

## STATUTORY INSTRUMENTS

### S.I. No. 13 of 2001

#### **AIR POLLUTION ACT, 1987 (SULPHUR CONTENT OF HEAVY FUEL OIL AND GAS OIL) REGULATIONS, 2001**

In exercise of the powers conferred on the Minister for the Environment and Local Government by sections 10, 13, 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), and for the purpose of giving effect to Council Directive 1999/32/EC <sup>(1)</sup> relating to a reduction in the sulphur content of certain liquid fuels and amending Council Directive 93/12/EC <sup>(2)</sup>, I, Dan Wallace, T.D., Minister of State at the Department of the Environment and Local Government, hereby make the following Regulations:-

<sup>2</sup> O.J. No. L 74 of 27 March 1993, p.81

<sup>1</sup> O.J. No. L 121/13 of 11 May 1999

#### **Citation**

1 These regulations may be cited as the Air Pollution Act, 1987 (Sulphur Content of Heavy Fuel Oil and Gas Oil) Regulations, 2001.

#### **Entry into Force**

2 These Regulations shall come into operation on the 30<sup>th</sup> day of January 2001.

#### **Definitions**

3 (1) In these Regulations:

"the Act" means the Air Pollution Act, 1987 (No. 6 of 1987);

"authorised person" has the meaning assigned to it by the Act but for the purposes of these Regulations includes an inspector as defined in the Sea Pollution Act, 1991 (No. 27 of 1991);

"the Directive" means Council Directive 1999/32/EC.

(2) In these Regulations —

(a) any reference to an article or sub-article which is not otherwise identified is a reference to an article or sub-article of these Regulations;

(b) any reference to the State includes a reference as defined in Section 3(2) of the Oil Pollution of the Sea (Civil Liability and Compensation)(Act), 1998 (No. 11 of 1998) as amended by Section 3(b) of the Oil Pollution of the Sea (Civil Liability and Compensation)(Amendment Act), 1998 (No. 13 of 1998);

(c) a letter, word, phrase or symbol which has been assigned a meaning by the Directive, or is used in the Directive, has that meaning where the context requires except where otherwise indicated;

(d) a reference to an International Standard (ISO) is a reference to a standard published by the International Organisation for Standardisation;

(e) a reference to a European Standard (EN) is a reference to an EN as adopted by the National Standards Authority of Ireland and published as an I.S. EN, and a reference to a provisional European Standard (PrEN) is a reference to a PrEN published by the European Committee for Standardisation (CEN).

### **Scope**

4 (1) These Regulations reduce the emissions of sulphur dioxide, and thereby the harmful effects of such emissions on human beings and the environment, resulting from the combustion of certain types of petroleum derived liquid fuels, by imposing limits on the sulphur content of such fuels as a condition of their use within the State.

(2) These Regulations shall not apply to:

(a) petroleum derived liquid fuels used by seagoing ships, except for marine gas oil;

(b) marine gas oil used by ships crossing a frontier between the State and a country which is not a Member State of the European Communities;

(c) fuels intended for processing prior to final combustion, or

(d) fuels to be processed in the refining industry.

### **Maximum Sulphur Content of Heavy Fuel Oil**

5 (1) On and from 1 January 2003 a person shall not use heavy fuel oil in the State if the sulphur content of the oil exceeds 1% by mass.

(2) The provisions of sub-article (1) shall not apply to heavy fuel oils used:

(a) in a new combustion plant as defined by article 2(2) of the Air Pollution Act, 1987 (Emission Limit Values for Combustion Plant) Regulations, 1996 (S.I. No. 264 of 1996), and where the plant complies with the relevant sulphur dioxide emission limit values specified in the Schedules to these Regulations.

(b) in a combustion plant, excluding combustion plants specified in sub-article (a), where the emissions of sulphur dioxide from the plant are less than or equal to 1700 mg/Nm<sup>3</sup> at an oxygen content in the flue gas of 3% by volume on a dry basis, and

(c) for combustion in a petroleum or gas refinery where the monthly average of emissions of sulphur dioxide averaged over all plants in the refinery, excluding combustion plants specified in sub-article (a), and irrespective of the type of fuel or fuel combination used, does not exceed 1700 mg/Nm<sup>3</sup>.

#### **Maximum Sulphur Content of Gas Oil**

6 (1) Subject to sub-article (2) a person shall not use gas oil, including marine gas oil, in the State if the sulphur content of the oil exceeds 0.2% by mass.

(2) On and from 1 January 2008 a person shall not use gas oil, including marine gas oil, in the State if the sulphur content of the oil exceeds 0.1% by mass.

#### **Sampling of Fuels**

7 (1) An authorised person or an officer of the Revenue Commissioners may take, at any place in the State, a sample of heavy fuel oil or gas oil, including marine gas oil, for the purposes of these Regulations.

(2) The authorised person or the officer of the Revenue Commissioners taking a sample shall -

(a) notify forthwith an appropriate person that a sample is so taken, and,

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

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

#### **Analysis of Fuels**

8 (1) The reference method for determining the sulphur content of heavy fuel oil and marine gas oil shall be that defined by ISO method 8754 (1992) and PrEN ISO 14596.

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

(3) The arbitration method for determining the sulphur content of heavy fuel oil and gas oil, including marine gas oil, shall be PrEN ISO 14596.

(4) The statistical interpretation of the results of the verification of the sulphur content of the gas oils pursuant to these Regulations shall be carried out in accordance with ISO standard 4259 (1992).

## **Offences**

9 (1) It shall be an offence to use heavy fuel oil in contravention of article 5.

(2) It shall be an offence to use gas oil, including marine gas oil, in contravention of article 6.

(3) An offence under these Regulations may be prosecuted by an authorised person.

## **Revocations**

10 The Air Pollution Act, 1987 (Sulphur Content of Gas Oil) Regulations, 1994 (S.I. No. 256 of 1994) are hereby revoked.

Dated this 30<sup>th</sup> day of January 2001

DAN WALLACE

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

## **EXPLANATORY MEMORANDUM**

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

These Regulations give effect to Council Directive 1999/332/EC relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC.

The Regulations prohibit the use in the State of heavy fuel oils with a sulphur content exceeding 1% by mass from 1 January 2003.

The Regulations replace the ban on the marketing of gas oils with a sulphur content exceeding 0.2% by mass (in operation since 1 October, 1994) with a ban on the use of these oils. The Regulations also provide for further sulphur reduction to a content not exceeding 0.1% by mass from 1 January 2008. The Directive widens the definition of "gas oil" so that the Regulations now encompass both aviation kerosene and marine gas oils.

These Regulations replace the Air Pollution Act, 1987 (Sulphur Content of Gas Oil) Regulations, 1994 (S.I. No. 256 of 1994).