



STATUTORY INSTRUMENTS.

S.I. No. 231 of 2016



EUROPEAN UNION (OIL RESERVES) (AMENDMENT)
REGULATIONS 2016

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The Minister for Communications, Energy and Natural Resources, in exercise of the powers conferred on him by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Council Directive 2009/119/EC of 14 September 2009¹, hereby makes the following regulations:

1. These Regulations may be cited as the European Union (Oil Reserves) (Amendment) Regulations 2016.

2. In these Regulations—

“Act of 2007” means the National Oil Reserves Agency Act 2007 (No. 7 of 2007);

“Principal Regulations” means the European Union (Oil Reserves) Regulations 2012 (S.I. No. 541 of 2012).

3. Regulation 2 of the Principal Regulations is amended by the insertion of the following definitions:

“ ‘central stockholding entity’ means the body or service upon which powers may be conferred to act to acquire, maintain or sell oil stocks, including emergency stocks and specific stocks;

‘emergency stocks’ means the oil stocks that each Member State is required to maintain pursuant to Article 3 of the Council Directive;”.

4. The Principal Regulations are amended by the substitution of the following Regulation for Regulation 7:

“7. (1) Where stockholding obligations of another central stockholding entity or those imposed on an economic operator are delegated to the Agency, the Agency shall publish on its website—

(a) on an ongoing basis, full information, broken down by product category, on the quantities of stocks that it can undertake to maintain for interested central stockholding entities of other Member States or, where appropriate, economic operators, and

(b) not later than 7 months before those stockholding obligations are so delegated to it, the conditions, including relating to scheduling,

¹OJ No. L265, 9.10.2009, p.9

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 10th May, 2016.*

subject to which it is willing to provide services related to maintaining those stocks.

(2) Following the publication by the Agency of the conditions referred to in paragraph (1), it shall conduct a competition to determine the best bid made by interested central stockholding entities of other Member States or, where appropriate, economic operators, in respect of the services offered.”.

5. Section 2 of the Act of 2007 is amended by the insertion of the following definitions:

“ ‘additives’ means non-hydrocarbon compounds added to or blended with a product to modify the properties of that product;

‘available and physically accessible’ in respect of stocks means that, in a case of particular urgency, the stocks are at the disposal of the Minister and arrangements are in place to release the stocks to the market within time frames and under conditions conducive to alleviating an oil supply disruption;

‘central stockholding entity’ means the body or service upon which powers may be conferred to act to acquire, maintain or sell oil stocks, including emergency stocks and specific stocks;

‘effective international decision to release stocks’ means any decision taken by the Governing Board of the International Energy Agency to make crude oil or petroleum products available to the market by a release of the stocks of its members or by additional measures which is in force for the time being;

‘emergency stocks’ means the oil stocks that each Member State is required to maintain pursuant to Article 3 of the Council Directive;

‘inland consumption’ means the total quantities, calculated in accordance with Schedule 2, delivered within the State for both energy and non-energy use; this aggregate includes deliveries to the transformation sector and deliveries to industry, transport, households and other sectors for final consumption; it also includes the own consumption of the energy sector (other than refinery fuel);

‘International Energy Agency’ means the intergovernmental organisation of that name established within the framework of the Organisation for Economic Co-operation and Development;

‘major supply disruption’ means a substantial and sudden drop in the supply of crude oil or petroleum products to the European Communities or to a Member State, irrespective of whether that drop has led to an effective international decision to release stocks;

‘reference year’ means the calendar year of the consumption or of the net import data used to calculate either the stocks to be held, or the stocks actually held, at any given time;

‘Regulation (EC) No. 1099/2008’ means Regulation (EC) No. 1099/2008 of the European Parliament and of the Council of 22 October 2008 on Energy Statistics².’.

6. Section 32 of the Act of 2007 is amended—

(a) by the insertion of the following subsection after subsection (1):

“(1A) The level of Irish emergency stocks to be maintained for the purposes of subsection (1)(a), insofar as that subsection relates to those stocks, shall be at least the greater of—

(a) stocks equal to 90 days of average daily net imports calculated in accordance with subsection (1B), or

(b) stocks equal to 61 days of average inland consumption calculated in accordance with subsection (1B).”.

(b) by the insertion of the following subsection after subsection (1A) (inserted by paragraph (a)):

“(1B) (a) In calculating which level of Irish emergency stocks referred to in subsection (1A) is to apply—

(i) 90 days of average daily net imports shall be calculated on the basis of the crude oil equivalent of imports during the previous calendar year determined in accordance with Schedule 1, and

(ii) 61 days of average daily inland consumption shall be calculated on the basis of the crude oil equivalent of inland consumption during the previous calendar year, established and calculated in accordance with Schedule 2.

(b) For the purposes of the calculations referred to in paragraph (a), biofuels and additives shall be taken into account only when they have been blended with the petroleum products concerned.

(c) The average daily net imports and average daily inland consumption referred to in subparagraphs (i) and (ii) of paragraph (a) shall be determined, in relation to the period from 1 January to 31 March of each calendar year, on the basis of the quantities imported into, or consumed in, the State during the last year but one before the calendar year in question.

(d) The level of Irish emergency stocks shall be calculated in accordance with Schedule 3.

²OJ L304 14.11.2008, pg 1

(e) The level of Irish emergency stocks at a given time shall be calculated using data from the reference year determined in accordance with paragraphs (a), (b) and (c).

(f) When calculating the level of Irish emergency stocks, biofuels and additives shall be taken into account when—

(i) they have been blended with petroleum products concerned, or

(ii) they are—

(I) stored on the territory of the State,

(II) to be blended with petroleum products to be used for transportation purposes in accordance with Part 5,

and

(III) reported on monthly in accordance with the National Oil Reserves Agency Act 2007 (Returns and Biofuels Levy) Regulations 2010 (S.I. No. 356 of 2010).”,

(c) by the insertion of the following subsection after subsection (1B) (inserted by paragraph (b)):

(1C) (a) At least one-third of Irish emergency stocks shall be in the form of one or more of the following product categories as defined in section 4 of Annex B to Regulation (EC) No. 1099/2008:

(i) Ethane

(ii) LPG

(iii) Motor gasoline

(iv) Aviation gasoline

(v) Gasoline-type jet fuel (naphtha-type jet fuel or JP4)

(vi) Kerosene-type jet fuel

(vii) Other kerosene

(viii) Gas or diesel oil (distillate fuel oil)

(ix) Fuel oil (high sulphur content and low sulphur content)

(x) White spirit and SBP

- (xi) Lubricants
 - (xii) Bitumen
 - (xiii) Paraffin waxes
 - (xiv) Petroleum coke.
- (b) Stock levels for each category of product referred to in paragraph (a) shall, in respect of each product in the category concerned, be calculated in accordance with Schedule 3.”
- and
- (d) in subsection (2), by the substitution of “under this section” for “under subsection (1)”.

7. Section 35 of the Act of 2007 is amended by the insertion of the following after “exists”:

“, whether by reason of an effective international decision to release stocks or a major supply disruption, or otherwise,”.

8. Section 38 of the Act of 2007 is amended—

(a) in subsection (2)—

(i) in paragraph (d), by the substitution of “to the Minister,” for “to the Minister, and”,

(ii) by the substitution of the following paragraph for paragraph (e):

“(e) where the contract provides for the agreed volume of petroleum products to be held outside the State—

(i) the oil consumer and other person have demonstrated that the petroleum products are held in accordance with the provisions of any oil stocks agreement that the State may enter into from time to time and are, whether or not co-mingled with other stocks held by economic operators—

(I) clearly identifiable in terms of location, volume and category of oil product,

(II) subject to inspection, verification and audit, and

(III) available at all times to be released without encumbrance when the oil consumer is called on to do so by the Minister,

and

- (ii) the oil consumer reports monthly in respect of those petroleum products in accordance with the National Oil Reserves Agency Act 2007 (Returns and Levy) Regulations 2007 (S.I. No. 567 of 2007),”,
- (iii) by the insertion of the following paragraph after paragraph (e) (inserted by subparagraph (ii)):

“(f) the contract provides that where the other person is—

- (i) an economic operator which has surplus stocks or available stockholding capacity outside the territory of the State but within the Community,

or

- (ii) an economic operator which has surplus stocks or available stockholding capacity within the territory of the State,

the delegation of stockholding obligations to that person under the contract shall—

(I) where subparagraph (i) applies—

(A) be authorised in advance by the Minister and by all Member States within whose territories the stocks will be held, and

(B) not be sub-delegated by that other person,

or

(II) where subparagraph (ii) applies—

(A) be communicated in advance to the Minister,

and

(B) not be sub-delegated by that other person,”

- (iv) by the insertion of the following paragraph after paragraph (f) (inserted by paragraph (iii)):

“(g) the contract provides that any change to, or extension of, the stockholding obligations delegated by the oil consumer under that contract to—

- (i) a central stockholding entity, other than the Agency, where—

- (I) the central stockholding agency has, before entering into the contract, declared itself willing to hold such stocks, and
 - (II) the delegation has been authorised in advance by the Minister and by all Member States within whose territories the stocks will be held, or
- (ii) an economic operator, where—
- (I) the operator has surplus stocks or available stockholding capacity outside the territory of the State but within the Community, and
 - (II) the delegation has been authorised in advance by the Minister and by all Member States within whose territories the stocks will be held,

will take effect only where such change or extension is authorised in advance by the Minister and by any other Member State which authorised the delegation of the stockholding obligations under that contract,”

and

- (v) by the insertion of the following paragraph after paragraph (g) (inserted by subparagraph (iv)):

“(h) the contract provides that any change to, or extension of, the stockholding obligations delegated by the oil consumer under that contract to an economic operator that has surplus stocks or available stockholding capacity within the territory of the State shall be deemed to be a new delegation of those obligations.”

and

- (b) in subsection (2A), by the substitution of “to the Agency or to a central stockholding entity other than the Agency” for “to a central stockholding entity (within the meaning of the Council Directive)”.

9. The Principal Act is amended by the insertion of the following schedules:

“SCHEDULE 1

*Section 32***Method for calculating the crude oil equivalent of imports of petroleum products**

The crude oil equivalent of imports of petroleum products, as referred to in section 32 shall be calculated using the following method:

1. The crude oil equivalent of imports of petroleum products is obtained by calculating the sum of the net imports of crude oil, NGL, refinery feedstocks and other hydrocarbons as defined in Section 4 of Annex B to Regulation (EC) No. 1099/2008, adjusting the result to take account of any stock changes, deducting 4 % for naphtha yield (or, if the average naphtha yield within the national territory is greater than 7 %, deducting the net actual consumption of naphtha or the average naphtha yield) and adding this to the net imports of all other petroleum products excluding naphtha, also adjusted to take account of stock changes and multiplied by a factor of 1.065.

2. International marine bunkers within the meaning given by Section 2.1 of Annex A to Regulation (EC) No. 1099/2008 are not included in the calculation.

SCHEDULE 2

*Section 32***Method for calculating the crude oil equivalent of inland consumption**

The crude oil equivalent of inland consumption, as referred to in section 32, shall be calculated using the following method:

1. Inland consumption is the sum of the aggregate 'observed gross inland deliveries', as defined in Section 3.2.1 of Annex C to Regulation (EC) No. 1099/2008, of the following products only: motor gasoline, aviation gasoline, gasoline-type jet fuel (naphtha-type jet fuel or JP4), kerosene-type jet fuel, other kerosene, gas/diesel oil (distillate fuel oil) and fuel oil (high sulphur content and low sulphur content) as defined in Section 4 of Annex B to Regulation (EC) No. 1099/2008. International marine bunkers within the meaning given by Section 2.1 of Annex A to Regulation (EC) No. 1099/2008 are not included in the calculation.
2. The crude oil equivalent of inland consumption is calculated by multiplying by a factor of 1.2.

SCHEDULE 3

Section 32

Method for calculating the level of stocks held

The following method shall be used to calculate stock levels:

1. Without prejudice to the case whereby any oil stocks may be included simultaneously in both the calculation of emergency stocks and the calculation of specific stocks provided these stocks satisfy all the requisite conditions, no quantity may be counted as stock more than once. Crude oil stocks are reduced by 4 %, which corresponds to the average naphtha yield.
2. Stocks of naphtha and petroleum products for international marine bunkers within the meaning given by Section 2.1 of Annex A to Regulation (EC) No. 1099/2008 are not included.
3. Other petroleum products are included in the stock count using one of the two methods outlined at subparagraphs (a) and (b) of paragraph 5.
4. The method chosen will continue to be used throughout the whole calendar year in question.
5. The calculation may include—
 - (a) all other stocks of the petroleum products identified in the first paragraph of Section 3.1 of Annex C to Regulation (EC) No. 1099/2008 and calculate the crude oil equivalent by multiplying the quantities by a factor of 1.065, or
 - (b) stocks of only the following products: motor gasoline, aviation gasoline, gasoline-type jet fuel (naphtha-type jet fuel or JP4), kerosene-type jet fuel, other kerosene, gas/diesel oil (distillate fuel oil) and fuel oil (high sulphur content and low sulphur content) and calculate the crude oil equivalent by multiplying the quantities by a factor of 1.2.
6. The calculation may include quantities held:
 - (a) in refinery tanks,
 - (b) in bulk terminals,
 - (c) in pipeline tankage,
 - (d) in barges,
 - (e) in intercoastal tankers,
 - (f) in inland ship bunkers,
 - (g) in storage tank bottoms,

(h) as working stocks,

(i) by large consumers as required by law or otherwise controlled by a Member State.

7. However, those quantities except for any held in refinery tanks, in pipeline tankage or in bulk terminals, will not be included when calculating levels of specific stocks where such stocks are calculated separately from emergency stocks.

8. The calculation will not include:

(a) crude oil not yet produced;

(b) quantities held:

(i) in pipelines,

(ii) in rail tank cars,

(iii) in seagoing ships' bunkers,

(iv) in service stations and retail stores,

(v) by other consumers,

(vi) in tankers at sea,

(vii) as military stocks.

9. When calculating stocks, the quantities of stocks calculated as set out above will be reduced by 10 %. That reduction applies to all quantities included in a given calculation.

10. The 10% reduction under paragraph 9 shall not be applied when calculating the level of specific stocks or the levels of the different categories of specific stocks where those stocks or categories are considered separately from the emergency stocks, particularly with a view to verifying compliance with the minimum levels laid down for specific stocks.”.



GIVEN under the Official Seal of the Minister for Communication,
Energy and Natural Resources
29 April 2016.

ALEX WHITE,
Minister for Communications, Energy and Natural Resources.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
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