

## **S.I. No. 118/1998 — Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) Regulations, 1998.**

S.I. No. 118/1998:

In exercise of the powers conferred on the Minister for the Environment and Local Government by sections 10, 14 and 53 of the Air Pollution Act, 1987 (No. 6 of 1987), which said powers are delegated to me by the Environment and Local Government (Delegation of Ministerial Functions) (No. 2) Order, 1997 (S.I. No. 428 of 1997), I, DAN WALLACE, Minister of State at the Department of the Environment and Local Government, hereby make the following Regulations:—

1. (1) These Regulations may be cited as the Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) Regulations, 1998.

(2) These Regulations shall come into operation on the 1st day of October, 1998.

2. In these Regulations:—

a reference to a British Standard is a reference to a standard published by the British Standards Institution;

a reference to an International Standard is a reference to a standard published by the International Organisation for Standardisation;

"fuel merchant" means any person or body who or which carries out solely or mainly the business of the wholesaling or retailing of solid fuels;

"owner of a vehicle" means the person in possession of or, for the time being, in charge of a vehicle, howsoever propelled or drawn and, with respect to a mechanically propelled vehicle, includes the registered owner for the purposes of the Road Vehicles (Registration and Licensing) (Amendment) Regulations, 1994 (S.I. No. 277 of 1994);

"restricted area" means an area specified in the First Schedule to these Regulations.

3. (1) A person or body shall not place on the market, sell or distribute within a restricted area—

(a) any bag, bale or other unit of sale of solid fuel having a sulphur content greater than 2% by weight on a dry ash-free basis,

(b) any coal having a gross calorific value greater than, or equal to, 24 Megajoules per kilogram on a moist ash-free basis which contains more than 14% volatile matter by weight on a dry ash-free basis,

(c) any admixture of the coal referred to in paragraph (b) of this sub-article with any other coal or fuel, or

(d) any manufactured fuel containing the coal referred to in paragraph (b) of this sub-article where such manufactured fuel contains more than 14% volatile matter by weight on a dry ash-free basis save where such fuel has a smoke emission rate of not more than 10 grams per hour.

(2) Notwithstanding sub-article (1) of this article, a fuel merchant may transport any of the fuels referred to in sub-article (1) of this article within a restricted area provided—

(a) that such fuels are so transported on or in a vehicle in a total quantity of not less than 3 metric tonnes in weight at any one time in the case of the restricted area of Dublin and not less than 1 metric tone in weight at any one time in the case of any other restricted area, and

(b) that such vehicle is not being used at the same time within that restricted area for the sale or distribution of any other fuels.

4. A person or body shall not place on the market, sell or distribute within a restricted area any solid fuel in a bag unless—

(a) such bag is sealed, and

(b) there is printed on such bag a notice in the form set out in the Second Schedule to these Regulations.

5. For the purposes of these Regulations—

(1) the sulphur content of a solid fuel shall be determined by the method for the time being specified in International Standard reference ISO 351;

(2) the gross calorific value shall be determined by the method for the time being specified in International Standard reference ISO 1928 and the moisture level for the purposes of expressing gross calorific value on a moist ash-free basis shall be the level corresponding to moisture holding capacity as determined by the method for the time being specified in International Standard reference ISO 1018;

(3) the volatile matter content shall be determined by the method for the time being specified in International Standard reference ISO 562;

(4) the smoke emission rate of a manufactured fuel shall be determined by the method for the time being specified in British Standard 3841: 1994;

(5) the ash content of a solid fuel shall be determined by the method for the time being specified in International Standard reference ISO 1171;

(6) the method to be used for calculating analyses of fuels to different bases shall be the method for the time being specified in International Standard reference ISO 1170;

(7) a laboratory or test facility may carry out any test, examination or analysis of any sample of fuel taken pursuant to these Regulations in accordance with the methods specified in sub-articles (1) to (6) of this article.

6. A fuel merchant who, at any premises located within a restricted area, stores for the purposes of placing on the market, sale or distribution outside that area any of the fuels referred to in sub-article (1) of article 3 of these Regulations shall maintain a register in which shall be entered—

(a) on the day of coming into operation of these Regulations and on the last day of every month, details of the quantity of each such fuel stored at the premises on that day, and

(b) each day upon which the premises is open for business, details of any transport of any such fuel from the premises, including the name and address of the person who transported the fuel, the quantity of each fuel transported, and the destination to which it was transported.

7. The owner of any vehicle which is used for the transport of any of the fuels referred to in sub-article (1) of article 3 of these Regulations within a restricted area shall retain on the vehicle—

(a) a statement of the quantity of each such fuel on the vehicle and the name and address of the person or body who supplied the fuel, and

(b) a statement of the destination or destinations of the fuel and the name and address of the person or persons purchasing the fuel.

8. (1) These Regulations shall be enforced by a local authority within its functional area.

(2) The local authorities referred to in sub-article (1) of this article may authorise in writing any person, hereinafter referred to as an "authorised person", for the purposes of the enforcement of these Regulations.

(3) Every authorised person shall be furnished with a certificate of his or her authorisation and when exercising any power provided by or under these Regulations, the authorised person shall, if requested by any person affected, produce the certificate to that person.

(4) An authorised person may, in respect of any vehicle or any premises which, in his or her opinion, is being used in connection with the placing on the market, sale or distribution of solid fuel within a restricted area—

(a) inspect and take samples of any solid fuel on the vehicle or at the premises,

(b) inspect such records or such documents as the authorised person, having regard to all the circumstances, considers necessary for the purposes of these Regulations, or

(c) require from the owner or occupier of the premises or from any other person on the premises, or require from the owner of a vehicle, such information as the authorised person, having regard to all the circumstances, considers necessary for the purposes of these Regulations.

(5) A person shall not obstruct an authorised person in the exercise of his or her powers under these Regulations or wilfully withhold any information which the authorised person requires.

9. (1) Where an authorised person takes a sample of any solid fuel from any vehicle or premises pursuant to these Regulations, the authorised person shall—

(a) forthwith notify an appropriate person that a sample has been so taken and give a receipt in respect of the sample to the appropriate person, and

(b) at the time of taking the sample, attach to the sample's container or packaging, as appropriate, a label specifying the date on which the sample was taken and an appropriate identification number for that sample.

(2) In this article "appropriate person" means the owner or occupier of, or any other person who appears for the time being to be in charge of, the premises at which the sample is taken, or the owner of a vehicle from which the sample is taken.

(3) Any evidence given or to be given in respect of any test, examination or analysis of any sample of fuel taken pursuant to these Regulations shall identify such sample by reference to its identification number and shall in relation to that sample be evidence, without further proof, of the result of the test, examination or analysis, until the contrary is shown.

10. The Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) Regulations, 1990 ( S.I. No. 123 of 1990 ), the Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) Regulations, 1992 ( S.I. No. 274 of 1992 ), the Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) (Amendment) Regulations, 1993 ( S.I. No. 297 of 1993 ), and the Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) (Cork) Regulations, 1994 ( S.I. No. 403 of 1994 ) are hereby revoked with effect from the 1st day of October, 1998.

## FIRST SCHEDULE

### RESTRICTED AREAS

#### RESTRICTED AREA OF DUBLIN

The county borough of Dublin and the administrative counties of Dún Laoghaire-Rathdown, Fingal and South Dublin excluding the following areas:

#### Dún Laoghaire-Rathdown

1. The District Electoral Division of Tibradden.
2. That part of the District Electoral Division of Glencullen situated west of an imaginary line drawn as follows:—

Commencing at the junction of Slate Cabin Lane and Woodside Road, thence in a south-easterly direction and proceeding along Woodside Road and Ballyedmonduff Road to the county boundary at Glencullen Bridge.

#### Fingal

3. The District Electoral Divisions of:—

Balbriggan Rural

Balbriggan Urban

Ballyboghil

Balscadden

Clonmethan

Donabate

Garristown

Hollywood

Holmpatrick

Kilsallaghan

Lusk

Rush

Skerries.

4. That part of the District Electoral Division of Swords — Lissenhall situated north of the Broad Meadow River.

South Dublin

5. The District Electoral Divisions of:—

Ballinascorney

Newcastle

Rathcoole

Saggart.

6. That part of the District Electoral Division of Bohernabreena situated south of an imaginary line drawn as follows:—

Commencing at the junction of Kiltipper Road and Ballymana Lane, thence in an easterly direction to the junction of Daltree Road and Oldcourt Road.

#### RESTRICTED AREA OF CORK

The county borough of Cork together with the included areas of the administrative county of Cork. The included areas of the administrative county of Cork are:—

1. The District Electoral Divisions of:—

Ballincollig

Douglas

Inishkenny

Lehenagh

Rathcooney.

2. That part of the District Electoral Divisions of Bishopstown and St. Mary's not within the county borough of Cork.

#### RESTRICTED AREA OF LIMERICK

The county borough of Limerick together with the included areas of the administrative county of Limerick and the included areas of the administrative county of Clare.

The included areas of the administrative county of Limerick are:—

1. In the District Electoral Division of Ballycummin, the townlands of:—

Ballycummin

Ballykeeffe

Baunacloka

Bunlicky

Castlemungret

Dooradoyle

Gouldavoher

Moneteen

Skehacreggaun

Sluggary.

2. In the District Electoral Division of Limerick North Rural, the townlands of:—

Ballygrennan

Caheradavin

Clonconane

Clondrinagh

Clonmacken

Coonagh East

Coonagh West

Knock

Shannabooly.

3. In the District Electoral Division of Ballysimon, the townlands of:—

Ballysimon

Ballysimon (Dickinson)

Dromroe

Garryglass

Kilbane

Newcastle

Newtown (E.D. Ballysimon)

Peafield

Sreelane

Towlertown.

4. In the District Electoral Division of Limerick South Rural, the townlands of:—

Banemore

Bohereen (E.D. Limerick South)

Crabb's-land

Crossagalla

Monaclinoe

Rathbane South

Reboge

Reboge Meadows

Rossbrien

Singland.

5. In the District Electoral Division of Ballyvara, the townlands of:—

Castletroy

Rivers

The included areas of the administrative county of Clare are:—

in the District Electoral Division of Ballyglass, the townlands of:—

Athlunkard

Ballykeelaun

Fairyhill

Garraun

Gortatogher

Knockballynameath

Kilquane

Parteen

Quinspool South

#### RESTRICTED AREA OF ARKLOW

The urban district of Arklow together with the included areas of the administrative county of Wicklow. The included areas of the administrative county of Wicklow are:—

1. In the District Electoral Division of Kilbride (Arklow), the townlands of:—

Kilbride

Killiniskyduff

Seabank.

2. In the District Electoral Division of Arklow Rural, the townland of Moneylittle.

#### RESTRICTED AREA OF DROGHEDA

The borough of Drogheda together with the included areas of the administrative county of Meath. The included area of the administrative county of Meath are:—

in the District Electoral Division of St. Mary's, the townlands of:—

Lagavooren

Bryanstown

#### RESTRICTED AREA OF DUNDALK

The urban district of Dundalk.

#### RESTRICTED AREA OF WEXFORD

The borough of Wexford together with the included area of the administrative county of Wexford. The included area of the administrative county of Wexford is all that area comprised between the existing borough boundary and an imaginary line drawn as follows:

From a point on the coast at Wexford Harbour, along the north eastern townland boundaries of Tincone and Crosstown in a north westerly direction to regional road No. 741-25; thence along



regional road No. 741-25 in a northerly direction to the junction with local road No. LS 7010-02, then along local road No. LS 7010-02 in a south westerly direction for 400 metres; thence north for 150 metres, then turning in a westerly direction along the southern-most boundary of Crosstown cemetery (excluding the cemetery) until reaching the eastern bank of the River Slaney.

From a point on the western bank of the River Slaney, along the northern and eastern boundaries of Townparks townland, to the junction of regional road No. 730-16 and local road No. LP 3010-01, then west along regional road No. 730-16 to the junction with local road No. LT 30123 at Park townland; thence south along local road No. LT 30123 to the junction with local road No. LP 3012-01, then along the western boundary of Carricklawn townland, until it meets the regional road No. 769-02 at Wexford racecourse; thence in an easterly direction along the regional road No. 769-02 for 300 metres; thence traversing the eastern and southern boundaries of Wexford racecourse (excluding the racecourse) until meeting Coolcotts Lane (local road No. LP 3013-01); thence turning west along Coolcotts Lane for 130 metres, and south along the western boundary of Townparks townland until it reaches local road No. LP 3014-01; thence crossing Clonard Little townland in a southerly direction until it reaches regional road No. 733-22; thence crossing east along the townland boundary of Killeens and then crossing the townland at Ballynagee and the southern townland boundary of Whiterock North, until it reaches local road No. LP 3016-01 at Whiterock Hill; thence traversing the townland of Whiterock South, along the western, northern and eastern boundaries of Wexford golf course (excluding the golf course) until it reaches Mulgannon Lane (local road No. LP 3039-01); thence crossing the townland of Mulgannon as far as the townland boundary, and travelling north east along this townland boundary for 250 metres and then crossing Rocksborough townland as far as local road No. LP 3039-01 and on to the junction with regional road No. 730-18 at Kerlogue; thence travelling north along regional road No. 730-18 to Wexford Town until reaching the southern townland boundary of Maudlinton, and from there crossing east along this townland boundary to the coast at Wexford Harbour.

## SECOND SCHEDULE

Form of notice referred to in article 4(b).

In letters at least 2 centimetres high and in a form which is clearly legible—

- (i) the name and address of the person who packed the bag, and
- (ii) "SMOKELESS FUEL — Contents comply with the Air Pollution Act Regulations".

For the purposes of this Schedule, a reference to the "Air Pollution Act Regulations" shall be construed as a reference to these Regulations.

DATED this 22nd day of April, 1998.

DAN WALLACE,

Minister of State at the Department of the Environment and Local Government.

## EXPLANATORY NOTE.

These Regulations revoke, and replace with some amendments, the Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) Regulations, 1990 to 1993 and the Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) (Cork) Regulations, 1994 relating to the ban on the marketing, sale or distribution of certain fuels within the restricted areas of Dublin and Cork.

The Regulations also provide for the introduction of the same ban in the restricted areas of Arklow, Drogheda, Dundalk, Limerick and Wexford.

The Regulations come into force on 1 October, 1998.

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