

2009 No. 3277

CONSUMER PROTECTION

The Biofuel (Labelling) (Amendment) Regulations 2009

Made - - - - *10th December 2009*

Laid before Parliament *15th December 2009*

Coming into force - - *8th January 2010*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Secretary of State is designated(b) for the purpose of section 2(2) in relation to measures relating to consumer protection.

Citation and commencement

1. These Regulations may be cited as the Biofuel (Labelling) (Amendment) Regulations 2009 and they come into force on 8th January 2010.

Amendment of Regulations

2. The Biofuel (Labelling) Regulations 2004(c) are amended as follows.

Amendment of regulation 3 (labelling requirements)

3.—(1) Regulation 3 is amended as follows.

(2) In paragraph (1)—

(a) for “This regulation” substitute “Paragraph (2)”;

(b) in sub-paragraph (c) for “biofuel, whether bioethanol, biodiesel, or both” substitute “bioethanol”.

(3) After paragraph (1)(c) add—

“(d) any blend containing more than 7% by volume of biodiesel.”

(4) In paragraph (2) for “this regulation” substitute “this paragraph”.

(5) After paragraph (2) add—

“(3) No person shall sell, or offer for sale, to the ultimate consumer before 1st April 2010 any blend containing more than 5% but not more than 7% by volume of biodiesel unless the

(a) 1972 c.68; section 2(2) to the 1972 Act was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51).

(b) S.I. 1993/2661, to which there are amendments not relevant to these Regulations.

(c) S.I. 2004/3349, to which there are amendments not relevant to these Regulations.

words “Contains up to 7% biodiesel” are displayed prominently on any dispenser from which such fuel is sold or offered for sale to the ultimate consumer.”

Amendment of Part 1 to the Schedule (provisions as to defences)

4. In paragraph 2(1) of Part 1 to the Schedule, for “Regulation 3(2)” substitute “regulation 3(2) or (3)”.

Signed by the authority of the Secretary of State

10th December 2009

Sadiq Khan
Minister of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Biofuel (Labelling) Regulations 2004 (S.I. 2004/3349) (“the 2004 Regulations”).

These Regulations transpose Articles 3(3) and 4(1) of Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels (OJ L 350, 28.12.1998, pp. 58–68) as amended by Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 (OJ L 140, 5.6.2009, pp. 88–113) in so far as they require the provision of information to consumers in relation to biofuel blends. This transposition is effected by retaining, for most biofuel blend ratios, the form of pump label previously prescribed.

They also transpose Article 26(2) of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources (OJ L 140, 5.6.2009, pp. 16–62) in so far as Article 26(2) repeals Article 3(5) of Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport (OJ L 123, 17.05.2003, pp. 42–46). That repeal takes effect from 1 April 2010. This transposition is effected by disapplying all labelling requirements from 1 April 2010 for those fuels for which continued labelling is not necessary to satisfy the obligations imposed by Directive 98/70/EC as amended and referred to above. An interim pump label is also prescribed for such fuels to cover the period between the date that these Regulations come into force and 1 April 2010.

Regulation 3 amends the 2004 Regulations to require fuel retailers selling diesel blends containing more than 5% but not more than 7% by volume of biodiesel to display a label stating “Contains up to 7% biodiesel” at the point of sale. This requirement applies between the date that these Regulations come into force and 1 April 2010. As of 1 April 2010 this regulation amends the labelling requirements to allow fuel retailers to sell any diesel blend containing not more than 7% biodiesel by volume without the need to display a label at the point of sale.

Regulation 4 makes a consequential amendment to paragraph 2(1) of the Schedule to the 2004 Regulations. If an employee or agent contravenes the labelling obligation which is imposed until 1 April 2010, that will constitute an offence whether or not proceedings are taken against the relevant employer or principal.

A Transposition Note in respect of the relevant parts of Directive 2009/28/EC and Directive 98/70/EC as amended has been laid before each House of Parliament.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Cleaner Fuels and Vehicles Division, Department for Transport, Great Minster House, 76 Marsham Street, London SW1P 4DR (telephone 020 7944 2958) and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website, www.opsi.gov.uk. A copy of the impact assessment has been placed in the library of each House of Parliament.

A copy of the Directives referred to in this Explanatory Note may be obtained from the Office of Public Sector Information or viewed in the Official Journal of the European Union via the EUR-Lex website at <http://eur-lex.europa.eu/>.

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STATUTORY INSTRUMENTS

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