
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transpose Articles 7a to 7e, and Annex IV, 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 inserted 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).

These Regulations require suppliers of fuel for use in road vehicles and various forms of mobile machinery to report on the greenhouse gas (“GHG”) intensity of their fuels and upon the sustainability of any biofuels supplied.

Part 2 of the Regulations imposes on fuel suppliers who supply liquid or gaseous fuel in the United Kingdom for use in road vehicles, non-road mobile machinery (including inland waterway vessels which do not normally operate at sea), tractors and recreational craft which do not normally operate at sea (“relevant use”), an obligation to report on the GHG intensity of their fuels and upon the sustainability of any biofuels supplied (“the GHG reporting requirement”, regulation 4). Biofuels must be shown, by means of a verifier’s assurance report, to meet specified sustainability criteria. Otherwise, any biofuels supplied will be deemed to have a GHG intensity at least equal to that of fossil fuel. Small suppliers, specifically those who supply less than 450,000 litres of fuel for relevant use in a given year, are exempted from the requirement.

Part 3 provides that the Secretary of State is the Administrator of this obligation (regulation 7). This Part makes provision for the Administrator to establish and maintain accounts for regulated fuel suppliers (regulations 8 to 11). It also confers powers and imposes duties on the Administrator as regards requiring information from both regulated and non-regulated fuel suppliers and other matters (regulations 12 to 16).

Part 4 provides that Renewable Transport Fuel Certificates awarded to suppliers by the Administrator of the Renewable Transport Fuel Obligation scheme can be produced as evidence, though only by suppliers to whom they were originally awarded under that scheme, that any biofuels supplied meet the biofuel sustainability criteria (regulation 17).

Part 5 empowers the Administrator to impose civil penalties when various provisions of the Regulations are contravened (regulation 18) and makes provision for the giving of civil penalty notices by the Administrator (regulation 19). It also provides for the process of objecting to a civil penalty (regulation 20) and for appeals to be made to the High Court (in England and Wales or Northern Ireland) or the Court of Session (in Scotland) where a person disputes a liability to a penalty or claims that the penalty is too high (regulation 21).

Part 6 makes provision enabling information to be disclosed by Her Majesty’s Revenue and Customs (“HMRC”) to the Administrator, as well as prohibiting further disclosure of that information. The information in question is restricted to information held in connection with HMRC’s functions under or by virtue of the Hydrocarbon Oil Duties Act 1979. This is to limit the information to that which is relevant to the Administrator’s functions.

Regulation 22 permits such information to be disclosed to the Administrator or an authorised person.

Regulation 23 prohibits the disclosure of such information by the Administrator, an authorised person or any other person who obtains it in the course of providing services to or acting on behalf of the Administrator, except in certain specified cases (for example a disclosure required by a court

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Changes to legislation: There are currently no known outstanding effects for the The Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012. (See end of Document for details)

order). The restrictions on further disclosure only apply to information received under regulation 22 that has not also been received by the Administrator or an authorised person by another means.

Wrongful disclosure contrary to regulation 23 is an offence under *regulation 24* if the information is about a person who is identified in or identifiable from the disclosure. The offence is triable either summarily or on indictment. Regulation 24 provides that a person convicted on indictment may be imprisoned for up to 2 years or fined or both, and that on summary conviction a person is liable to imprisonment for up to 3 months or to a fine not exceeding level 5 on the standard scale or both. A person charged with an offence under regulation 24 has a defence if that person can prove that they reasonably believed that the disclosure was lawful or that the information was already lawfully in the public domain.

Part 7 places an ongoing duty on the Secretary of State to keep under review and to determine from time to time what further steps may be necessary to meet the requirements of Directive [98/70/EC](#) (*regulation 25*). The Secretary of State must then take such steps as the Secretary of State determines are necessary. This Part also requires the Secretary of State to review the operation and effect of these Regulations and to publish a report within five years after they come into force and within every five years after that though only to the extent that these obligations have not already been satisfied by work performed in pursuance of regulation 25 (*regulation 26*). Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

A Transposition Note in respect of the relevant parts of 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 Low Carbon Fuels Division, Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR (telephone 020 7944 4378). That impact assessment and an Explanatory Memorandum are available alongside the instrument on the UK legislation website, www.legislation.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/>.

Merchant Shipping Notices are published by the Maritime and Coastguard Agency and can be viewed on the Agency's website at <http://www.dft.gov.uk/mca/> which also has details of any amendments or replacements.

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