

2011 No. 418

ENVIRONMENTAL PROTECTION

The Control of Volatile Organic Compounds (Petrol Vapour Recovery) (Scotland) Regulations 2011

Made - - - - - *23rd November 2011*

Laid before the Scottish Parliament *25th November 2011*

Coming into force - - - *31st December 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), and all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Control of Volatile Organic Compounds (Petrol Vapour Recovery) (Scotland) Regulations 2011 and come into force on 31st December 2011.

(2) These Regulations extend to Scotland only.

Amendment of the Prescribed Processes and Substances Regulations

2.—(1) The Environmental Protection (Prescribed Processes and Substances) Regulations 1991(b) are amended as follows.

(2) In schedule 1 (description of processes), Chapter 1 (fuel production processes, etc.), Section 1.4, omit Part B.

Amendment of the Applications, Appeals and Registers Regulations

3.—(1) The Environmental Protection (Applications, Appeals and Registers) Regulations 1991(c) are amended as follows.

(2) In regulation 3 (variation of conditions), paragraph (3), sub-paragraph (iv), for “736 of the Companies Act 1985(d)” substitute “1159 of the Companies Act 2006(e)”.

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) S.I. 1991/472, as relevantly amended by S.I. 1993/1749 and 2405, 1995/2678 and 3247, and 1998/767, and by S.S.I. 2000/323, 2004/26 and 512, and 2005/410.

(c) S.I. 1991/507, as relevantly amended by S.I. 1996/667 and 2678.

(d) 1985 c.6.

(e) 2006 c.46.

- (3) In regulation 4 (consultation)—
 - (a) in paragraph (1) omit “and except in the case of a prescribed process to which regulation 6A below applies,”;
 - (b) omit paragraph (1A); and
 - (c) omit paragraph (8).
- (4) In regulation 5 (advertisements), in paragraph (1) omit “and 6A”.
- (5) Omit regulation 6A (exemption for service stations).

Amendment of the Pollution Prevention and Control Regulations

4.—(1) The Pollution Prevention and Control (Scotland) Regulations 2000(a) are amended as follows.

(2) After regulation 9F (conditions of permits: incineration or co-incineration with energy recovery) insert—

“Conditions of permits: volatile organic compounds

9G. Subject to regulation 10, a permit authorising an activity specified in paragraphs (c) to (f) of Part B of Section 1.2 of Part 1 of Schedule 1 shall contain such conditions as SEPA considers necessary to give effect to—

- (a) European Parliament and Council Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations(b); and
 - (b) Directive 2009/126/EC of the European Parliament and of the Council on Stage II petrol vapour recovery during the refuelling of motor vehicles at service stations(c).”.
- (3) In Schedule 1, Part I (activities), Chapter 1 (energy industries), Section 1.2—
- (a) in the heading, insert at the end “, *Storage and Unloading of Petrol, and Refuelling of Motor Vehicles*”;
 - (b) in Part B for paragraphs (d) and (e) substitute—
 - “(d) Motor vehicle refuelling activities at an existing service station after the prescribed date, if the petrol refuelling throughput at that station in any 12 month period is in excess of 3000 m³;
 - (e) Motor vehicle refuelling activities at a new service station, if the petrol refuelling throughput at that station in any 12 month period is, or is intended to be, greater than 500 m³;
 - (f) Motor vehicle refuelling activities at a new service station, if the petrol refuelling throughput at that station in any 12 month period is, or is intended to be, greater than 100 m³ and it is situated under permanent living quarters or working areas.”;

(a) S.S.I. 2000/323, as amended by paragraph 7 of Part 2 of schedule 1 to the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), by S.I. 2007/2325, and by S.S.I. 2002/493, 2003/146, 170, 221 and 235, 2004/26, 110, 112 and 512, 2005/101, 340 and 510, 2006/127, 2008/410, 2009/247 and 336, 2010/236 and 2011/171, 226 and 285.

(b) OJ No L 365, 31.12.1994, p.24, as amended by Regulation (EC) No. 1882/2003 (OJ No L 284, 31.10.2003, p.1) and Regulation (EC) No. 1137/2008 (OJ No L 311, 31.11.2008, p.1).

(c) OJ No L 285, 31.10.2009, p.36.

- (c) in the section headed “Interpretation of Part B”—
- (i) in paragraph 1—
- (aa) after the definition of “inland waterway vessel” insert—
- ““major refurbishment” means a significant alteration or renewal of the station infrastructure, particularly the tanks and pipes;”;
- (bb) for the definition of “new service station” substitute—
- ““new service station” means any service station put into operation on or after 1st January 2012, and includes for that purpose any existing service station where a major refurbishment is completed on or after that date;”;
- (cc) in the definition of “service station” at the end, insert “, but shall not include any service station exclusively used in connection with the construction and delivery of new vehicles”; and
- (ii) in paragraph 2 for the words from “have” to the end of that paragraph substitute “, and in Directive 2009/126/EC of the European Parliament and of the Council on Stage II petrol vapour recovery during the refuelling of motor vehicles at service stations, have the same meanings as in those Directives”.
- (4) In Schedule 3 (prescribed dates), Part 6 (refuelling installations), paragraph 26—
- (a) for sub-paragraph (2) substitute—
- “(2) The prescribed date for an existing refuelling installation is—
- (a) 1st January 2012, where an application is made in respect of an installation with a throughput in any 12 month period (“throughput”) in excess of 3500m³; or
- (b) 31st December 2018, where the throughput is in excess of 3000m³.”;
- (b) in sub-paragraph (4) after “(e)” insert “or (f)”.

Revocation

5. The Environmental Protection (Prescribed Processes and Substances Etc.) (Amendment) (Petrol Vapour Recovery) Regulations 1996(a) are revoked.

St Andrew’s House,
Edinburgh
23rd November 2011

STEWART STEVENSON
Authorised to sign by the Scottish Ministers

(a) S.I. 1996/2678; relevantly amended by S.S.I. 2004/512.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transpose Directive 2009/126/EC of the European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations (“the PVR II Directive”) (OJ No L 285, 31.10.2009, p. 36), so far as is required in order for that Directive to be implemented through an authorisation under Part II of the Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000/323) (the “PPC Regulations”).

Regulation 2 amends the Environmental Protection (Prescribed Processes and Substances) Regulations 1991 (S.I. 1991/472) (the “PPS Regulations”) so that processes relating to the storage and unloading of petrol are no longer capable of being authorised under those Regulations as well as under the PPC Regulations (see also regulation 5).

Regulation 3 makes consequential amendments to the Environmental Protection (Applications, Appeals and Registers) Regulations 1996 (S.I. 1996/507) needed as a result of the changes to the PPS Regulations.

Regulation 4 amends the PPC Regulations so that activities subject to requirements introduced by the PVR II Directive require to be authorised by the dates specified in regulation 26 of those Regulations.

Regulation 5 revokes the Environmental Protection (Prescribed Processes and Substances Etc.) (Amendment) (Petrol Vapour Recovery) Regulations 1996 (S.I. 1996/2678). Those regulations made provision in the PPS Regulations for implementation of Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations (OJ No L 365, 31.12.1994, p. 24), and that provision is duplicated in the PPC Regulations as amended by these Regulations.

A Business and Regulatory Impact Assessment has been prepared, and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Environmental Quality Division, Scottish Government, Victoria Quay, Edinburgh EH6 6QQ.

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