

**MOTOR FUEL (COMPOSITION AND CONTENT)
ACT 2001****Principal Act**

Act. No. 2001-10	<i>Commencement</i>	5.4.2001
	<i>Assent</i>	5.4.2001

Amending enactments	Relevant current provisions	Commencement date
Act. 2009-52	ss. 2(1), (3) & (4), 9, 10, 11, 12, 12A-12P, 13 & Sch.2	1.12.2009
LN. 2012/127	ss. 2 & 12(2)	4.10.2012
Act. 2014-04	s. 2(1)	27.2.2014
LN. 2014/103	ss. 2(1), (3), 10(2)-(4), (4A), 11, 11A, 12, 12A, 12B(d), (e), 12D(2), 12I(1), 12K(1),(2)(d), (3), 12L, 12M, 12MA, 12N(2), Schs. 2, 3, 4	18.6.2014

English sources:

None cited

Transposing:

Directive 1999/32/EC

Directive 2009/30/EC

Directive 2012/33/EU

EU Legislation/International Agreements involved:

Directive 88/609/EEC

Directive 93/12/EEC

Directive 2005/33/EC

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2001-10

Motor Fuel (Composition and Content)

AN ACT TO REPEAL AND RE-ENACT THE MOTOR FUEL (COMPOSITION AND CONTENT) ACT 1998 WITH AMENDMENTS SO AS TO TRANSPOSE INTO THE LAW OF GIBRALTAR COUNCIL DIRECTIVE 1999/32/EC RELATING TO THE SULPHUR CONTENT OF CERTAIN LIQUID FUELS.

PART I

PRELIMINARY

Citation.

1. This Act may be cited as the Motor Fuel (Composition and Content) Act 2001.

Interpretation.

2.(1) In this Act and unless the context otherwise requires—

“BGTW” means British Gibraltar Territorial Waters which is the area of sea, the sea bed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar under British sovereignty and which, in accordance with the United Nations Convention on the Law of the Sea 1982, currently extends to three nautical miles and to the median line in the Bay of Gibraltar;

“Directive” means Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC, as the same may be amended from time to time;

“Licensing Authority” has the same meaning as in section 5(2) of the Petroleum Act;

“Minister” means the Minister with responsibility for the environment;

“port of Gibraltar” means the “Port” defined by section 2 of the Gibraltar Port Authority Act 2005.

(2) In Part II, and unless the context otherwise requires—

“leaded petrol” means all petrol other than unleaded petrol, with a lead-compound content not exceeding (calculated in terms of lead) 0.40 grammes per litre of petrol and not less than 0.15 grammes per litre of petrol;

“petrol” means any volatile mineral oil intended for the operation of internal combustion spark-ignited engines used for the propulsion of motor vehicles;

“unleaded petrol” means any petrol the contamination of which by lead compounds calculated in terms of lead does not exceed 0.013 grammes per litre of petrol.

(3) In Parts III and IIIA and unless the context otherwise requires–

“Annex VI of MARPOL” means the annex to MARPOL entitled ‘Regulations for the Prevention of Air Pollution from Ships’, as amended from time to time;

“ASTM method” means the methods laid down by the American Society for Testing and Materials in the 1976 edition of standard definitions and specifications for petroleum and lubricating products;

“combustion plant” means any technical apparatus in which fuels are oxidized in order to use the heat generated;

“Compliance Notice” means a notice issued under section 12O(1);

“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 this Act, that is verifiable, quantifiable and enforceable;

“emission abatement technology” means an exhaust gas cleaning system or any other technological method that is verifiable and enforceable;

“enforcement authority” means the body designated under section 12N(1) to enforce the provisions of Part IIIA;

“gas oil” means any petroleum-derived liquid fuel–

- (a) that falls within CN code 2710 19 25, 2710 19 29, 2710 19 47, 2710 19 48, 2710 20 17 or 2710 20 19; or
- (b) where less than 65% by volume (including losses) distils at 250°C and at least 85% by volume (including losses) distils at 350°C by the ASTM D86 method,

but excluding marine fuels, diesel fuels (as defined by Article 2(2) of Directive 98/70/EC of the European Parliament and of the Council relating to the quality of petrol and diesel fuels, and fuels used in non-road mobile machinery and agricultural tractors;

“heavy fuel oil” means any petroleum-derived liquid fuel, excluding marine fuel and gas oil–

- (a) that falls within CN code 2710 19 51 to 2710 19 68, 2710 20 31, 2710 20 35 or 2710 20 39; or
- (b) which, by reason of its distillation limits, falls within the category of heavy oils intended for use as fuel and of which less than 65% by volume (including losses) distils at 250°C by the ASTM D86 method,

but where the distillation cannot be determined by the ASTM D86 method the petroleum product shall be categorised as heavy fuel oil;

“IMO” means the International Maritime Organisation;

“marine diesel oil” means any marine fuel as defined for DMB grade in Table I of ISO 8217 with the exception of the reference to the sulphur content;

“marine fuel” means any petroleum–derived liquid fuel intended for use or in use on board a vessel, including those fuels defined in ISO 8217⁽¹⁾ and it includes any petroleum-derived liquid fuel in use on board inland waterway vessels or recreational craft, when such vessels are at sea;

“marine gas oil” means any marine fuel as defined for DMX, DMA and DMZ grades in Table I of ISO 8217 with the exception of the reference to the sulphur content;

“MARPOL” means the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 relating to that Convention, including all its other Protocols, Annexes and Appendices, and amendments thereto adopted by the IMO in accordance with Article 16 of that Convention;

“master” means the person (except a pilot) having command or charge of a ship including the skipper of a fishing vessel;

⁽¹⁾ ISO 8217 (1996) is described in the British Standard entitled, “Specification for Petroleum Fuels for marine oil engines and boilers”, published under the numbers BS MA100 and ISO 8217:1996, which came into effect on 15 August 1996.

“passenger ship” means a ship that carries more than 12 passengers where a passenger is every person other than—

- (a) the master and members of the crew or other person employed or engaged in any capacity on board a ship on the business of that ship; and
- (b) a child under one year of age;

“regular services” means a series of passenger ship crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either—

- (a) according to a published timetable; or
- (b) with crossings so regular or frequent that they constitute a recognisable schedule;

“ship at berth” means a ship which is securely moored or anchored in the port of Gibraltar while it is loading, unloading or hotelling, including the time spent when not engaged in cargo operations;

“sulphur content of liquid fuels licence” has the meaning given in section 10(6)(c)(ii);

“warship” means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the state and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline.

(4) Words used in Part III and Part IIIA which are not defined in this section but also used in the Directive have the same meaning as in the Directive.

(5) A reference in this Act to a numbered CN code is a reference to the code set out in the Integrated Tariff made under the Imports and Exports Act 1986 as the CN code with that number.

PART II

LEAD AND BENZENE CONTENT OF MOTOR FUEL

Lead and benzene content and motor octane number of motor fuel.

3. No person shall sell, offer for sale or have in his possession for sale for use as fuel in a motor vehicle—

- (a) petrol in which the lead compound content exceeds 0.15 grammes per litre of petrol;
- (b) leaded or unleaded petrol in which the benzene content exceeds 5.0% of the total volume;
- (c) unleaded petrol with a motor octane number of less than 85 and a minimum octane number of 95 at the pump.

Measurement methods for lead and benzene content and octane ratings.

4. For the purposes of determining compliance with section 3—

- (a) the lead content of petrol shall be measured in accordance with the procedures set out in paragraph 1 of Schedule 1;
- (b) the benzene content of petrol shall be measured in accordance with the procedures set out paragraph 2 of Schedule 1;
- (c) the octane ratings of unleaded petrol shall be determined in accordance with the procedures set out paragraph 3 of Schedule 1.

Notice to purchasers.

5. No person shall sell, offer for sale or have in his possession leaded petrol unless, before effecting the contract of sale, he displays a warning that leaded petrol should not be used in a motor vehicle which is designed to run on unleaded petrol.

Distribution of unleaded and leaded petrol.

6. When granting licences to store and supply petroleum under the Petroleum Act, the Licensing Authority shall have regard to the need to maintain a balanced distribution for the sale of leaded and unleaded petrol.

Deemed licence conditions.

7. The provisions of sections 3 to 5 shall be deemed to be conditions of every licence to store and supply petroleum granted under rules made under section 7 of the Petroleum Act.

Derogation.

8.(1) Where the Minister considers that a situation has arisen which restricts or prevents supplies of petroleum or crude oil entering Gibraltar, he may make regulations imposing a different maximum lead content to that set out in section 3(a) .

(2) Regulations made under sub-section (1) shall expire at the end of the period of 4 months beginning with the date on which they come into effect.

PART III**SULPHUR CONTENT OF CERTAIN LIQUID FUELS****Application.**

9. This Act does not apply to heavy fuel oil or gas oil intended for—

- (a) the purposes of research and testing;
- (b) processing prior to final combustion; or
- (c) processing in the refining industry.

Maximum sulphur content of heavy fuel oil.

10.(1) Subject to subsection (2), a person who uses any heavy fuel oil which has a sulphur content that exceeds 1 per cent by mass shall be guilty of an offence.

(2) Until 31 December 2015, and subject to appropriate monitoring of emissions by the Environmental Agency subsection (1) shall not apply to the use of heavy fuel oil—

- (a) in combustion plants which fall within the scope of Directive 2001/80/EC which are subject to Article 4(1) or (2) or Article 4(3)(a) of that Directive and which comply with the emission limits for sulphur dioxide for such plants as set out in that Directive; and
- (b) in combustion plants which fall within the scope of Directive 2001/80/EC, which are subject to Article 4(3)(b) and Article 4(6) of that Directive and the monthly average sulphur dioxide emissions of which do not exceed $1,700 \text{ mg/Nm}^3$ at an oxygen content in the flue gas of 3% by volume on a dry basis;

- (c) in combustion plants which do not fall under paragraphs (a) or (b) and where the monthly average sulphur dioxide emissions do not exceed $1,700 \text{ mg/Nm}^3$ at an oxygen content in the flue gas of 3% by volume on a dry basis;
- (d) for combustion in refineries, where the monthly average of emissions of sulphur dioxide averaged over all combustion plants in the refinery, irrespective of the type of fuel or fuel combination used, but excluding plants which fall under paragraphs (a) and (b), gas turbines and gas engines, do not exceed $1,700 \text{ mg/Nm}^3$ at an oxygen content in the flue gas of 3% by volume on a dry basis.

(3) As from 1 January 2016, subject to appropriate monitoring of emissions by the Environmental Agency, subsection (1) shall not apply to heavy fuel oils used—

- (a) in combustion plants which fall within the scope of Chapter III of Directive 2010/75/EU and which comply with the emission limits for sulphur dioxide for such plants as set out in Annex V to that Directive or, where those emission limit values are not applicable according to that Directive, for which the monthly average sulphur dioxide emissions do not exceed $1,700 \text{ mg/Nm}^3$ at an oxygen content in the flue gas of 3% by volume on a dry basis;
- (b) in combustion plants which do not fall under paragraph (a), and the monthly average sulphur dioxide emissions of which do not exceed $1,700 \text{ mg/Nm}^3$ at an oxygen content in the flue gas of 3% by volume on a dry basis;
- (c) for combustion in refineries, where the monthly average of emissions of sulphur dioxide averaged over all combustion plants in the refinery, irrespective of the type of fuel or fuel combination used, but excluding plants falling under paragraph (a), gas turbines and gas engines, do not exceed $1,700 \text{ mg/Nm}^3$ at an oxygen content in the flue gas of 3% by volume on a dry basis.

(4) Where the Environmental Agency grants a permit under subsection (2) or (3), it shall carry out appropriate monitoring of emissions of sulphur dioxide to ensure that the limitations on emissions contained in that permit are not exceeded.

(4A) In this section—

“Directive 2001/80/EC” means Directive 2001/80/EC of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from large combustion plants;

“Directive 2010/75/EU” means Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast);

“existing plant” and “new plant” have the meaning given in Article 2(10) and 2(9) respectively of Directive 2001/80/EC;

“gas engine” and “gas turbine” have the meaning given in Article 3(34) and (33) respectively of Directive 2010/75/EU;

“permit” means a permit issued under the Pollution Prevention and Control Regulations 2013.

(5) Schedule 2 shall have effect in relation to applications for, the grant of, and other matters relating to, sulphur content of liquid fuels licences.

Maximum sulphur content in gas oil.

11. No person shall use any gas oil that has a sulphur content exceeding 0.1% by mass.

Maximum sulphur content in marine fuel.

11A.(1) No person shall use any marine fuel that has a sulphur content exceeding 3.50% by mass.

(2) Subsection (1) shall not apply to the supply of marine fuels to ships using emission abatement methods under section 12M operating in closed mode.

Sampling, analysis and reporting.

12.(1) The enforcement authority shall take all necessary measures to check, by sampling, that the sulphur content of fuels used complies with sections 10, 11, 11A and 12K.

(2) The sampling shall—

- (a) commence on the date on which the relevant limit for maximum sulphur content in the fuel comes into force under this Act; and

- (b) be carried out periodically with sufficient frequency and quantities in such a way that the samples are representative of the fuel examined, and in the case of marine fuel, of the fuel being used by vessels while in relevant sea areas and ports.
- (3) The samples shall be analysed without undue delay.
- (4) The following means of sampling, analysis and inspection of marine fuel shall be used—
 - (a) inspection of ships' log books and bunker delivery notes; and
 - (b) as appropriate, the following means of sampling and analysis—
 - (i) sampling of the marine fuel for on-board combustion while being delivered to ships, in accordance with the Guidelines for the sampling of fuel oil for determination of compliance with the revised MARPOL Annex VI adopted on 17 July 2009 by Resolution 182(59) of the Marine Environment Protection Committee (MEPC) of the IMO, and analysis of its sulphur content; or
 - (ii) sampling and analysis of the sulphur content of marine fuel for on-board combustion contained in tanks, where technically and economically feasible, and in sealed bunker samples on board ships.
- (5) The reference method adopted for determining the sulphur content shall be ISO method 8754 (2003) or PrEN ISO 14596 (2007).
- (6) 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 the fuel verification procedure set out in Appendix VI to Annex VI to MARPOL shall be used.
- (7) Each year by 30 June, the Minister shall ensure that, on the basis of the results of the sampling, analysis and inspections carried out in accordance with this section, a report is submitted to the European Commission on the compliance with the sulphur standards set out in the Directive for the preceding year.

Penalties.

12A.(1) A person guilty of an offence under section 10(1) or section 11 shall be liable on summary conviction, to a fine up to level 5 on the standard scale.

(2) Where an offence under sections 10(1), 11 or 11A is committed by a body corporate and is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(3) In subsection (2) “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(4) If the affairs of a body corporate are managed by its members, subsection (2) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

PART IIIA SULPHUR CONTENT OF MARINE FUELS

Application.

12B. This Part does not apply to—

- (a) marine fuel intended for the purposes of research and testing;
- (b) marine fuel used by warships or other vessels on military service;
- (c) any use of marine fuel in a vessel necessary for the specific purpose of securing the safety of a ship or saving life at sea; or
- (d) any use of marine fuel in a ship necessitated by damage sustained to it or its equipment—
 - (i) except where such damage was caused with intent or recklessly by the owner or master of the ship; and
 - (ii) provided that all reasonable measures are taken after the occurrence of the damage to prevent or minimise excess emissions and that measures are taken as soon as possible to repair the damage;

- (e) fuels used on board ships employing emission abatement methods in accordance with section 12M.

Restriction on the marketing of marine diesel oil.

12C. No person shall place marine diesel oil on the market if the sulphur content exceeds 1.5% per cent by mass.

Restriction on the use and marketing of marine gas oil.

12D.(1) Subject to subsection (2) no person shall use marine gas oil in the territorial waters if the sulphur content exceeds 1.5% per cent by mass.

(2) No person shall place marine gas oil on the market if the sulphur content of those marine gas oils exceeds 0.1% by mass.

Supplies of marine fuel.

12E.(1) A supplier of marine fuel shall—

- (a) complete a bunker delivery note which specifies the sulphur content of the marine fuel that he supplies;
- (b) supply marine fuel only if it complies with the specification on the bunker delivery note; and
- (c) make up a sealed sample of the fuel supplied and arrange for the master of the ship or other person acting on his behalf to sign a confirmation that the sample is representative of the fuel supplied.

(2) The master of the ship or other person acting on his behalf shall—

- (a) sign the confirmation referred to in subsection (1)(c) if he is satisfied that the sealed sample is representative of the fuel supplied; and
- (b) retain that sealed sample and the signed confirmation on board the ship until the later of—
 - (i) the date that the fuel supplied is substantially consumed; or
 - (ii) 12 months from the date of delivery of the fuel.

Register of suppliers.

12F.(1) The Minister shall maintain a register of suppliers of marine fuel.

(2) A register compiled under subsection (1) may contain such further information as the Minister may consider appropriate.

Record in the ship's logbook.

12G.(1) The master of the ship shall ensure that the ship's logbook records the marine fuel used by the ship—

- (a) in the territorial waters;
- (b) where the ship is subject to section 12K, while at berth; and
- (c) in pollution control areas.

(2) The requirement under subsection (1) shall include recording any fuel changeover operations conducted, as appropriate, on entering or leaving those sea areas or on arrival or departure from a berth.

Denial of entry into port.

12H. The Captain of the Port or such other person as the Minister designates may deny a ship entry into Gibraltar port where he has reason to believe that section 12G has not been complied with.

Sulphur Oxide Emission Control Area.

12I.(1) Subject to subsections (2) and (3), a ship registered under the Gibraltar Merchant Shipping (Registration) Act, 1993 shall not use marine fuel whose sulphur content exceeds 1% by mass, and as from 1 January 2015, 0.1% by mass.

(2) In this section “sulphur oxide emission control area” means an area designated as such in accordance with regulation 14(3)(b) of Annex VI to MARPOL.

(3) Subsection (1) applies—

- (a) in respect of the Baltic Sea Area referred to in regulation 14(3)(a) of Annex VI to MARPOL, on the date that the Motor Fuel (Composition and Content) (Amendment) Act 2009 comes into operation;
- (b) in respect of the North Sea sulphur oxide emission control area which ever occurs first—

- (i) 12 months after the entry into operation of the IMO designation; or
- (ii) 11 August 2007; and
- (c) in respect of any other area designated by the IMO as a sulphur oxide emission control area, 12 months after that designation.

Maximum sulphur content of marine fuel used by passenger ships.

12J.(1) Subject to subsection (2), no passenger ship operating on a regular service between Gibraltar and a port in a Member State shall use marine fuel which has a sulphur content that exceeds 1.5 per cent by mass in the territorial waters.

(2) Subsection (1) shall not apply–

- (a) to the extent that a passenger ship is subject to section 12K;
- (b) to a passenger ship using emission abatement technologies in accordance with a permit issued pursuant to sections 12L and 12M.

Maximum sulphur content of marine fuel used by a ship at berth.

12K.(1) Subject to subsection (2), no ship at berth in the port of Gibraltar shall use marine fuel which has a sulphur content that exceeds 0.1% by mass.

(2) Subsection (1) shall not apply–

- (a) for that period of time which is necessary to allow the crew to complete any necessary fuel changeover operation as soon as possible after arrival at berth and as late as possible before departure;
- (b) to ships which, according to published timetables, are due to be at berth for less than two hours;
- (c) to ships which switch off all engines and use shoreside electricity while at berth.
- (d) *Deleted*

(3) The time of any fuel change-over operation, referred to in subsection (2)(a) shall be recorded in the ship's logbook.

Trial of new emission abatement methods.

12L.(1) The Minister shall consider an application by the owner of a ship for a permit to use emission abatement methods for trial purposes whether in BGTW only or in BGTW and in the sea area within the jurisdiction of a Member State (hereinafter “the port State”–

- (a) if the ship is registered in Gibraltar under the Gibraltar Merchant Shipping (Registration) Act, 1993; or
- (b) flies the flag of the port State.

(2) A permit granted by the Minister pursuant to an application under subsection (1)–

- (a) shall be in writing;
- (b) subject to subsection (5), may include such conditions as the Minister considers to be appropriate to the trial in question; and
- (c) may be varied or revoked by the Minister.

(3) The Minister shall–

- (a) at least 6 months before an intended trial begins, ensure that a written notification of that trial is made to–
 - (i) the European Commission; and
 - (ii) the relevant authorities in the port State, and
- (b) within 6 months of completion of the trial, ensure that the European Commission is provided with a copy of the full results referred to in subsection (4)(f).

(4) A permit issued under subsection (2) shall include the following conditions–

- (a) a limit on the period of the trial, such period not to exceed 18 months;
- (b) the installation of tamper-proof equipment for the continuous monitoring of funnel gas emissions and use it throughout the trial period;

- (c) that emission reductions must be achieved which are at least equivalent to those which would be achieved through the sulphur limits for fuels specified in the Directive;
- (d) that throughout the trial period proper waste management systems are in place in respect of any waste generated by the emission abatement methods;
- (e) that throughout the trial, the ship owner carries out an assessment of the impacts on the marine environment, particularly ecosystems in enclosed ports, harbours and estuaries; and
- (f) that on completion of the trial the full results of the assessment referred to in paragraph (e) are—
 - (a) made available to the Minister in sufficient time to enable their communication to the European Commission within 6 months of the completion of the trial; and
 - (b) made publicly available within 6 months of the completion of the trial.

Use of approved emission abatement technologies.

12M.(1) Subject to subsections (2) and (3) every ship may use emission abatement methods in BGTW and in the port of Gibraltar as an alternative to using marine fuels that meet the requirements of Articles 4a and 4b of the Directive.

(2) Ships using the emission abatement methods referred to in subsection (1) shall continuously achieve reductions of sulphur dioxide emissions that are at least equivalent to the reductions that would be achieved by using marine fuels that meet the requirements of Articles 4a and 4b of the Directive.

(3) Equivalent emission values shall be determined in accordance with Schedule 3.

(4) The Minister shall encourage the use by docked vessels of onshore power supply system as an alternative solution for reducing emissions.

(5) The emission abatement methods referred to in subsection (1) shall comply with the criteria specified in the instruments referred to in Schedule 4.

(6) Emission abatement methods falling within the scope of Council Directive 96/98/EC shall be approved in accordance with that Directive.

(7) Emission abatement methods not covered by subsection (6) shall be approved in accordance with the procedure referred to in Article 3(2) of Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS), taking into account—

- (a) guidelines developed by the IMO;
- (b) the results of any trials conducted under section 12L;
- (c) effects on the environment, including achievable emission reductions, and impacts on ecosystems in enclosed ports, harbours and estuaries; and
- (d) the feasibility of monitoring and verification.

Financial measures.

12MA. The Government, subject to any applicable rules regarding state aid, may adopt financial measures in favour of operators affected by the Directive.

Enforcement Authority.

12N.(1) The Government may, by notice in the Gazette, appoint an enforcement authority.

(2) The enforcement authority designated under subsection (1) shall enforce sections 12, 12C, 12D, 12E, 12G, 12J, 12K and 12L(1).

(3) Enforcement under subsection (2) shall include taking necessary measures of sampling, analysis and inspection of marine fuel.

(4) For the purposes of subsection (3)—

- (a) necessary measures include—
 - (i) sampling of the marine fuel for on-board combustion while being delivered to ships, following IMO guidelines, and analysis of its sulphur content;
 - (ii) sampling and analysis of the sulphur content of the marine fuel for on-board combustion contained in tanks,

where feasible, and in sealed bunker samples on board ships; and

- (iii) inspection of ship's logbooks and bunker delivery notes;
- (b) sampling shall commence on the date on which the relevant limits on sulphur in marine fuel come into force under sections 12C, 12D, 12J and 12K;
- (c) sampling shall be carried out with sufficient frequency, in sufficient quantities, and in such a way that the samples are representative of the fuel examined and of the fuel being used by ships as provided for in sections 12J and 12K; and
- (d) the reference method for determining the sulphur content of marine fuel shall be as contained in Schedule 3.

(4) The enforcement authority, acting with the consent of the Minister, may deny a ship entry to the port of Gibraltar if the authority has reasonable grounds to believe that a provision of this Part has not been complied with.

(5) In relation to the enforcement of section 12G, the enforcement authority may take such action as it believes is appropriate—

- (a) against a supplier of marine fuel who supplies fuel that does not comply with the specification on the bunker delivery note; and
- (b) to ensure that marine fuel that is not so compliant is made compliant.

Compliance Notice.

12O.(1) The enforcement authority shall have the power to serve a notice ("a Compliance Notice") where it believes that a person—

- (a) is contravening one or more of the relevant provisions; or
- (b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or will be repeated.

(2) A Compliance Notice shall—

- (a) state the reasons why the enforcement authority considers that a contravention of the type described in subsection (1) is occurring or has occurred;

- (b) specify the relevant provision or provisions;
- (c) require the person on whom it is served to remedy the contravention; and
- (d) state the period within which the contravention shall be remedied.

(3) A Compliance Notice may be withdrawn or varied.

(4) For the purposes of subsection (2), a relevant provision means sections 12D, 12G or 12K.

Offences and penalties.

12P.(1) A person shall be guilty of an offence, if–

- (a) that person contravenes sections 12C, 12D, 12G, 12I, 12J or 12K, or causes or permits another person to do so;
- (b) that person fails to comply with a Compliance Notice or causes or permits another person to fail to so comply; or
- (c) that person makes a statement which he knows to be false or misleading in a material particular, or recklessly makes a statement which is false or misleading in a material particular, where the statement is made in purported compliance with a requirement to furnish any information imposed by or under this Part.

(2) A person guilty of an offence under subsection (1) shall be liable, on summary conviction, to a fine up to level 5 on the standard scale.

(3) Where an offence under subsection (1) committed by a body corporate is proved–

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(4) In subsection (3) “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(5) If the affairs of a body corporate are managed by its members, subsection (3) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

PART IV

FINAL PROVISIONS

Derogation.

12N.(1) If, as a result of a sudden change in the supply of crude oil, petroleum products or other hydrocarbons, it becomes difficult to apply the limits on the maximum sulphur content referred to in Parts III and IIIA in Gibraltar, the Minister shall ensure that the European Commission is informed thereof.

(2) Where, on the basis of the information supplied to it pursuant to subsection (1), the European Commission authorises higher sulphur content limits to apply in Gibraltar, the Minister may make regulations to amend the limits set out in Parts III and IIIA.

(3) Regulations made under subsection (2) may not exceed the period authorised by the European Commission.

Regulations.

13.(1) The Minister may make regulations for any purpose for which regulations may be made under this Act and generally for carrying this Act into effect.

(2) Without prejudice to the generality of subsection (1) the Minister may make regulations for—

- (a) the inspection by the Licensing Authority of premises in which any matter which is the subject of this Act is stored in bulk;
- (b) the licensing by the Licensing Authority of premises in which any matter which is the subject of this Act is stored in bulk;
- (c) the conditions necessary to render premises fit for the storage of any matter which is the subject of this Act;

- (d) the fees to be paid for any licence under this Act, the conditions under which such licences are granted and the duration of such licences.

Repeal .

- 14. The Motor Fuel (Composition and Content) Act 1998 is repealed.

SCHEDULE 1

Section 4

Reference method for measuring the lead and benzene content of petrol and determination of octane ratings.

1.

(a) Leaded petrol

For the measurement of the lead content of petrol, the reference method shall be that laid down in ISO 3830;

(b) Unleaded petrol

For the measurement of the trace lead content of petrol, the reference method shall be that laid down in ASTM D.3237-90 using atomic absorption spectrometry.

Reference method for measuring the benzene content of petrol.

2. For the measurement of the benzene content of petrol the reference method shall be that laid down in ASTM D.3606-92 using gas chromatographic determination with polar column and internal standard.

Reference methods for the determination of octane ratings.

3. The octane ratings (motor octane number and research octane number) shall be determined by the methods described in ISO 5164 and ISO 5163 respectively.

Interpretation of results.

4. The results of individual measurements taken for the purposes of this Act shall be interpreted on the basis of the method described in ISO 4259.

SCHEDULE 2

Regulation 10

SULPHUR CONTENT OF LIQUID FUELS LICENCES

1. An operator of a combustion plant who wishes to rely on the exemption in section 10(2) or (3) may apply to the Licensing Authority for a sulphur content of liquid fuels licence if the operation of the plant does not require a licence under section 93C of the Public Health Act.
2. An application under paragraph 1 shall be in writing, shall be accompanied by such fee as may be prescribed under section 13 and shall contain the following information—
 - (a) the name of the applicant, his telephone number and address and, if different, any address to which correspondence relating to the application should be sent;
 - (b) the address of the site of the combustion plant, the rated thermal input of the plant (in megawatts) and the fuel used in the plant; and
 - (c) the condition which the applicant wishes to be included in the licence, being a condition which would satisfy the requirements of section 10(2) or (3).
3. An application under paragraph 1 may be withdrawn at any time before it is determined.
4. Where the Licensing Authority receives a duly made application under paragraph 1, it shall grant a sulphur content of liquid fuels licence subject to the condition identified in the application.
- 5.(1) A sulphur content of liquid fuels licence may be transferred by the holder to a person who proposes to operate the combustion plant in the holder's place.
 - (2) Where a licence is transferred under this paragraph the person to whom it is transferred shall notify the Licensing Authority in writing of that fact not later than the end of the period of 21 days beginning with the date of the transfer.
- 6.(1) A sulphur content of liquid fuels licence may be surrendered by the holder by serving written notice of the surrender on the Licensing Authority.

(2) Where a surrender is notified under this paragraph the licence shall cease to have effect on the date specified in the notification.

SCHEDULE 3

Section 12M(3)

**EQUIVALENT EMISSION VALUES FOR EMISSION ABATEMENT
METHODS AS REFERRED TO IN SECTION 12M(3)**

Marine fuel sulphur limits referred to in Articles 4a and 4b of the Directive and regulations 14.1 and 14.4 of Annex VI to MARPOL and corresponding emission values referred to in section 12M(3)–

Marine fuel Sulphur Content (% m/m)	Ratio Emission SO ₂ (ppm)/CO ₂ (% v/v)
3,50	151,7
1,50	65,0
1,00	43,3
0,50	21,7
0,10	4,3

Note:

1. The use of the Ratio Emissions limits is only applicable when using petroleum based Distillate or Residual Fuel Oils.
2. In justified cases where the CO₂ concentration is reduced by the exhaust gas cleaning (EGC) unit, the CO₂ concentration may be measured at the EGC unit inlet, provided that the correctness of such a methodology can be clearly demonstrated.

SCHEDULE 4

Section 12M(5)

**CRITERIA FOR THE USE OF EMISSION ABATEMENT
METHODS REFERRED TO IN SECTION 12M(5)**

The emission abatement methods referred to in section 12M shall comply at least with the criteria specified in the following instruments, as applicable-

Emission abatement method	Criteria for use
Mixture of marine fuel and boil-off gas	Commission Decision 2010/769/EU of 13 December 2010 on the establishment of criteria for the use by liquefied natural gas carriers of technological methods as an alternative to using low sulphur marine fuels meeting the requirements of Article 4b of the Directive.
Exhaust gas cleaning systems	Resolution MEPC.184(59) adopted on 17 July 2009: "Wash water resulting from exhaust gas cleaning systems which make use of chemicals, additives, preparations and relevant chemical created in situ", referred to in point 10.1.6.1 of Resolution MEPC.184(59), shall not be discharged into the sea, including enclosed ports, harbours and estuaries, unless it is demonstrated by the ship operator that such wash water discharge has no significant negative impacts on and do not pose risks to human health and the environment. If the chemical used is caustic soda it is sufficient that the washwater meets the criteria set out in Resolution MEPC.184(59) and its pH does not exceed 8,0.
Biofuels	Use of biofuels as defined in 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 that comply with the relevant CEN and ISO standards. The mixtures of biofuels and marine fuels shall comply with the sulphur standards set out in Article 3a, Article 4a(1), (1a) and (4) and Article 4b of the Directive.