date of issue of the notification from the appropriate licensing authority.

(11) It will be at the discretion of the licencing authority, taking into account the advice and recommendations of the appropriate fire authority, to decide if a kerbside retail store may continue to operate pending the outcome of an appeal.

(12) Where a Certificate of Operation is refused, the appropriate licensing authority shall set out in writing the reasons for the refusal of the certificate, including all areas of noncompliance.

PART 3

REQUIREMENTS FOR RETAIL STORES ONLY

General requirements for retail stores

10. (1) All retail stores which store flammable liquids and fuels for the purposes of sale or supply to the public must have a licence to operate granted by the appropriate licensing authority.

(2) Any decision to grant a licence (with or without conditions) to a retail store will be at the discretion of the appropriate licensing authority, taking into account the advice and recommendations of the appropriate fire authority.

(3) In order to be eligible for the grant or renewal of a licence, a risk assessment must be submitted in relation to the retail store, prepared in accordance with Regulation 17 and which is acceptable to the licensing authority.

(4) Every licensed retail store shall be maintained and used for the storage of flammable liquids and fuels in accordance with these Regulations and any conditions attached to the licence.

(5) Latest industry good practice, as laid out in those publications set out in Schedule 1 must be implemented as far as is practicable at all stages in the development, operation and decommissioning of a retail store.

Exemptions – major accident hazard sites

11. These Regulations shall not apply to any retail store or kerbside retail store which is used (or intended to be used) for the sale or supply of flammable liquids and fuels to the public in accordance with these Regulations to which the Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015 (S.I. No. 209 of 2015) apply.

Licences (general provisions)

12. (1) Every application for:

- (a) a first licence;
- (b) an amended licence; or
- (c) the renewal of a licence;

shall be submitted to the appropriate licensing authority and shall include such information and in such format as may be specified by said licensing authority which may include electronic submission and shall be accompanied by the fee for the time being prescribed under section 38 of the Act, or proof of payment where applicable. The licence application should be in the form of Schedule 2.

(2) All licence applications must be accompanied by a risk assessment in the form outlined in Regulation 17.

(3) The licensee of a retail store shall implement all recommendations made in the risk assessment and shall demonstrate to the reasonable satisfaction of the appropriate licensing authority and appropriate fire authority that the recommendations contained therein have been implemented, as per Regulation 17(5).

(4) Where an applicant for a licence proposes to store Compressed Natural Gas on any property to which the licence relates any such application shall be accompanied by a written declaration that the applicant is in full compliance with the requirements of the Gas (Interim) (Regulation) Act 2002 (No. 10 of 2002) and the Electricity Regulation Act 1999 (No. 23 of 1999).

(5) The appropriate licensing authority, as far as is reasonably practicable, shall assess the application within a period of 60 days from the date of receipt of the licence application and may:

- (a) approve the application;
- (b) seek further information, to be provided by the applicant within 30 days;
- (c) require works to be undertaken within a specified time;
- (d) approve the application subject to conditions; or
- (e) refuse the application.

(6) Where the appropriate licensing authority is unable to assess the application within a period of 60 days, the applicant shall be notified and provided with an explanation for the delay and a proposed deadline for completion of the assessment process.

(7) Where a licence has been refused by the appropriate licensing authority, said licensing authority shall set out in writing the reasons for the refusal of the licence, including all areas of non-compliance.

(8) Where a licence application has been refused, or the store has been the subject of an adjudication on any matter by the appropriate licensing authority, the applicant may appeal the decision within a period of 60 days, commencing from the date of issue of the decision by the licensing authority, to the appeals authority.

(9) The appeals authority shall determine an appeal and shall inform the applicant and the licensing authority within a period of 30 days from the date of receipt of the application. The appeals authority may direct the licensing authority to issue the licence with specified conditions. Where an applicant is unsuccessful in an appeal, the applicant is required to take all necessary steps to conform with these Regulations and to re-apply through the appropriate licensing authority.

(10) It will be at the discretion of the licensing authority, taking into account the advice and recommendations of the appropriate fire authority, to decide if a store may continue to operate pending the outcome of an appeal.

(11) Every licence shall be valid for such period not exceeding 3 years from the date of issue, as may be specified in the licence, and any application for the renewal of a licence shall be made not less than 90 days prior to the date on which the licence expires.

(12) The appropriate licensing authority may, at their discretion, accept a risk assessment which was undertaken and previously accepted by said licensing authority if the licensee, when making a subsequent licence renewal application can verify that no major works or emergency works classed as major works have been carried out at the retail store in the intervening period and no new information related to accident causation and flammable liquids and fuels has become available in the interim period.

(13) Where a Local or Harbour Authority directly controls or owns a store under these Regulations, they may not act as the appropriate licensing authority. In such cases, the appropriate licensing authority will be another licensing authority, group of licensing authorities, or body established to act on behalf of a licensing authority or group of licensing authorities, which does not share any control or ownership of the store.

(14) Every licensee of a retail store shall acquaint themselves with latest industry good practice relevant to the flammable liquids or fuels stored and those publications set out in Part 1 of Schedule 1, and where applicable, in Part 2 of Schedule 1 and shall implement said good practice as far as is reasonably practicable. Every employee at a retail store must fulfil the definition of a competent person for the task they are required to perform.

PART 4

GENERAL REQUIREMENTS FOR BOTH RETAIL AND KERBSIDE RETAIL STORES

13. Subject to Regulation 4(4), in order to be eligible for the grant or renewal of a licence for a retail store, or for the grant or renewal of a Certificate of Operation for a kerbside retail store, all stores must comply with the appropriate requirements of these Regulations.

Death or incapacity of licensee, owner or operator

14. Where a licensee or owner or operator of a retail store or a kerbside retail store becomes incapable (whether through death, bankruptcy, mental or physical disability or otherwise) of carrying on business, any other person may, notwithstanding any other provision of these Regulations, carry on the business for a period not exceeding 180 days if, as soon as practicable after the commencement of that period, an application for a licence or for a Certificate of Operation is made to the appropriate licensing authority.

Transfer of operation, ownership or discontinuation of a store

15. (1) A licensee or owner or operator of a retail store or a kerbside retail store shall, not less than 21 days prior to the transfer of operation of a retail store or kerbside retail store to any other person or company, give notice in writing to the appropriate licensing authority of their intention to do so, together with the proposed date of transfer and the name and address of the person or company to whom they propose to transfer operation.

(2) Subject to paragraph (1), where the ownership of a store is transferred by act of the parties or by operation of law, the licensee or owner or operator shall forthwith inform the appropriate licensing authority in writing of the transfer and comply with any reasonable requests for information or subsequent applications for licences or Certificates of Operation that may be required by said licensing authority.

(3) The new licensee or owner or operator shall apply for a new licence or Certificate of Operation or for the transfer of the existing licence or Certificate of Operation within a period of 30 days following the date of transfer of operation.

(4) Where a licensee or owner or operator of a retail store or a kerbside retail store decides to discontinue usage of the store, the licensee or owner or operator shall inform the appropriate licensing authority in writing not less than 90 days prior to cessation of operations and shall comply with all necessary Standards, Codes of Practice or Guidance Documents as set out in Part 1 of Schedule 1, and where applicable, in Part 2 of Schedule 1 regarding the closure, decommissioning and any other relevant matters governing the

cessation of activities at that store, as well as any other existing relevant Irish or EU legislation.

Modification, alterations or changes in usage at retail stores and kerbside retail stores

16. (1) All retail stores and kerbside retail stores shall be operated and maintained in accordance with the risk assessment associated with the licence or the Certificate of Operation that has been granted by the appropriate licensing authority and any associated conditions.

(2) Any licensee or owner or operator of a retail store or a kerbside retail store intending to carry out major works will be required to submit an updated risk assessment, and an application for an amended licence or Certificate of Operation to the appropriate licensing authority in accordance with Regulations 8, 9, 10 and 12, no later than 60 days prior to the commencement of the intended works.

(3) All applications by a licensee or owner or operator of a retail store or kerbside retail store for an amended licence, or for an amended Certificate of Operation, due to the intention to carry out major works at a store, must be accompanied by a new or revised risk assessment, detailing any additional or modified hazards, risks and mitigating actions required to minimise the risk of injury arising from the proposed major works, or from carrying out the proposed major works.

(4) Any decision to grant or refuse the application for an amended licence or Certificate of Operation (with or without conditions) to carry out major works at a retail store or a kerbside retail store will be at the discretion of the appropriate licensing authority, taking into account the advice and recommendations of the appropriate fire authority.

(5) Any licensee or owner or operator of a retail store, or a kerbside retail store intending to carry out minor works shall inform the appropriate licensing authority not less than 30 days prior to the commencement of the minor works. Minor works do not require an amended licence or Certificate of Operation. If the appropriate licensing authority does not agree that the works fall into the category of minor works, they may seek further information from the licensee or owner or operator.

(6) Emergency works should be carried out as soon as possible to ensure the safety of persons, property or the environment. If emergency works may also be classed as major works, the licensee or owner or operator may apply for an amended licence or Certificate of Operation retroactively, but in any event no later than 90 days after the emergency works have been completed.

Risk assessment

17. (1) Every licensee or owner or operator shall engage a competent person to prepare a risk assessment of the risk of injury on site. A risk assessment of a retail store or kerbside retail store shall:

- (a) identify the hazards in the store related to the presence of flammable liquids and fuels as set out in Schedule 5 and assess the risks presented by those hazards;
- (b) identify and describe any measures necessary to reduce the risk of injury to as low a level as is reasonably practicable;
- (c) evaluate whether the risks identified have been reduced to as low a level as is reasonably practicable;
- (d) describe the procedure for the offloading and dispensing of flammable liquids and fuels and the measures taken which minimise the risk of injury to as low a level as is reasonably practicable;
- (e) where the risks have not been reduced to as low a level as is reasonably practicable, propose an implementation plan which will reduce the risks to a level that will be as low as is reasonably practicable.

(2) The risk assessment described in paragraph (1) shall be carried out by a competent person, shall be in writing (whether electronically or in hard copy) and be signed and dated by the competent person. It is the responsibility of the licensee or owner or operator to ensure that the person engaged to carry out a risk assessment meets the criteria of a competent person as defined in Regulation 2.

(3) For the first application for a licence or Certificate of Operation, a risk assessment shall include a map following the guidelines laid out in Schedule 6. The inclusion of a map is not required for a subsequent application for a renewed or amended licence or Certificate of Operation unless major works or emergency works classed as major works have been carried out at the store.

(4) All risk assessments must be consistent with the documents listed in Part 1 of Schedule 1. If a risk assessment is also based on any documents listed in Part 2 of Schedule 1, or other current good practice, these must be indicated in the risk assessment.

(5) A licence for a retail store or a Certificate of Operation for a kerbside retail store shall not be granted by the appropriate licensing authority unless a satisfactory risk assessment has been carried out and all the recommendations made in the risk assessment have been implemented or will be implemented within a period acceptable to the licensing authority.

(6) Prior to the grant of a first licence or Certificate of Operation under these Regulations, the licensing authority or fire authority shall carry out a physical inspection to confirm that all recommendations have been satisfactorily implemented. For subsequent renewals of a licence or Certification of Operation, the licensing authority or fire authority may choose to either accept documentation as proof of works, or carry out an inspection.

(7) A risk assessment shall cease to be valid for the purposes of these Regulations on the expiry of a licence granted for a retail store or the expiry of the Certificate of Operation for a kerbside retail store, subject to Regulations 9(7) and 12(12).

(8) The licensee or owner or operator of a retail store or a kerbside retail store shall be responsible for the cost of carrying out a risk assessment and implementing any recommendations.

Inspections

18. (1) An inspection of a retail store or a kerbside retail store may be carried out without notice at any time by any or all of the following, referred to in these Regulations as an authorised person appointed by the Minister in accordance with section 62 of the Act of 2005:

- (a) an authorised person, authorised by the appropriate fire authority in accordance with section 22 of the Fire Services Act 1981;
- (b) an inspector authorised by the appeals authority, in the case of appeals against licensing or operating decisions made by a licensing authority, in accordance with section 62 of the Act of 2005; or
- (c) a person authorised by the appropriate licensing authority or by the appeals authority, in the case of appeals against licensing or operating decisions made by the licensing authority.

(2) A gas safety officer may also carry out inspections under section 11(4) of the Electricity Regulation Act 1999 (No. 23 of 1999).

Non-compliance

19. (1) Sections 64, 65, 66, 67 and 68 of the Act of 2005 shall apply and an authorised person, as specified in Regulation 18, may exercise any of the powers specified in those sections for the purposes of ensuring compliance by a licensee or owner or operator with the risk assessment, conditions of a licence or Certificate of Operation, or the applicable Standards, Codes of Practice or Guidance Documents as set out in Part 1 of Schedule 1, and, where applicable, Part 2 of Schedule 1.

(2) The provisions of sections 20 and 20A of the Fire Services Act 1981 shall apply in respect of a fire safety notice or closure notice.

(3) For the purposes of paragraphs (1) and (2) and subject to any necessary modifications, section 3 of the Act of 2005 shall apply to the service of a notice or other document required or authorised to be served under sections 64, 65, 66, 67 and 68 of that Act.

Posting of licence or Certificate of Operation

20. The licensee or owner or operator of a retail store or a kerbside retail store shall keep displayed a copy of the licence or the Certificate of Operation, in such manner as to be easily seen and read.

DANGEROUS SUBSTANCES (FLAMMABLE LIQUIDS AND FUELS
RETAIL STORES) REGULATIONS, 2019

SCHEDULE 1

Publications for good practice for retail and kerbside retail flammable liquids and fuels stores.

As per Regulation 5(3), updated or revised versions of these guidance documents will be published periodically on the relevant websites of Local Authorities, the Appeals Authority, and the Minister.

Part 1 – Publications which all stores must adhere to as far as is reasonably practicable

- Energy Institute Design, construction, modification, maintenance and decommissioning of filling stations (known as the Blue Book).
- PELG Petrol filling stations – Guidance on managing the risks of fire and explosion (The Red Guide).

Part 2 – Publications which must be adhered to as far as is reasonably practicable if they apply to the store

- British Compressed Gas Association (BCGA) Code of practice 41 – The design, construction, maintenance and operation of filling stations dispensing gaseous fuels, Revision 1
- CONCAWE Environmental sensitivity assessment of retail filling stations in selected European Countries
- CSN EN 13616-1 Overfill prevention devices for static tanks for liquid fuels - Part 1: Overfill prevention devices with closure device
- CSN EN 13616-2 Overfill prevention devices for static tanks for liquid fuels - Part 2: Overfill prevention devices without a closure device
- CSN EN 13617-1 Petrol filling stations - Part 1: Safety requirements for construction and performance of metering pumps, dispensers and remote pumping units
- CSN EN 13617-2 Petrol filling stations - Part 2: Safety requirements for construction and performance of safe breaks for use on metering pumps and dispensers
- CSN EN 13617-3 Petrol filling stations - Part 3: Safety requirements for construction and performance of shear valves
- CSN EN 13617-4 Petrol filling stations - Part 4: Safety requirements for construction and performance of swivels for use on metering pumps and dispensers
- CSN EN 14125 Thermoplastic and flexible metal pipework for underground installation at petrol filling stations

- CSN EN 16321-1 Petrol vapour recovery during refueling of motor vehicles at service stations - Part 1: Test methods for the type approval efficiency assessment of petrol vapour recovery systems
- CSN EN 16321-2 Petrol vapour recovery during refueling of motor vehicles at service stations - Part 2: Test methods for verification of vapour recovery systems at service stations
- CSN EN 16657 Tanks for the transport of dangerous goods - Transport tank equipment for overflow prevention devices for static tanks
- CSN EN13012 Petrol filling stations - Construction and performance of automatic nozzles for use on fuel dispensers
- Energy Institute – A risk-based approach to hazardous area classification
- Energy Institute – Model code of safe practice Part 1: The selection, installation, inspection, and maintenance of electrical and non-electrical apparatus in hazardous areas
- Energy Institute – Model code of safe practice Part 12: Pressure vessel examination
- Energy Institute – Model code of safe practice Part 13: Pressure piping systems examination
- Energy Institute – Model code of safe practice Part 14: Inspection and testing of protective instrumentation systems
- Energy Institute – Model code of safe practice Part 15: Area classification code for installations handling flammable fluids
- Energy Institute – Model code of safe practice Part 16: Tank cleaning safety code
- Energy Institute Guidance document on risk assessment for the water environment at operational fuel storage and dispensing facilities
- Energy Institute Report on the risk of static ignition during vehicular refuelling: A study of the available relevant research.
- Energy Institute Guidance on external cathodic protection of underground steel storage tanks and steel pipework at petrol filling stations
- Energy Institute Quantified risk assessment of the ignition of flammable vapour on petrol filling station forecourts during road tanker offloading due to thermite sparking
- Energy Institute Electrical installations of facilities for the storage and dispensing of LPG and CNG automotive fuels at vehicle refuelling stations
- Energy Institute Guidelines for uplift of product from retail filling stations and customer tanks
- Energy Institute Code of practice for entry into underground storage tanks at filling stations.

- Energy Institute Guidance on reducing human failure in petroleum product distribution loading and unloading operations
- Energy Institute Code of safe practice for Contractors and retailers managing contractors working on filling stations
- Energy Institute Guidance on the declassification of tanks previously in leaded gasoline service
- Energy Institute Guidance on the implications of groundwater protection: principles and practices (GP3) on the refurbishment or redevelopment of petrol filling stations
- Energy Institute Report A comparison of risks related to the storage of hydrocarbons in above-ground and underground tanks at petrol filling stations
- Energy Institute Guidance on design and operating limits for fuel storage tanks at retail filling stations
- Energy Institute Guidelines for an emergency action plan for fire and explosion risks at filling stations
- Energy Institute Guidance for a product identification system for petroleum products and other fuels
- Energy Institute Guidance for the storage and handling of biofuels at filling stations
- Energy Institute Guidance on environmental management at filling stations
- Energy Institute Guidance on inspection and testing of safety critical equipment in retail filling stations
- Health and Safety Authority (HSA) – Fire and Explosion Risks at Service Stations
- HSA – Emergency response plans for petrol stations
- HSA – Information note – Handling petrol safely
- HSA – Wetstock reconciliation for petrol stations
- Health and Safety Executive (HSE) (UK) Portable petrol storage containers
- Health and Safety Executive (HSE) (UK) L133 Unloading of petrol from road tankers

DANGEROUS SUBSTANCES (FLAMMABLE LIQUIDS AND FUELS
RETAIL STORES) REGULATIONS, 2019

SCHEDULE 2

Form of Application for a first/amended/renewal of or transfer of a licence for
a Retail Store or a Certificate of Operation for a Kerbside Retail Store.

- 1 Applicant/Licensee/Owner or Operator:

 Name and address/registered office of the company, firm or
 person:.....

2. Location of the proposed retail store or current kerbside retail
 store:

 Address.....

 County.....

 Place or townland

 Ordnance Survey Map reference

3. Name of licensee/owner or operator (if application is for
 transfer of a licence or Certificate of Operation):

4. Particulars of plans accompanying this application:

5. Maximum quantity of Category or Categories of flammable liquids stored or to be stored at the store:

Category 1: litres in container stores
 litres in underground tanks
 litres in above-ground tanks

| | |

Category 2: litres in container stores
 litres in underground tanks
 litres in above-ground tanks

| | |

Category 3: litres in container stores
 litres in underground tanks
 litres in above-ground tanks

**Other Fuels
 (State units of
 measurement):**

Name: quantity in container stores
 quantity in underground tanks
 quantity in above-ground tanks

Name: quantity in container stores
 quantity in underground tanks
 quantity in above-ground tanks

Name: quantity in container stores

..... quantity in underground tanks

..... quantity in above-ground tanks

This licence/Certificate of Operation application must be accompanied by a risk assessment and drawings as laid out in Regulation 17 and Schedule 6 of the Dangerous Substances (Flammable Liquids and Fuels Retail Stores) Regulations, 2019.

6. Remarks:

I hereby certify that the information supplied above is true to the best of my knowledge and belief.

Signature of applicant.....

Postal address of applicant.....

.....

Date of application.....

DANGEROUS SUBSTANCES (FLAMMABLE LIQUIDS AND FUELS
RETAIL STORES) REGULATIONS, 2019

SCHEDULE 3

Form of Licence

Register No.

Total quantity authorised

Fee paid

Risk Assessment and Drawings provided Y N

Licence to Keep Flammable Liquids and Fuels at a Retail Store

Name of Licensing Authority

.....

Address of Licensing Authority

.....

.....

Licensee's Name

.....

Licensee's Trade or Business

.....

Licensee's Address

.....

Location of proposed flammable liquids retail store

.....

.....

Risk Assessment carried out by:.....

The _____, being the licensing authority under the provisions of the Dangerous Substances Act, 1972 (No. 10 of 1972), hereby grants this licence authorising flammable liquids and fuels to be kept for the period not exceeding ____ years from the ____ day of ___, 20___, at the flammable liquids and fuels

retail store at the above-named location, subject to the provisions of the said Act and of any orders, regulations and bye-laws made thereunder or continued thereby and in force for the time being, and subject also to the Conditions hereto annexed.

Signed —

Date —

Conditions to be Observed

- 1.
- 2.
- 3.
- 4.
- 5.

DANGEROUS SUBSTANCES (FLAMMABLE LIQUIDS AND FUELS
RETAIL STORES) REGULATIONS, 2019

SCHEDULE 4

Form of Certificate of Operation

Register No.

Total quantity authorised

Fee paid

Risk Assessment and Drawings provided Y N

Certificate of Operation to Keep Flammable Liquids and Fuels at a Kerbside
Retail Store

Name of Licensing Authority

.....

Address of Licensing Authority

.....

.....

.....

Owner/Operator's Name

.....

Owner/Operator's Trade or Business

.....

Owner/Operator's Address

.....

Location of flammable liquids Kerbside Retail Store

.....

.....

Risk Assessment carried out by.....

The _____, being the licensing authority under the provisions of the Dangerous Substances Act, 1972 (No. 10 of 1972), hereby grants this Certificate of Operation authorising flammable liquids and fuels to be kept for the period not exceeding ____ years from the ____ day of ___, 20__, at the flammable liquids and fuels kerbside retail store at the above-named location, subject to the provisions of the said Act and of any orders, regulations and bye-laws made thereunder or continued thereby and in force for the time being, and subject also to the Conditions hereto annexed.

Signed —

Date —

Conditions to be Observed

- 1.
- 2.
- 3.
- 4.
- 5.

DANGEROUS SUBSTANCES (FLAMMABLE LIQUIDS AND FUELS
RETAIL STORES) REGULATIONS, 2019

SCHEDULE 5

*Matters to be included in Risk Assessment of a Flammable Liquids and Fuels
Retail Store or Kerbside Retail Store*

The following list is not exhaustive but sets out the minimum aspects, all of which must be addressed in any risk assessment to be undertaken by a competent person and submitted to the appropriate licensing authority relating to an application for a first, amended, renewal or transfer of a licence or Certificate of Operation under the Dangerous Substances (Flammable Liquids and Fuels Retail Stores) Regulations, 2019.

1. Spills when filling underground tanks and fuel dispensing to customers
2. Impact and damage to dispensers
3. Uncontrolled ignition sources (e.g. smoking by non-customers) associated with a public area during fuel dispensing and underground tank filling
4. Traffic volume using the road
5. Speed of vehicles on adjacent roadway
6. Pedestrian movements on the footpath
7. Fuel delivery frequency and time
8. Age and condition of the underground fuel tanks
9. Nature of fuels stored
10. Separation distances from boundaries and stationery ignition sources
11. Sensitive receptors in the vicinity of the store
12. Delivery area assessment
13. Storage tanks assessment
14. Pipework assessment
15. Dispenser area assessment

Certificates and other mandatory documents:

- a. Petrol Vapour Recovery Certificate;
- b. Explosion Protection Document;
- c. Electrical Safety Certificate; and
- d. Fire Safety Certificate.

DANGEROUS SUBSTANCES (FLAMMABLE LIQUIDS AND FUELS
RETAIL STORES) REGULATIONS, 2019

SCHEDULE 6

*Matters to be Included in the Maps and Drawings Accompanying the Risk
Assessment of a Flammable Liquids and Fuels Retail Store or Kerbside Retail
Store*

- (1) Every risk assessment for a first licence or Certificate of Operation (or for the renewal of a licence or Certificate of Operation where major works have taken place) shall be accompanied by a plan (either in electronic format or hard copy) drawn to a scale in metric units of measurement of not less than 1:2500, consisting of an extract from the Ordnance Survey map (or tracing thereof). The plan should be marked and coloured so as to identify clearly the site or proposed site (including the boundaries which shall be marked in red) of the retail store or kerbside retail store.
- (2) Every plan submitted in accordance with paragraph (1) of this Schedule shall be accompanied by:
 - a. one site plan (either in electronic format or hard copy) in metric units of measurement of not less than 1:100 so marked and coloured so as to identify clearly:
 - i. each underground storage tank, each pipeline or dispensing pump connected to such a tank and each container store or container compound; and
 - ii. all other buildings or structures (including cellars or basements) within a distance of 16 metres of each underground storage tank, offset filling point, dispensing pump, ventilating pipe opening, container store or container compound;
 - b. one plan and specification or appropriate particulars (either in electronic format or hard copy), including suitable drawings or plans, elevations and sections to a scale in metric units of measurement of not less than 1:50 so marked as to give adequate details of the construction or proposed construction and dimensions and manner of installation or proposed installation of each underground storage tank, dispensing pump, container store, container compound and any pipeline (including its diameter);
 - c. one plan or specification or appropriate particulars (either in electronic format or hard copy) shall be so marked as to show all electrical apparatus installed or to be installed or used at a distance not exceeding 5 metres of each underground storage tank, container store, container compound, dispensing pump or

filling, dipping or venting openings of an underground tank or pipeline;

- d. detailed particulars to be shown on a plan of:
 - i. each building or place at a retail store or kerbside retail store in or at which any articles, materials or substances (other than flammable liquids and fuels) liable to spontaneous combustion or ignition or otherwise flammable or dangerous are kept or will be kept and their amounts or quantities;
 - ii. the amount or quantity of flammable liquids and fuels kept or to be kept in each underground storage tank, container store, container compound, or other storage medium; and
 - iii. the approximate maximum number of persons employed or likely to be employed at the store and where applicable in each building at the store;
- e. any further particulars, maps or drawings shall be provided which the licensing authority requires by a notice in writing or electronically.

(3) Subject to Regulation 17(3), every risk assessment supplied with an application for an amended licence or Certificate of Operation under Regulation 17 shall be accompanied by:

- a. one plan (in metric units of measurement) or specification or appropriate particulars giving details of the proposed installation, alteration, enlargement, addition or reconstruction, to the specifications of paragraphs (1) and (2); and
- b. any further particulars, plans, maps or drawings which the licensing authority requires by notice in writing or electronically.

GIVEN under my hand,
11 December 2019

PAT BREEN,
Minister of State at the Department of Business, Enterprise and
Innovation

EXPLANATORY NOTE

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

The purpose of these Regulations, which have been made under the Dangerous Substances Act 1972, is to repeal and replace the Dangerous Substances (Retail and Private Petroleum Stores) Regulations, 1979 (No. 311 of 1979).

The Regulations replace with effect from 1 April 2020 the Dangerous Substances (Retail and Private Petroleum Stores) Regulations, 1979.

These Regulations do not apply to the storage of flammable liquids kept in conformity with the Dangerous Substances (Flammable Liquids and Fuels Distribution and Commercial Supply Stores) Regulations, 2019 (S.I. No. 631 of 2019).

The purpose of the Regulations is to prevent risk of injury arising from the keeping, conveying, loading and unloading of flammable liquids or fuels at retail stores or kerbside retail stores for the purposes of sale or supply to the public.

These Regulations lay down rules which provide for the licensing, operation and inspection of such retail stores, for the purpose of prevention of risk arising from the storage of flammable liquids and fuels, and to seek to limit as far as possible the consequences for human health and the environment arising from the operation of such stores, with the overall objective of providing a high level of protection in a fair, consistent and effective manner.

Further these Regulations grant the authority to license, in certain circumstances, petrol stations which were constructed before 28 September 1979 (kerbside retail stores).

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