

S.I. No. 270/2011 — Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) (Amendment) Regulations 2011.

Notice of the making of this Statutory Instrument was published in

“Iris Oifigiúil” of 10th June, 2011.

I, PHIL HOGAN, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by Sections 10, 14 and 53 of the Air Pollution Act, 1987 (No. 6 of 1987), hereby make the following Regulations.

Citation

1. (1) These Regulations may be cited as the Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) (Amendment) Regulations 2011.

(2) The Principal Regulations, the Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) (Amendment) Regulations 2000 (S.I. No. 278 of 2000), the Air Pollution Act 1987 (Marketing, Sale and Distribution of Fuels) (Amendment) Regulations 2003 (S.I. No. 111 of 2003), the Air Pollution Act 1987 (Marketing, Sale and Distribution of Fuels) (Amendment) Regulations 2004 (S.I. No. 713 of 2004) and these Regulations may be cited together as the Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) Regulations 1998 to 2011 and shall be construed together as one.

Entry into Force

2. (1) These Regulations other than Regulation 4(g) come into operation on 7 June 2011.

(2) Regulation 4(g) comes into operation on 1 August 2011.

Definitions

3. In these Regulations “Principal Regulations” means the Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) Regulations 1998 (S.I. No. 118 of 1998).

Amendment to the Principal Regulations

4. The Principal Regulations are amended—

(a) By inserting after Regulation 2 the following Regulation:

“2A.

‘Agency’ means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Act 1992 ;

‘bag’ means a receptacle containing 10 kg or more of coal, which is sealable;

‘bagging operator’ means any person or body who or which carries out the business of bagging coal for residential supply within the State;

‘bituminous coal’ means coal falling within CN Code 2701 12 placed on the market for residential heating;

‘fuel supplier’ means any person or body which wholesales, supplies, or solely or mainly retails, bituminous coal in the State in a given year.

(b) By inserting after Regulation 3 the following Regulation:

“3A. A person or body shall not place on the market or sell any bag, or other unit of sale of bituminous coal having a sulphur content greater than 0.7 % by weight.”

(c) By inserting after Regulation 4 the following Regulations:

“4A. A person or body shall not place on the market, sell or distribute bituminous coal in a bag unless—

(1) it is sealed,

(2) such a person or body holds a record showing the product is compliant with Regulation 3A,

(3) the product was supplied in compliance with the requirements of Regulations 4B and 4C.

4B. All bagging operators supplying bituminous coal for residential use within the State shall:

(1) register with the Agency on an annual basis by 1 September each year in such form as the Agency may specify,

(2) furnish such information as the Agency may reasonably require for the purpose of fulfilling its functions, and

(3) in cases where a bagging operator ceases to supply bituminous coal for residential use within the State they must inform the Agency within 30 days of cessation of activities.

4C. All fuel suppliers supplying bituminous coal for residential use within the State shall:

(1) register with the Agency by 31 December 2011 and thereafter register every 2 years in such form as the Agency may specify,

(2) if entering the market for the first time after 31 December 2011 register with the Agency within 30 days of commencing operations and thereafter register every 2 years in such form as the Agency may specify,

(3) furnish such information as the Agency may reasonably require for the purpose of fulfilling its functions, and

(4) in cases where a fuel supplier ceases to supply bituminous coal for residential use within the State they must inform the Agency within 30 days of cessation of activities.”

(d) By inserting after Regulation 5 the following Regulation:

“5A. The requirements contained in Regulation 3A shall be satisfied by compliance with:

(1) a relevant standard or code of practice of a national standards body or equivalent body in another EU Member State, an EFTA State or Turkey,

(2) any relevant international standard recognised for use in another EU Member State, an EFTA State or Turkey, or

(3) any relevant technical regulation with mandatory or de facto mandatory application for marketing or use in, another EU Member State, an EFTA State or Turkey

insofar as the standard, code of practice, technical regulation or process in question enables the sulphur content of coal to be certified in an equivalent manner.”

(e) By inserting after Regulation 8 the following Regulation:

“8A. An authorised person may, for the purpose of determining compliance with Regulation 3A, 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 bituminous coal—

(1) inspect and take samples of any bituminous coal on the vehicle or at the premises,

(2) inspect such records as required to be held under Regulation 4A(2) or such documents as the authorised person, having regard to all the circumstances, considers necessary for the purposes of these Regulations, or

(3) 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, the registration number issued by the Agency to the bagging operator or fuel supplier that supplied the product.

(f) By inserting after Regulation 9 the following Regulation:

“9A. A person who contravenes a provision of these Regulations as provided for in Section 11 of the Air Pollution Act, 1987 shall be guilty of an offence.”

and

(g) By the addition of the following at the end of the First Schedule—

“Restricted Area of Athlone

Athlone and environs comprising the following Electoral Divisions:

Athlone East and West Urban; Athlone East Rural; and Moydrum.

Restricted Area of Carlow

Carlow and environs comprising the following Electoral Divisions:

Carlow Urban; Graigue Urban; Ballinacarrig; Carlow Rural; and Graigue Rural.

Restricted Area of Clonmel

Clonmel and environs comprising the following Electoral Divisions:

Clonmel East and West Urban; Clonmel Rural; and Inishlounaght.

Restricted Area of Ennis

Ennis and environs comprising the following Electoral Divisions:

Ennis Nos. 1, 2, 3 and 4 Urban; Clareabbey; Doora; Ennis Rural; and Spancelhill.”

Given under the Official Seal of the Minister for the Environment, Community and Local Government,

7 June 2011.

PHIL HOGAN,

Minister for the Environment, Community and Local Government.

EXPLANATORY NOTE

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

These Regulations amend the Air pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) Regulations 1998 (S.I. No. 118 of 1998).

These Regulations require that all bituminous coal supplied for residential heating has a sulphur content not greater than 0.7%. There is an obligation on those placing bituminous coal on the market to hold a record showing that the coal is in compliance with this limit. Bags of coal supplied as a unit of sale must be sealed.

The functions of the Environmental Protection Agency in relation to registration by coal bagging operators and fuel suppliers are as set out in the separate Environmental Protection Agency Act, 1992 (Registration of Coal Bagging Operators and Fuel Suppliers) Regulations 2011.

These Regulations also provide for the introduction of the ban on the marketing, sale and distribution of bituminous fuel to four additional restricted areas in Athlone, Carlow, Clonmel and Ennis.

These Regulations come into force with immediate effect except for Regulation 4(g). Regulation 4(g), providing for the addition of Athlone, Carlow, Clonmel and Ennis to the bituminous fuel restricted areas, comes into effect on 1 August 2011.

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