STATUTORY INSTRUMENTS

2014 No. 3076

The Merchant Shipping (Prevention of Air Pollution from Ships) and Motor Fuel (Composition and Content) (Amendment) Regulations 2014

Amendment of the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008

2.—(1) The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008(**1**) are amended as follows.

(2) In regulation 2 (interpretation) after the definition of "the 1995 Regulations" insert—

""the 1999 Directive" means Council Directive 1999/32/EC of 26th April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EC(**2**), as amended by Directive 2005/33/EC of the European Parliament and of the Council of 6th July 2005(**3**) and by Directive 2012/33/EU of the European Parliament and of the Council of 21st November 2012(**4**);".

(3) In regulation 25 (fuel oil quality)—

(a) after paragraph (3) insert—

"(3A) The master of a relevant ship must notify its flag state and the competent authority of the relevant port of destination when it cannot purchase fuel oil for combustion purposes to be used on board that ship that meets the requirements of paragraph (4) or (5).

(3B) The master of a relevant ship which has on board fuel oil for combustion purposes which does not meet the requirements of paragraph (4) or (5) must comply with any requirement of the Secretary of State as notified in a Merchant Shipping Notice."; and

(b) for paragraph (6) substitute—

"(6) For the purposes of paragraph (5), the appropriate sulphur content limit means—

(a) subject to paragraph (c), in the case of fuel oil used or intended to be used in a sulphur oxide emission control area, not more than—

(i) 1.0 per cent by mass until 31st December 2014; and

(ii) 0.10 per cent by mass from 1st January 2015,

(b) subject to paragraph (c), in the case of fuel oil not intended to be used in a sulphur oxide emission control area, not more than—

(i) 3.50 per cent by mass until 31st December 2019; and

(ii) 0.50 per cent by mass from 1st January 2020,

(c) in the case of marine fuel used or intended to be used by a ship while paragraph 4(3) of Schedule 2A applies to that ship, not more than 0.10 per cent by mass."

(**1**) S.I.2008/2924, amended by S.I. 2010/895 and S.I.2010/3035.
(**2**) O.J. No. L121, 11.5.1999, p.13.
(**3**) O.J. No. L191, 22.7.2005, p.59.
(**4**) O.J. No. L.327, 27.11.2012, p.1.

(4) In regulation 32 (offences) for paragraph (3A) substitute—

"(3A) Where a ship uses an emission abatement method which is not—

(a) permitted in accordance with paragraph 6 or 7 of Schedule 2A,

(b) authorised for the purposes of articles 4c2, 4c3 or 4d of the 1999 Directive by an EEA state other than the United Kingdom, or

(c) authorised for the purposes of Annex VI by a Contracting Government other than the United Kingdom,

the owner and master are guilty of an offence and punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment by a fine."

(5) After regulation 37 (defences) add—

"**Review**

38.—(1) The Secretary of State must from time to time—

(a) carry out a review of these Regulations;

(b) set out the conclusions of the review in a report; and

(c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Council Directive 1999/12/EC, relating to a reduction in the sulphur content of certain liquid fuels is implemented in other Member States.

(3) The report must in particular—

(a) set out the objectives intended to be achieved by the regulatory system established by these regulations;

(b) assess the extent to which those objectives are achieved; and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before 16th December 2019.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years."

(6) Schedule 2A (sulphur oxides) is amended as follows—

(a) in paragraph 1(interpretation) —

(i) omit the definition of "the 1999 Directive", and

(ii) for the definition of "emission abatement technology" substitute—

""emission abatement method" means any fitting, material, appliance or apparatus to be fitted in a ship or other procedure, alternative fuel or compliance method, used as an alternative to low sulphur marine fuel meeting the requirements set out in the 1999 Directive that is verifiable, quantifiable and enforceable;";

(b) in paragraph 2 (control of sulphur oxide emissions: general provisions) for sub-paragraphs (1) to (4) substitute—

"(1) This paragraph applies to any ship unless paragraph 4(3) or a permission granted under paragraph 6 or 7 applies to it.

(2) While a ship to which this paragraph applies is within a sulphur oxide emission control area it must comply with at least one of the following conditions—

(a) the sulphur content of any fuel oil used on board the ship must not exceed 1.0 per cent by mass, reducing to 0.10 per cent by mass after 31st December 2014,

(b) the sulphur content of any fuel used on board the ship exceeds 3.5 per cent by mass and the ship is using an emission abatement method complying with Article 4c of the 1999 Directive operating in closed mode,

(c) an approved exhaust gas cleaning system must be applied to ensure that the total emission of sulphur oxide from the ship, including both auxiliary and main propulsion engines, do not exceed the relevant amounts specified in paragraph 4 of Schedule 3 to Merchant Shipping Notice 1819(M+F),

(d) any other technological method to limit sulphur oxide emissions must be used that has been—

(i) approved for the purposes of these Regulations by the Secretary of State in accordance with the provisions of a Merchant Shipping Notice, or

(ii) authorised for the purposes of Annex VI by a contracting government other than the United Kingdom.

(3) While a ship to which this paragraph applies is not within a sulphur oxide emission control area it must not use fuel oil which has a sulphur content exceeding 3.5 per cent by mass, or as the case may be 0.50 per cent by mass, unless the ship is using an emission abatement method subject to Article 4c of the 1999 Directive operating in closed mode.

(4) The master of any ship using separate fuel oils to comply with sub paragraph 2(a) must—

(a) allow sufficient time for the fuel oil service system to be fully flushed of all fuels containing sulphur exceeding 1.0 per cent, or as the case may be 0.10 per cent, by mass prior to entry into a sulphur oxide emission control zone, and

(b) record in accordance with paragraph 5 the details of any fuel changeover operation.";

(c) in paragraph 3(maximum sulphur content of marine fuel used by passenger ships)—

(i) for sub-paragraph 2(d) substitute—

"(d) using an emission abatement method that has been—

(i) permitted in accordance with paragraph 6 or 7, or

(ii) authorised for the purposes of articles 4c2, 4c3 and 4d of the 1999 Directive by an EEA State other than the United Kingdom."; and

(ii) for sub-paragraph (3) substitute—

"(3) A ship to which this paragraph applies must not, in the sea areas described in sub-paragraph (4), use—

(a) until 31st December 2019, use marine fuel which has a sulphur content exceeding 1.5 per cent by mass;

(b) on or after 1st January 2020, marine fuel which has a sulphur content exceeding 0.50 per cent by mass.";

(d) in paragraph 4 (maximum content of marine fuel used by ships at berth) for sub-paragraph (2)(e) substitute—

"(e) a ship using an emission abatement method that has been—

(i) permitted in accordance with paragraph 6 or 7, or

(ii) authorised for the purposes of articles 4c2, 4c3 and 4d of the 1999 Directive by an EEA State other than the United Kingdom.";

(e) in paragraph 5 (records in ship's logbook) for sub-paragraphs (1) to (6) substitute—

"(1) A record made pursuant to paragraph 2(4)(b) or 3(5) of a fuel changeover operation consisting of a change from fuel oil having a sulphur content exceeding 1.0 per cent by mass, or as the case may be 0.10 per cent by mass, to fuel oil having a sulphur content not exceeding 1.0 per cent by mass, or as the case may be 0.10 per cent by mass, must state—

(a) the time, date and position of the ship when the operation is completed, and

(b) the amount, in each tank at that time, of fuel oil having a sulphur content not exceeding 1.0 per cent by mass, or as the case may be 0.10 per cent by mass.

(2) A record made pursuant to paragraph 2(4)(b) or 3(5) of a fuel changeover operation consisting of a change from fuel oil having a sulphur content not exceeding 1.0 per cent by mass, or as the case may be 0.10 per cent by mass, to fuel oil having a sulphur content exceeding 1.0 per cent by mass, or as the case may be 0.10 per cent by mass, must state—

(a) the time, date and position of the ship when the operation commenced, and

(b) the amount, in each tank at that time, of fuel oil having a sulphur content not exceeding 1.0 per cent by mass, or as the case may be 0.10 per cent by mass.

(3) A record made pursuant to paragraph 4(4) of a fuel changeover operation consisting of a change from fuel oil having a sulphur content exceeding 1.0 per cent by mass, or as the case may be 0.10 per cent by mass, to a fuel oil having a sulphur content not exceeding 1.0 per cent by mass, or as the case may be 0.10 per cent by mass, must state—

(a) the time and date when the operation commenced and is completed, and

(b) the amount in each tank at that time, of fuel oil having a sulphur content not exceeding 1.0 per cent by mass, or as the case may be 0.10 per cent by mass.

(4) A record made pursuant to paragraph 4(4) of a fuel changeover operation consisting of a change from fuel oil having a sulphur content not exceeding 1.0 per cent by mass, or as the case may be 0.10 per cent by mass, to fuel oil having a sulphur content exceeding 1.0 per cent by mass, or as the case may be 0.10 per cent by mass, must state—

(a) the time and date when the operation commenced and is completed, and

(b) the amount, in each tank at that time, of fuel oil having a sulphur content not exceeding 1.0 per cent by mass, or as the case may be 0.10 per cent by mass.

(5) The master of a ship making a record referred to in sub-paragraph (1), (2), (3) or (4) must make it—

(a) in the case of a United Kingdom ship, in a log book in the format prescribed in Appendix 6 to Merchant Shipping Notice 1819 (M+F),

(b) in the case of any other ship, in a ship's log book.";

(f) in paragraph 7 (permission to use emission abatement technologies) —

(i) in sub-paragraph (1), omit "or 4"and in that same sub-paragraph and in the heading immediately preceding it, for "emission abatement technologies" substitute "emission abatement methods";

(ii) in sub-paragraph (3) for "sub-paragraphs (4) and (5)" substitute "sub-paragraph (5)", and

(iii) omit sub-paragraph (4); and

(g) in paragraph 10 (analysis) —

(i) in sub-paragraph (1), for "(4)" substitute "(3)", and

(ii) for sub-paragraphs (2) to (4) substitute—

"(2) The reference method adopted for determining the sulphur content must be ISO method 8754 (2003)(**5**) or BS EN 14596.

(3) In order to determine whether marine fuel delivered to and used on board ships is compliant with the sulphur limits required by articles 3a, 4, 4a and 4b of the 1999 Directive the fuel verification procedure set out in Appendix VI to Annex VI must be used."

(**5**) EN ISO method 8754:2003 is described in the British Standard entitled, "Petroleum Products – Determination of Sulfur content – Energy-dispersive X-ray fluorescence methods", published under the number BS EN ISO method 8754:2003, which came into effect on 14 August 2003 as amended by Amendment No. 14812 Corrigendium No. 1, which came into effect on 27th October 2003. EN ISO method 14596:2007 is described in the British Standard entitled, "Petroleum Products – Determination of sulfur content – Wavelength-dispersive X-ray fluorescence spectrometry", published under the number EN ISO method 14596:2007, which came into effect on 31st October 2007.