

2019 No. 421

ENERGY

CONSUMER PROTECTION

TRANSPORT

CLIMATE CHANGE

**The Alternative Fuel Labelling and Greenhouse Gas Emissions
(Miscellaneous Amendments) Regulations 2019**

Made - - - - *25th February 2019*

Laid before Parliament *4th March 2019*

Coming into force in accordance with regulation 1(2) to (4)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and section 2 of, and paragraph 1 of Schedule 1 to, the Pollution Prevention and Control Act 1999(b).

The Secretary of State has consulted in accordance with section 2(4) of the Pollution Prevention and Control Act 1999.

The Secretary of State is a Minister designated(c) for the purposes of section 2(2) of the European Communities Act 1972 in relation to energy and energy sources.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Alternative Fuel Labelling and Greenhouse Gas Emissions (Miscellaneous Amendments) Regulations 2019.

(2) Regulation 22 comes into force on 22nd March 2019.

(a) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

(b) 1999 c. 24

(c) S.I. 2010/761.

- (3) Regulations 5, 6 and 14(2) and (3) come into force on 1st April 2020.
- (4) The remainder of these Regulations come into force on 1st September 2019.

Interpretation

2.—(1) In these Regulations—

“alternative fuel” means fuel or power sources which serve, at least partly, as a substitute for fossil oil sources in the energy supply to transport and which have the potential to contribute to its decarbonisation and enhance the environmental performance of the transport sector and includes—

- (a) hydrogen,
- (b) liquid or gaseous biofuels derived from biomass,
- (c) synthetic and paraffinic fuels,
- (d) natural gas, including biomethane in gaseous form (compressed natural gas) and liquefied form, and
- (e) liquefied petroleum gas;

“enforcement authority” means the Secretary of State or, if a person has been authorised by the Secretary of State in accordance with regulation 7(2), that person;

“identifier” has the meaning given in regulation 3;

“infrastructure operator” in relation to a refuelling point means the person responsible for operating a refuelling point, whether as owner or on behalf of a third party;

“motor vehicle” has the meaning given in section 185(1) of the Road Traffic Act 1988(a);

“motor vehicle dealer” means the retailer or other person who offers for sale or lease new motor vehicles to consumers;

“refuelling point” means a refuelling facility for motor vehicles, which is accessible to the public, for the provision of any alternative fuel through a fixed or mobile installation;

“relevant vehicle” means a motor vehicle—

- (a) the manufacture of which is completed on or after 1st April 2020,
- (b) that can be fuelled with an alternative fuel at a refuelling point, and
- (c) that is placed on the market in the United Kingdom.

(2) A refuelling point is accessible to the public if it is intended for use by members of the public, and is not intended for exclusive use—

- (a) in respect of a motor vehicle produced by a specific manufacturer,
- (b) by persons engaged in specific occupations,
- (c) by persons whilst at their place of employment or by their visitors, or
- (d) by occupiers of, or visitors to, residential premises.

PART 2

Fuel labelling

Identifiers

3. An “identifier” in relation to a fuel means—

(a) 1988 c. 52; that is, ““motor vehicle” means, subject to section 20 of the Chronically Sick and Disabled Persons Act 1970 (which makes special provision about invalid carriages, within the meaning of that Act), a mechanically propelled vehicle intended or adapted for use on roads”.

- (a) in the case of petrol-type fuels, the identifier described in Part 1 of Schedule 1,
- (b) in the case of diesel-type fuels, the identifier described in Part 2 of Schedule 1,
- (c) in the case of gaseous-type fuels, the identifier described in Part 3 of Schedule 1.

Refuelling points: labelling

4.—(1) An infrastructure operator must ensure that each refuelling point for which that operator is responsible is labelled with the relevant identifier denoting the category of fuel available at that refuelling point, in accordance with paragraphs (2) to (4).

(2) Unless paragraph (3) applies, a label showing the relevant identifier must be affixed on the nozzle and on the dispenser, in a durable and easy to read position.

(3) In the case of—

- (a) a fuel grade selection dispenser, a label showing the relevant identifier must be affixed on the dispenser in a position making clear which push button relates to which fuel,
- (b) a payment or selection dispenser that is separate from the nozzle, a label showing the relevant identifier must be affixed on the dispenser near the nozzle and near the selection device.

(4) A label affixed to a dispenser for petrol-type or diesel-type fuel must be in the form, and contain the further information, described in Schedule 2.

Fuel labelling: relevant vehicles

5.—(1) A motor vehicle manufacturer must ensure that—

- (a) each relevant vehicle manufactured by it is labelled in accordance with paragraph (2),
- (b) the user manual of each such relevant vehicle contains information in accordance with paragraph (3).

(2) The identifier (and in the case of a relevant vehicle that can use more than one fuel type, all the relevant identifiers) must be affixed in the immediate proximity of the relevant vehicle fuel filler cap or filler flap, in a position giving the user of the vehicle a clear one-to-one relation between fuel and vehicle, in a durable and easy to read position.

(3) The identifier (and in the case of a relevant vehicle that can use more than one fuel type, all the relevant identifiers), indicating the fuel type that the vehicle can use, must be included in the user manual in a way that is easy to obtain and understand by the user of the vehicle.

Fuel labelling: motor vehicle dealers

6. A motor vehicle dealer must ensure, in relation to all relevant vehicles offered for sale or lease by it, that—

- (a) the identifier (and in the case of a relevant vehicle that can use more than one fuel type, all the relevant identifiers), indicating the fuel type that the vehicle can use, is available and easy to obtain, and is easy to understand by any prospective user of the vehicle,
- (b) any identifiers affixed by the motor vehicle manufacturer to comply with regulation 5(1)(a) are maintained on the vehicle while it is offered for sale or lease.

PART 3

Enforcement

Duty to enforce

7.—(1) These Regulations must be enforced by the Secretary of State.

(2) The Secretary of State may authorise in writing any person who appears suitable to act on the Secretary of State's behalf to—

- (a) carry out any functions under these Regulations, other than those under regulation 21, and
- (b) exercise any of the powers provided by these Regulations.

Information notice

8.—(1) An enforcement authority may serve a notice (an “information notice”) on an infrastructure operator, a motor vehicle manufacturer, or a motor vehicle dealer, requesting such information as the enforcement authority considers necessary to enable it to monitor that person's compliance with these Regulations.

(2) An information notice must—

- (a) be in writing,
- (b) set out the information required,
- (c) specify the date by which the information must be provided,
- (d) specify the person, and the address, to which the information must be provided.

(3) A person served with an information notice must comply with its requirements by the date referred to in paragraph (2)(c).

Power of entry without warrant

9.—(1) Subject to paragraph (2), the enforcement authority may enter premises (other than premises used wholly or mainly as a private dwelling) or land, at reasonable hours—

- (a) where the enforcement authority considers it necessary to do so to enable it to investigate a person's compliance with these Regulations, as a result of that person's failure to comply with the requirements of an information notice served in accordance with regulation 8(3), or
- (b) for the purpose of investigating whether there has been a breach of any other requirement of these Regulations.

(2) Before the enforcement authority exercises the power of entry in paragraph (1) the enforcement authority must serve on the occupier of the premises or land a notice (an “inspection notice”).

(3) An inspection notice must—

- (a) be in writing,
- (b) be served on the owner and any occupier of the premises or land at least two working days before the proposed date of entry,
- (c) set out the reason for which entry is required, and
- (d) specify the proposed date of entry.

(4) The enforcement authority must produce suitable identification to the owner and to any occupier of the premises or land, when requested to do so by them.

Power of inspection and removal

10. An enforcement authority exercising the power of entry under regulation 9(1) may—

- (a) inspect the premises, land and any refuelling point,
- (b) require any owner or occupier of the premises or land, to produce documents, records or any other information, in whatever form it is held, within such period as the enforcement authority considers reasonable, and
- (c) take photographs or measurements.

Power of entry with warrant

11.—(1) A justice of the peace may, by signed warrant, permit the enforcement authority to enter any premises or land, if necessary by reasonable force, if the justice of the peace in England and Wales on sworn information in writing, in Northern Ireland on a complaint on oath, or in Scotland by evidence on oath, is satisfied—

- (a) that there are reasonable grounds to enter those premises or land for the purposes of investigating whether there has been a breach of any of the requirements of these Regulations, and
- (b) that any of the conditions in paragraph (3) is met.

(2) Reference to a justice of the peace—

- (a) in Scotland, includes a sheriff,
- (b) in Northern Ireland is a reference to a lay magistrate.

(3) The conditions referred to in paragraph (1)(b) are that—

- (a) entry to the premises or land has been, or is likely to be, refused,
- (b) serving an inspection notice under regulation 9(2) would defeat the object of the entry,
- (c) entry is required urgently, or
- (d) the premises or land are unoccupied or the occupier is temporarily absent.

(4) A warrant granted under paragraph (1)—

- (a) is valid for one month beginning on the day of issue, and
- (b) must be produced on demand to the owner and any occupier of the premises or land.

(5) Where the enforcement authority enters premises or land under a warrant and those premises or land are unoccupied or from which the occupier is temporarily absent, the enforcement authority must—

- (a) leave a copy of the warrant at the premises or land, and
- (b) leave those premises or land as effectively secured against unauthorised entry as they were before entry.

Compliance notice

12.—(1) Where the enforcement authority is satisfied that there has been a breach of the obligations in regulations 4, 5 or 6, the enforcement authority may serve a notice (a “compliance notice”) on the person in breach.

(2) The compliance notice must—

- (a) be in writing,
- (b) set out the reasons for which the compliance notice has been served,
- (c) describe the steps required to remedy the breach,
- (d) specify the date by which the breach must be remedied, and
- (e) specify the likely amount of the civil penalty to be imposed if there is a failure to rectify the breach and the basis on which it is calculated.

Notice of civil penalty

13.—(1) Where a person does not comply with a compliance notice served under regulation 12 the enforcement authority may require the person in breach to pay a civil penalty calculated in accordance with regulation 14.

(2) Where the enforcement authority decides to impose a civil penalty, the enforcement authority must serve a notice (a “notice of civil penalty”) on the person in breach.

(3) A notice of civil penalty must—

- (a) be in writing,
- (b) be dated,
- (c) set out the reasons for which the penalty is imposed,
- (d) set out the amount of the penalty and how it has been calculated,
- (e) set out how to pay the civil penalty,
- (f) require payment before the end of a period of 28 days beginning with the date of the notice of civil penalty,
- (g) include an explanation of the steps the person in breach must take if the person in breach wishes to object to the civil penalty, including the manner and form in which any notice of objection must be served, and the effect of serving or withdrawing a notice of objection, and
- (h) include an explanation of the steps the enforcement authority may take to recover any unpaid penalty.

Amounts of civil penalty

14.—(1) The maximum civil penalty for each breach of regulation 4(1) by an infrastructure operator is £500 for each fuel dispenser or nozzle which does not meet the requirements of regulation 4(1).

(2) The maximum civil penalty for each breach of regulation 5(1) by a motor vehicle manufacturer is—

- (a) £100 for each relevant vehicle which is not labelled in accordance with the requirements of regulation 5(1)(a), and
- (b) £100 for each user manual which does not contain the information required by regulation 5(1)(b).

(3) The maximum civil penalty for each breach of regulation 6 by a motor vehicle dealer is—

- (a) £100 for each relevant vehicle which does not meet the requirements of regulation 6(a), and
- (b) £100 for each relevant vehicle which does not meet the requirements of regulation 6(b).

Objection to a civil penalty

15.—(1) A person in receipt of a notice of civil penalty may object to the penalty by serving on the enforcement authority a notice (a “notice of objection”) before the end of the period of 28 days after the date of the notice of civil penalty.

(2) The notice of objection must be in writing and must set out the reasons for the objection.

(3) Where a notice of objection is served, any sum required to be paid by the notice of civil penalty is not payable before the end of the period of 28 days beginning with the date of a notice served by an enforcement authority under regulation 16(2) upholding or reducing the civil penalty (but see regulation 17(3)).

(4) Where an objection to a civil penalty is withdrawn before a notice under regulation 16(2) is served, payment of the civil penalty must be made—

- (a) within the period for payment specified in the notice of civil penalty, or
- (b) where the period for payment in the notice of civil penalty has expired, within seven days of withdrawal of the objection.

Consideration and notification of outcome of objection

16.—(1) The enforcement authority must consider a notice of objection served in accordance with regulation 15.

(2) When the enforcement authority has considered the notice of objection it must—

- (a) cancel the civil penalty,
- (b) reduce it, or
- (c) uphold it, and

serve on the person who made an objection under regulation 15 a notice containing the information set out in paragraph (3) and, where applicable, paragraph (4).

(3) The notice referred to in paragraph (2) must—

- (a) specify, with reasons, whether the civil penalty has been cancelled, reduced or upheld, and
- (b) be dated.

(4) Where the civil penalty has been reduced or upheld, the notice must also—

- (a) specify the amount of the civil penalty,
- (b) provide an explanation of how the amount was calculated (whether or not it was reduced),
- (c) require payment before the end of a period of 28 days beginning with the date of the notice, and
- (d) include information about the right of appeal to the First-tier Tribunal against the decision to impose a civil penalty, and the time within which, and the manner in which, such right of appeal may be exercised.

Appeals against civil penalties

17.—(1) A person who has received a notice referred to in regulation 16(2) may, within 28 days of the date of that notice, appeal to the First-tier Tribunal against the enforcement authority's decision made under regulation 16, on the grounds that the decision was—

- (a) based on an error of fact, or
- (b) wrong in law.

(2) An appeal may be brought only if the appellant has served a notice of objection and the enforcement authority has—

- (a) reduced the civil penalty under regulation 16(2)(b), or
- (b) upheld it under regulation 16(2)(c).

(3) Where a person appeals under this regulation, the amount of the civil penalty referred to in regulation 16(4)(a) is not payable until the appeal is finally determined or withdrawn.

(4) The First-tier Tribunal may—

- (a) dismiss the appeal and uphold the civil penalty,
- (b) cancel or reduce the civil penalty, or
- (c) remit the matter to the enforcement authority—
 - (i) generally, or
 - (ii) for determination in accordance with a finding made or direction given by the Tribunal.

Service

18.—(1) Any notice which may be served on a person under these Regulations may be served—

- (a) by post,
- (b) by delivering it to that person in person, or
- (c) with the consent of that person and subject to paragraphs (4) and (5), by electronic means.

(2) Where the person on whom a notice is to be served is—

- (a) a body corporate, the notice may be served on the director, secretary or other officer of that body,

(b) a partnership, the notice may be served on a partner or person having control or management of the partnership business.

(3) For the purposes of this regulation the proper address of any person in relation to the service on the person of a notice under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

(a) in the case of a body corporate, the registered or principal office of that body, and

(b) in any other case, the last known address of that person at the time of the service.

(4) A notice may be served by electronic transmission only where the recipient of the notice has given prior consent to the use of electronic transmission for the purposes of these Regulations.

(5) Where a person is no longer willing to accept the use of electronic transmission for the purposes of these Regulations that person must serve a notice in writing revoking consent to the use of electronic transmission for the purposes of these Regulations.

Enforcement of civil penalty decision

19.—(1) This regulation applies where a civil penalty is payable to the enforcement authority.

(2) In England and Wales, the civil penalty is recoverable as if it were payable under an order of the County Court in England and Wales.

(3) In Northern Ireland, the civil penalty is recoverable as if it were payable under an order of the County Court in Northern Ireland.

(4) In Scotland, the civil penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the Sheriff Court of any sheriffdom in Scotland.

Proceeds of civil penalties

20. Any civil penalty received by the enforcement authority must be paid into the Consolidated Fund.

Review

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

(a) carry out a review of the regulatory provision contained in these Regulations, and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 1st April 2024.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015 requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations of Directive 014/94/EU are implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),

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

(c) assess whether those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

PART 4

Amendment of the Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012

Amendment of the Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012

22.—(1) The Schedule to the Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012(a) is amended as follows.

(2) In paragraph 19(2)(d) for “during the 2020 calendar year” substitute “in the reporting period in respect of which the application for a GHG credit is being made”.

Signed by authority of the Secretary of State for Transport

25th February 2019

Jesse Norman
Minister of State
Department for Transport

SCHEDULE 1

Regulation 3

Identifiers

PART 1

Petrol-type fuels

1. The identifier for petrol-type fuels is—



where—

- (a) the shape is a circle,
- (b) the size of the identifier for placement on a nozzle, a relevant vehicle, or in a user manual, must be a minimum of 13 mm in diameter, with an outer line thickness of 1.4 points,
- (c) the size of the identifier for placement on a dispenser must be a minimum of 30 mm in diameter, with an outer line thickness of 3.2 points,
- (d) the font of the symbol is Arial Bold,
- (e) the font size of the symbol is scalable to the size of the shape, but the minimum being 14 points,
- (f) the symbol is “EX” where “X” is the number that refers to the maximum ethanol content in volume percentage according to the relevant standards or equivalent national regulation of the fuel delivered.

(a) S.I. 2012/3030, as amended by S.I. 2018/374.

PART 2

Diesel-type fuels

2. The identifiers for diesel-type fuels are—



where—

- (a) the shape for diesel-type fuels is a square,
- (b) the size of the identifier for placement on a nozzle, a relevant vehicle, or in a user manual must be a minimum of 13 mm by 13 mm, with an outer line thickness of 1.4 points,
- (c) the size of the identifier for placement on a dispenser must be a minimum of 30 mm by 30 mm, with an outer line thickness of 3.2 points,
- (d) the font of the symbol is Arial Bold,
- (e) the font size of the symbol is scalable to the size of the shape, but the minimum being 13 points in the case of a four character symbol and 14 points in any other case, and
- (f) the symbol for diesel-type fuels blended with Fatty Acid Methyl Ester (“FAME”) is “BX” where “X” is the number that refers to the maximum FAME content in volume percentage according to the relevant standards or equivalent national legislation of the fuel delivered,
- (g) the symbol for paraffinic diesel fuel is “XTL”.

PART 3

Gaseous-type fuels

3. The identifiers for gaseous-type fuels are—



where—

- (a) the shape is a 90°-angled diamond,
- (b) the size of the identifier for placement on a nozzle, a relevant vehicle, or in a user manual must be a minimum width of 13 mm, with an outer line thickness of 1.4 points,
- (c) the size of the identifier for placement on a dispenser must be a minimum width of 30 mm, with an outer line thickness of 3.2 points,
- (d) the font of the symbol is Arial Bold,
- (e) the font size of the symbol is scalable to the size of the shape, but the minimum being 11 points,
- (f) the symbol for liquefied petroleum gas according to the relevant standard or equivalent national legislation of the fuel delivered is "LPG",
- (g) the symbol for natural gas or methane supplied as a gas by means of compression according to the relevant standard or equivalent national legislation of the fuel delivered is "CNG",
- (h) the symbol for natural gas or methane that has been liquefied by means of cooling according to the relevant standard or equivalent national legislation of the fuel delivered is "LNG",

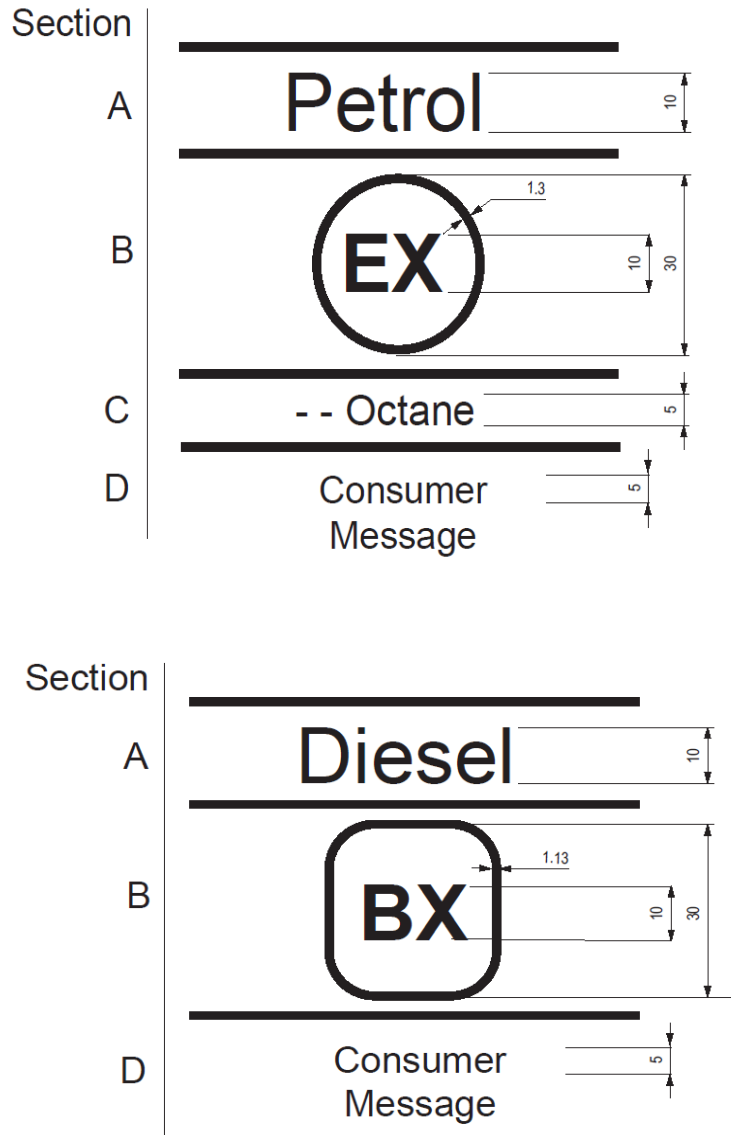
- (i) the symbol for hydrogen gas according to the relevant standard or equivalent national legislation of the fuel delivered is “H2”.

SCHEDULE 2

Regulation 4(4)

Additional labelling requirements for dispensers for petrol-type or diesel-type fuel

A label affixed to a dispenser for petrol-type or diesel-type fuel must be in this form—



where—

- (a) section A contains the product name, which must be a minimum of 10 mm in height,
- (b) section B contains the relevant identifier, to the scale set out in Part 1 or Part 2 of Schedule 1,
- (c) section C, in the case of petrol-type fuel, contains the grade designation or octane rating, which must be a minimum of 5 mm in height, and

- (d) section D, in the case of a fuel falling within regulation 3 of the Biofuel (Labelling) Regulations 2004^(a), contains the consumer message required by that provision, and which must be a minimum of 5 mm in height.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Parts 1 to 3 of this instrument implement the requirements Article 7(1) and (2), and (4) to (6) of Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure (“the Directive”). The purpose of Article 7 of the Directive is to standardise the labelling of types of motor vehicle fuel.

Part 2 places obligations on fuel retailers, from 1st September 2019, to label refuelling points in order to provide clear information to users about the alternative fuel they dispense. In relation to vehicles manufactured on or after 1st April 2020, it places obligations on the manufacturers to label those vehicles, and include information in the user manuals, to provide clear information about the alternative fuel type that the vehicle can use. It also places obligations on vehicle dealers to ensure that clear information about the alternative fuel type that the vehicle can use is made available to users, and that labelling added by manufacturers is not removed. The requirements of Part 2 replicate the requirements set out in standard BS EN 16942:2016 “Fuels. Identification of vehicle compatibility. Graphical expression for consumer information^(b)”.

Part 3 contains enforcement provisions.

Part 4 amends the Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012 (S.I. 2012/3030) which 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 on the sustainability of any biofuels supplied. The amendment allows certain energy suppliers to claim GHG credits arising out of reductions in upstream emissions generated in 2019. Upstream emissions are GHG emissions arising before a raw material enters a refinery or processing plant.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR. A copy may be obtained from the Department for Transport website (www.gov.uk/government/organisations/department-for-transport).

An Explanatory Memorandum has been prepared and is available alongside this instrument at www.legislation.gov.uk.

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(a) S.I. 2004/3349, as amended by S.I. 2005/3355 and 2009/3277.

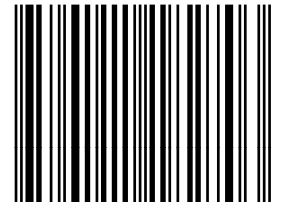
(b) “Fuels. Identification of vehicle compatibility. Graphical expression for consumer information” BS EN 16942:2016. ISBN 978 0 580 99060 1. Published by the British Standards Institution 30th June 2017. Copies, including hard copies, can be obtained at www.bsigroup.com; and hard copies can be inspected at the British Standards Institution, 389 Chiswick High Road, Chiswick, London W4 4AL.

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