

Subsidiary Legislation made under s. 31.

**MAINTENANCE OF MINIMUM STOCKS
REGULATIONS 2013**

(LN. 2013/013)

Commencement **31.1.2013**

Amending
enactments

Relevant current
provisions

Commencement
date

Transposing:

Directive 2009/119/EC

EU Legislation/International Agreements involved:

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In exercise of the powers conferred upon it by section 31 of the Civil Contingencies Act 2007 and for the purpose of transposing into the law of Gibraltar Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products, the Government has made the following Regulations—

PART 1 GENERAL

Title and commencement.

1. These Regulations may be cited as the Maintenance of Minimum Stocks Regulations 2013 and come into operation on the day of publication.

Scope.

2. These Regulations aim to ensure a high level of security of oil supply through reliable and transparent mechanisms based on solidarity amongst Member States, maintaining minimum stocks of crude oil, petroleum products or both and putting in place the necessary procedural means to deal with a serious shortage.

Interpretation.

3. In these Regulations—

“additives” means non-hydrocarbon compounds added to or blended with a product to modify its properties;

“Authority” and “Fuel Resources Authority” means the authority established under regulation 4;

“biofuel” means liquid or gaseous fuel for transport produced from biomass, ‘biomass’ being the biodegradable fraction of products, waste and residues from agriculture (including vegetable and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste;

“central stockholding entity” and “CSE” mean the body or service upon which powers may be conferred to act to acquire, maintain or sell oil stocks, including emergency stocks and specific stocks;

“commercial stocks” means those oil stocks held by economic operators which are not a requirement under these Regulations;

“Coordination Group” means the consultative Group established by the Directive to contribute to analysing the situation within the Community with regard to security of supply for oil and petroleum products and to facilitate the coordination and implementation of measures in that field;

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“Directive” means Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products, as the same may be amended from time to time;

“economic operator” means any person, body or entity required to hold emergency stocks under these Regulations;

“effective international decision to release stocks” means any decision in force taken by the Governing Board of the International Energy Agency to make crude oil or petroleum products available to the market by a release of its member’s stocks and/or additional measures;

“emergency stocks” means the oil stocks that are required to be maintained pursuant to regulation 20;

“Governing Board of the International Energy Agency” means the Governing Board of the International Energy Agency (IEA), the inter-governmental organisation established by means of the “Agreement on an International Energy Program” (I.E.P. Agreement);

“inland consumption” means the total quantities, calculated according to Schedule 2, delivered within Gibraltar for both energy and non-energy use, this aggregate includes deliveries to the transformation sector and deliveries to industry, transport, households and other sectors for ‘final’ consumption, it also includes the own consumption of the energy sector (except refinery fuel);

“international marine bunkers” means the quantities of fuels delivered to ships of all flags that are engaged in international navigation, the international navigation may take place at sea, on inland lakes and waterways, and in coastal waters, but the following are excluded—

- (a) consumption by ships engaged in domestic navigation, the domestic/international split should be determined on the basis of port of departure and port of arrival, and not by the flag or nationality of the ship;
- (b) consumption by fishing vessels;
- (c) consumption by military forces;

“major supply disruption” means a substantial and sudden drop in the supply of crude oil or petroleum products to the European Union or to a Member State, irrespective of whether or not it has led to an effective international decision to release stocks;

“the Minister” means the Minister responsible for Civil Contingencies;

“oil stocks” means the following stocks of energy products and as listed in the first paragraph of Section 3.1 of Annex C to Regulation (EC) No 1099/2008, namely—

- (a) crude oil;
- (b) NGL;

- (c) refinery feedstocks;
- (d) other hydrocarbons;
- (e) refinery gas (not liquefied);
- (f) ethane;
- (g) LPG;
- (h) Naphtha;
- (i) motor gasoline;
- (j) aviation gasoline;
- (k) gasoline type jet fuel (naphtha type jet fuel or JP4);
- (l) kerosene type jet fuel;
- (m) other kerosene;
- (n) gas/diesel oil (distillate fuel oil);
- (o) transport diesel;
- (p) heating and other gasoil;
- (q) fuel oil (both low and high sulphur content);
- (r) white spirit and SBP;
- (s) lubricants;
- (t) bitumen;
- (u) paraffin waxes;
- (v) petroleum coke;

“physical accessibility” means arrangements for locating and transporting stocks to ensure their release or effective delivery to end users and markets within time frames and conditions conducive to alleviating the supply problems which may have arisen;

“reference year” means the calendar year of the consumption or of the net import data used to calculate either the stocks to be held or the stocks actually held at a given time;

“Regulation (EC) No 1099/2008” means Regulation (EC) No 1099/2008 of the European Parliament and of the Council of the 22nd October 2008 on energy statistics;

“specific stocks” means oil stocks that meet the criteria set out in regulation 25.

**PART 2
FUEL RESOURCES AUTHORITY**

Establishment of Authority.

4.(1) The Fuel Resources Authority is established which shall consist of–

- (a) the Minister, as chairperson;
- (b) at least 2 other persons appointed by the Government.

(2) Any member of the Authority (other than a member referred to in subregulation (1)(a)) shall hold office for such period and upon such terms as may be specified in the instrument of appointment.

(3) If the Minister is satisfied that any member referred to in subregulation (1)(c)–

- (a) has been absent from three consecutive meetings of the Authority without the permission of the Authority;
- (b) has become bankrupt;
- (c) has been convicted of a criminal offence involving violence or dishonesty or has been sentenced to a term of imprisonment;
- (d) is incapacitated by physical or mental illness; or
- (e) is otherwise unable or unfit to discharge the functions of a member,

the Minister may by notice in the Gazette declare his office as a member of the Authority to be vacant and thereupon his office shall become vacant.

(4) Any member may resign his office by giving written notice to the Authority.

(5) Any member of the Authority who ceases to be a member (otherwise than under subregulations (3) or (4)) shall be eligible for re-appointment.

Authority to be body corporate.

5.(1) The Authority shall be a body corporate with perpetual succession under the name of the Fuel Resources Authority and shall have a common seal which shall be officially and judicially noted.

(2) The common seal of the Authority may only be affixed to an instrument in the presence of the Chief Executive or other person authorised by the Authority for that purpose and one other member of the Authority; the persons so present shall sign the instrument as witnesses to the sealing.

(3) The Authority may sue and be sued in its corporate name.

(4) Service of any process or notice on the Authority may be effected by leaving it at, or sending it by registered post to, the principal office of the Authority.

Meetings and proceedings.

6.(1) The quorum at all meetings of the Authority shall be one member in addition to the chairman or other person presiding.

(2) At all meetings of the Authority the chairman or, in his absence, such member as the Authority may select shall preside.

(3) Any matters arising at a meeting of the Authority shall be decided by a majority of the members present and voting thereon at the meeting and, in the case of an equality of votes, the person presiding shall have a second, casting, vote.

(4) All orders and directions of the Authority shall be given under the hand of the Chief Executive.

Duties of the Authority.

7.(1) It shall be the duty of the Authority to carry out the functions conferred upon it under these Regulations or any other Act or law.

(2) The Authority—

(a) where oil stocks are to be held by economic operators—

(i) may issue directions to economic operators with regard to oil stocks in their possession or under their control;

(ii) shall obtain such information as it may require for the discharge of its duties under these Regulations and, where required to do so, forward such information to the Minister or as otherwise directed by the Government; and

- (iii) may issue administrative penalties as provided for under these Regulations;
- (b) where it holds oil stocks, in its name or where these are held on its behalf, the Authority—
 - (i) shall have as its main purpose the acquisition, maintenance and selling of oil stocks for the purposes of these Regulations, the Directive or for the purpose of complying with international agreements concerning the maintenance of oil stocks, and to that end it may acquire, hold and sell such oil stocks as may be required for the purpose of ensuring the most effective means for the supply and distribution of oil stocks in circumstances of emergency; and
 - (ii) may enter into formal arrangements with economic operators for the purposes set out in subparagraph (i);
- (c) shall carry out such other duties as the Chief Minister may from time to time direct.

(3) In exercising its powers, duties and functions under these Regulations the Authority shall act in accordance with the policy of the Government and in accordance with any decision of the Government communicated in writing by the chairman, in his capacity as Minister, to the Authority.

(4) Where subregulation (2)(b) applies the Authority—

- (a) shall be deemed to be a central stockholding entity for the purposes of implementing the Directive in Gibraltar;
- (b) shall operate on a without profit objective and acting in the general interest and it shall not be considered to be an economic operator within the meaning of these Regulations; and
- (c) shall be the only body or service upon which powers may be conferred to acquire or sell specific stocks.

Delegation of management of emergency and specific stocks.

8.(1) The Authority, with the Chief Minister's prior approval, may, for a specified period, delegate tasks relating to the management of emergency stocks and, with the exception of sale and acquisition, of specific stocks, but only to—

- (a) a Member State within whose territory such stocks are located or the central stockholding entity set up by that Member State but tasks so delegated may not be sub-delegated to other Member States or to central stockholding entities set up by them;
- (b) economic operators, but tasks delegated to economic operators may not be sub-delegated and where such a delegation, or any change or extension to that delegation, involves tasks relating to the management of emergency and specific stocks held in another Member State, economic operators must be authorised in advance both by the Minister or the central stockholding entity, as the case may be, on whose account the stocks are held, and by all Member States within whose territories the stocks will be held.

(2) In subregulation (1)(a) the Authority and the Member State upon whose territory the stocks are held each have the right to make designation conditional upon their authorisation.

(3) Where regulation 7(4)(a) applies the Authority shall, for the purposes of regulation 24(1) to (5), publish—

- (a) on an ongoing basis, full information, broken down by product category, on the stock volumes that it can undertake to maintain for economic operators, or, where appropriate, interested central stockholding entities;
- (b) at least 7 months in advance, the conditions subject to which it is willing to provide services related to maintaining the stocks for economic operators.

(4) For the purposes of subregulation (3)(b), the conditions under which services may be provided, including conditions relating to scheduling, may also be determined by the Government or following a competitive procedure intended to determine the best bid among operators or, where appropriate, interested central stockholding entities.

(5) The Authority shall accept such delegations under objective, transparent and non-discriminatory conditions and payments by the operators for its services as the deemed central stockholding entity shall not exceed the full costs of the services rendered and may not be required until the stocks are constituted.

(6) The Authority may make its acceptance of a delegation conditional upon the operator's provision of a guarantee or some other form of security.

Powers of the Authority.

9.(1) Subject to the provisions of these Regulations or any other Act, the Authority shall have power to do all things necessary for the carrying out of its duties under this or any other Act.

(2) The Authority may acquire any freehold or leasehold land required for the purposes of any of its functions under these Regulations or any other Act and dispose of any land so acquired which is no longer required for such purposes.

(3) Without prejudice to the generality of subregulation (1), the Authority may—

- (a) purchase, lease or otherwise acquire and hold any property (other than land acquired under subregulation (2)) required for the purposes of the Authority and dispose of any such property no longer required for such purposes;
- (b) contract with any person for the supply to, or by, the Authority of any goods, services or personnel;
- (c) erect, equip and maintain all necessary buildings, plant and equipment; and
- (d) with the written consent of the Minister, reimburse the members of the Authority for such expenses as are incurred by them with the consent of the Authority.

Discharge of functions by the Authority.

10.(1) Subject to any express provision contained in these Regulations or any other Act, the Authority may arrange for the discharge of any of its functions—

- (a) by a committee, a sub-committee or an employee of the Authority; or
- (b) by any Government department or by any other authority.

(2) Any arrangements made by the Authority under this section for the discharge of any of its functions by a committee, sub-committee, employee, Government department or other authority shall not prevent the Authority from exercising those functions.

Procedure.

11. Subject to the provisions of this or any other Act, the Authority may regulate its own procedure.

Appointment of Chief Executive.

12.(1) The Civil Contingencies Coordinator designated under section 19 of the Civil Contingencies Act 2007 shall be the Chief Executive of the Authority.

(2) The Chief Executive shall hold office for such period and upon such terms as may be specified in the instrument appointing him.

(3) The Chief Executive shall be the executive officer of the Authority and shall in addition perform such other functions, and exercise such other powers, as are from time to time conferred upon him by these Regulations or any other Act or are delegated to him by the Authority.

(4) In the event of the illness, death, retirement, suspension or removal from office or absence from Gibraltar of the Chief Executive, the Authority shall appoint a person to act as Chief Executive.

Financial duty of the Authority.

13. The Authority shall so manage its affairs as to ensure that, taking one year with another, its outgoings are not greater than its revenues from—

- (a) all funds which may from time to time be voted by the Gibraltar Parliament for the purposes of the Authority;
- (b) all revenue accruing from dues;
- (c) all fees due to the Authority for the provision of services and facilities provided by the Authority in the exercise of its functions; and
- (d) any money properly accruing to the Authority from any other source.

Establishment and operation of general fund.

14.(1) The Authority shall establish with the Accountant General a general fund—

- (a) into which all money received by the Authority shall be paid; and

(b) out of which all payments made by the Authority shall be paid.

(2) The Chief Executive shall be responsible for the management of the general fund established under subregulation (1).

(3) The Authority may, with the consent of the Chief Minister borrow temporarily by way of overdraft or otherwise such sums as it may require for meeting its obligations and discharging its functions.

(4) The Government may out of monies appropriated by the Gibraltar Parliament make advances for the purposes of meeting expenditure of a capital nature.

Accounts and auditing.

15.(1) The Authority shall in the manner and in the form required by the Accountant General keep proper books of account of its operations during each financial year, and shall in like manner and form also cause a statement of its accounts for each financial year to be prepared within three months after the end of that year.

(2) The accounts of the Authority for each financial year shall be audited and certified by the Principal Auditor as soon as practicable after the end of that year.

(3) The Principal Auditor shall, with reference to the accounts of the Authority, report—

(a) whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purposes of the audit; and

(b) whether the Authority has discharged its financial duties and obligations under these Regulations.

(4) Within one month after the end of the audit of its accounts for any financial year, the Authority shall prepare and submit to the Minister a written report of its operations for that year together with a copy of the audited accounts for that year.

(5) The Minister shall lay a copy of the annual report and of the audited accounts on the table of the Gibraltar Parliament as soon as practicable after they have been received by him.

(6) The Authority shall furnish to the Government—

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- (a) a copy of the estimates of income and expenditure, including capital expenditure, by no later than the first day of January in each year; and
- (b) such financial and statistical returns as the Government may from time to time require.

No personal liability to attach to members.

16. Subject to the provisions of regulation 17, no personal liability shall attach to any member of the Authority in respect of anything done or suffered or omitted to be done in good faith and without negligence under the provisions of this or any other Act.

Proceedings on failure of Authority to perform its duties.

17.(1) If at any time it appears to the Chief Minister that the Authority has failed to comply with any of the provisions of these Regulations or any other Act, the Chief Minister may by notice in writing require the Authority to make good the default within such time as may be specified in the notice.

(2) If the Authority fails to comply with the requirements of a notice issued under the provisions of subsection (1), the Attorney General may apply to the Supreme Court for an order requiring the Authority to remedy the default specified and the Supreme Court may make such order on the application as it thinks fit.

(3) Every member of the Authority shall be personally liable for compliance with any such order to the best of his ability.

Restriction on execution.

18. No execution by attachment of property or process in the nature thereof shall be issued against the Authority and in particular any oil and oil derivatives held by the Authority either directly or indirectly for the purposes of compliance with Gibraltar's obligations under the Directive shall not be liable to any judgment or execution thereon to the extent that such a judgment or execution would cause Gibraltar to be in default of its obligations under the Directive.

Exemption from taxes, etc.

19. The Authority shall be exempt from all taxes on income and property rates.

PART 3 **MAINTENANCE OF STOCKS**

Stock to be maintained and calculation thereof.

20.(1) The Authority shall ensure that total oil stocks shall at all times correspond, at least to the greater of the following-

- (a) 90 days of the average daily net imports; or
- (b) 61 days of the average daily inland consumption.

(2) The average daily net imports to be taken into account shall be calculated on the basis of the crude oil equivalent of imports during the previous calendar year, determined in accordance with the method and procedures set out in Schedule 1, the average daily inland consumption to be taken into account shall be calculated on the basis of the crude oil equivalent of inland consumption during the previous calendar year, established and calculated in accordance with the method and procedures set out in Schedule 2.

(3) Notwithstanding subregulation (3), the daily averages of net imports and inland consumption, as referred to in that subregulation, shall be determined, as regards the period from 1 January to 31 March of each calendar year, on the basis of the quantities imported or consumed during the last year but one before the calendar year in question.

Calculating stock levels.

21.(1) The Authority or where directed by the Authority an economic operator shall calculate the levels of stocks held using the methods set out in Schedule 3 and when calculating stock levels for each category held pursuant to regulation 25, those methods shall apply only to the products in the category in question.

(2) The levels of stocks held at any given time shall be calculated using data from the reference year determined in accordance with the rules set out in regulation 20.

(3) Any oil stocks may be included simultaneously in both the calculation of emergency stocks and the calculation of specific stocks provided that those oil stocks satisfy all the conditions laid down in these Regulations for both types of stocks.

Availability of stocks.

22.(1) The Authority shall ensure that at all times emergency stocks and specific stocks are available and physically accessible for the purposes of these Regulations and that stocks are identifiable, accountable and under

their control to ensure that those stocks may be verified at any time including any emergency stocks and specific stocks that are commingled with other stocks held by economic operators.

(2) The economic operators shall take all necessary measures to prevent all obstacles and encumbrances that could hamper the availability of emergency stocks and specific stocks.

(3) The Authority may set limits or additional conditions on the possibility of its emergency stocks and specific stocks being held outside Gibraltar.

(4) Where there is reason to implement the emergency procedures provided for in regulation 34, the Authority shall issue a direction prohibiting, and the economic operators shall refrain from taking, any measure hindering the transfer, use or release of emergency stocks or specific stocks held within Gibraltar on behalf of a Member State.

(5) The Authority may issue such directions as it deems necessary, and economic operators shall observe any such direction, to ensure that emergency stocks and specific stocks are available and physically accessible for the purposes of these Regulations.

Register of emergency stocks and annual report.

23.(1) The Authority shall keep a continually updated and detailed register of all emergency stocks held for the benefit of Gibraltar which do not constitute specific stocks, and such register shall contain, in particular, information needed to pinpoint the depot, refinery or storage facility where the stocks in question are located, as well as the quantities involved, the owner of the stocks and their nature, with reference to the categories identified in the first paragraph of Section 3.1 of Annex C to Regulation (EC) No 1099/2008.

(2) By 25 February of each year following the entry into force of these Regulations, the Authority shall ensure that the Commission is sent a summary copy of the stock register referred to in subregulation (1) showing at least the quantities and nature of the emergency stocks included in the register on the last day of the preceding calendar year.

(3) The Authority shall also ensure that the Commission is sent a full copy of the register within 15 days of a request by the Commission but in this copy sensitive data relating to the location of stocks may be withheld.

(4) Requests under subregulation (3) may be made no later than 5 years after the date to which the requested data relate, and may not bear upon data relating to any period preceding 1 January 2013.

Economic operators.

24.(1) Any economic operator to whom the Authority issues a direction imposing stockholding obligations in order to fulfil its obligations under regulation 20 shall have the right to delegate those obligations at least in part and at the choice of the economic operator, but only to-

- (a) the central stockholding entity for Gibraltar, where regulation 7(4)(a) applies;
- (b) one or more other central stockholding entities of Member States which have in advance declared themselves willing to hold such stocks, provided that such delegations have been authorised in advance both by the Authority and by all Member States within whose territories the stocks will be held;

and to either or both-

- (c) other economic operators which have surplus stocks or available stockholding capacity outside Gibraltar and the stocks are held within the European Union, provided that such delegation has been authorised in advance both by the Authority and by all Member States within whose territories the stocks will be held; and
- (d) other economic operators which have surplus stocks or available stockholding capacity within Gibraltar, provided that such delegation has been communicated in advance to the Authority, and in such a case the Authority may impose limits or conditions on such delegations.

(2) Obligations delegated in accordance with subregulation (1)(c) and (d) may not be sub-delegated and any change to or extension of a delegation referred to in those paragraphs shall only take effect if authorised in advance by the Authority and by all Member States within whose territories the stocks will be held and which authorised the delegation.

(3) Any change to or extension of a delegation referred to in subregulation (1)(d) shall be treated as a new delegation.

(4) The Authority may restrict the delegation rights of the economic operators on which it imposes or has imposed stockholding obligations, but-

- (a) it may not limit the delegation rights of an economic operator to amounts corresponding to less than 10% of the stockholding

obligation imposed on it, unless the Minister has set up a central stockholding entity;

- (b) an economic operator shall have the right to delegate at least 10% of the stockholding obligation imposed on it to such central stockholding entity, which shall accept the delegation to it in respect such amount.

(5) The Authority may restrict the delegation rights of the economic operators on which it imposes or has imposed stockholding obligations but where such restrictions limit the delegation rights of an economic operator to amounts corresponding to less than 10% of the stockholding obligation imposed on it, the Authority acting pursuant to regulation 7(4)(a) shall accept delegations in respect of the amount needed to safeguard the right of an economic operator to delegate at least 10% of the stockholding obligation imposed on it.

(6) In subregulation (5) the references to 10% shall increase to 30% on 31 December 2017.

(7) Notwithstanding the provisions of subregulations (1) to (6), the Government may direct an economic operator to delegate at least part of its stockholding obligation to the Authority.

(8) The Authority shall inform economic operators of the modalities to be used to calculate the stockholding obligations imposed on them no later than 200 days prior to the start of the period to which the obligation in question relates, and economic operators shall exercise their right to delegate stockholding obligations to central stockholding entities as applicable no later than 170 days prior to the start of the period to which the obligation in question relates.

(9) Where economic operators are informed less than 200 days before the start of the period to which the stockholding obligation relates, they may exercise their right to delegate that obligation at any time.

Specific stocks.

25.(1) The Authority may direct that a minimum level of oil stocks are maintained, and calculated in terms of number of days of consumption, in accordance with the conditions set out in this regulation.

(2) Specific stocks shall be owned by the Government or the Authority and shall be maintained within the territory of the European Union.

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(3) Specific stocks can only be composed of one or more of the following product categories, as defined in Section 4 of Annex B to Regulation (EC) No 1099/2008—

- (a) ethane;
- (b) liquefied petroleum gas (LPG);
- (c) motor gasoline;
- (d) aviation gasoline;
- (e) gasoline-type jet fuel (naphtha-type jet fuel or JP4);
- (f) kerosene-type jet fuel;
- (g) other kerosene;
- (h) gas/diesel oil (distillate fuel oil);
- (i) fuel oil (high sulphur content and low sulphur content);
- (j) white spirit and SBP;
- (k) lubricants;
- (l) bitumen;
- (m) paraffin waxes;
- (n) petroleum coke.

(4) Petroleum products constituting specific stocks shall be identified by the Authority on the basis of the categories listed in subregulation (3).

(5) The Authority shall ensure that, for the reference year determined in accordance with the rules set out in regulation 20 and concerning the products included in the categories used, the crude oil equivalent of quantities consumed in Gibraltar is at least equal to 75% of inland consumption calculated using the method set out in Schedule 2.

(6) For each of the categories chosen by the Authority, the specific stocks undertaken to be maintained shall correspond to a given number of days of average daily consumption measured on the basis of their crude oil equivalent during the reference year determined in accordance with the rules set out in regulation 20.

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(7) The crude oil equivalents referred to in subregulations (1) to (3) shall be calculated by multiplying by a factor of 1.2 the sum of the aggregate 'observed gross inland deliveries', as defined in Section 3.2.1 of Annex C to Regulation (EC) No 1099/2008, for the products included in the categories used or concerned and international marine bunkers shall not be included in the calculation.

(8) Where the Authority has decided to maintain specific stocks, the Minister shall ensure the Commission is sent a notice specifying the level of such stocks that the Authority has undertaken to maintain and the duration of such undertaking, which shall be of at least 1 year.

(9) The notified minimum level shall apply equally to all categories of specific stocks used by Gibraltar.

(10) Such stocks shall be held for the full length of the notified period without prejudice to the right of the Authority to authorise temporary reductions to be undergone due solely to individual stock replacement operations.

(11) The list of categories used by Gibraltar shall remain in effect for at least 1 year and may be amended only with effect on the first day of a calendar month.

(12) In the case that the Authority has not made a commitment for the full length of a given calendar year to maintain at least 30 days of specific stocks, at least one-third of the stockholding obligation shall be held in the form of products composed in accordance with subregulations (3) to (7).

(13) When less than 30 days of specific stocks are held the Authority shall draw up an annual report analysing the measures taken to ensure and verify the availability and physical accessibility of the emergency stocks referred to in regulation 22, and documenting in the same report the arrangements made to allow the Government to control the use of these stocks in case of oil supply disruptions.

(14) The Minister shall ensure that the report referred to in subregulation (13) is sent to the Commission by the end of the first month of the calendar year to which it relates.

Managing specific stocks.

26.(1) The Authority shall ensure that a continually updated and detailed register of all specific stocks held within Gibraltar is maintained and that such register contains, in particular, all information needed to pinpoint the exact location of the stocks in question.

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(2) The Minister shall ensure that the Commission is sent a copy of the register within 15 days of a request by it but sensitive data relating to the location of stocks may be withheld from that copy.

(3) Requests under subregulation (2) may be made no later than 5 years after the date to which the requested data relate.

(4) Where specific stocks are commingled with other oil stocks, the Authority shall prevent those commingled products from being moved, to the extent of the proportion constituting specific stocks, without the prior written authorisation of the owner of the specific stocks and the Authority, or where the specific stock are not in Gibraltar, the central stockholding entity of the Member State in whose territory the stocks are located.

(5) All specific stocks maintained or transported within Gibraltar, irrespective of whether those stocks are owned by the Government, the Authority or by Member States shall not be liable to any court order or other proceedings, whether for any interim measure or relief or for execution, which may affect the ability of the owner from dealing with it in accordance with the obligations in these Regulations or the Directive, and any court in which any proceedings are instituted shall take judicial notice of this subregulation.

The effect of delegations.

27. The delegations referred to in regulations 24 and 25 shall in no way alter the obligations incumbent upon Government and the Authority pursuant to these Regulations.

Statistical summaries of stocks covered by regulation 20.

28.(1) With regard to the levels of stocks to be held pursuant to regulation 20, the Minister shall ensure that the Commission is sent a statistical summary in accordance with the rules set out in Schedule 4.

(2) The statistical summary of emergency stocks may not include quantities of crude oil or petroleum products which are subject to a seizure order or enforcement action and may not include stocks owned by companies that are bankrupt or have entered into an arrangement with creditors.

Statistical summaries of specific stocks.

29.(1) The Authority shall ensure that there is produced a statistical summary, for each product category, showing the specific stocks existing on the last day of each calendar month and specifying the quantities and the

number of days of average consumption in the reference year which those stocks represent.

(2) Where some of those specific stocks are held outside Gibraltar the summary referred to in subregulation (1) shall provide details of the stocks maintained in or by the various Member States and central stockholding entities concerned and shall also provide a detailed indication of whether Government owns all of those stocks or whether they are owned, in whole or in part, by the Authority.

(3) Where applicable, the Minister shall ensure that the Commission is provided with a summary of the specific stocks located within Gibraltar which are owned by Member States or central stockholding entities, showing the stocks existing on the last day of each calendar month and broken down into the product categories identified pursuant to regulation 25(8) to (11) and also indicating, in each case, the Member State or central stockholding entity concerned and the quantities involved.

(4) The statistical summaries referred to in subregulations (1) to (3) shall be submitted during the calendar month following that to which they relate.

(5) The Minister shall ensure that copies of the statistical summaries are sent to the Commission immediately upon request but such requests may be made no later than 5 years after the date to which the data in question relate.

Summaries of commercial stocks.

30.(1) Economic operators shall submit to the Authority a monthly statistical summary of the levels of commercial stocks held within Gibraltar.

(2) The data referred to in subregulation (1) shall reach the Authority by not later than the 15th day after the end of the month for which the report is due, save as otherwise provided by the Authority and shall be submitted in the form, manner or format required by the Authority, including in electronic form.

(3) The Minister shall ensure that the Commission is sent a monthly statistical summary of the levels of commercial stocks held within Gibraltar and such summary shall ensure that sensitive data are protected and shall not include the names of the owners of the stocks concerned.

Biofuels and additives.

31.(1) When calculating stockholding obligations under regulations 20 and 25 biofuels and additives shall be taken into account only where they have been blended with the petroleum products concerned.

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(2) When calculating the stock levels actually maintained, biofuels and additives shall be taken into account when—

- (a) they have been blended with petroleum products concerned; or
- (b) they are stored in Gibraltar and there are legally binding obligations in force for ensuring that biofuels are to be blended with petroleum products held pursuant to stockholding requirements set out in these Regulations and that they are to be used in transportation.

Reviews of emergency preparedness and stockholding.

32.(1) Where the Commission announces that it is to conduct a review pursuant to Article 18(1) of the Directive and the Commission has not been provided with sensitive data relating to the location of stocks pursuant to regulations 23 and 25, the Minister shall ensure that within 1 week of that announcement that sensitive data is placed at the disposal of the Commission's employees or its authorised agents.

(2) The Authority and those responsible for maintaining and managing emergency and specific stocks may be inspected as part of the review referred to in subregulation (1) shall provide assistance to the persons authorised by the Minister to perform reviews of emergency preparedness and stockholding, and those persons shall be granted, in particular, the right to consult all documents and registers relating to the stocks and have right of access to all sites on which stocks are held and to all related documents.

(3) Officials, agents and other persons working under Commission supervision and members of the Coordination Group may not disclose any information which has been gathered or exchanged pursuant to Article 18 of the Directive or under this regulation and which, by its nature, is covered by professional secrecy, such as the identity of the owners of stocks.

(4) The objectives of a review under Article 18 of the Directive and this regulation may not include the processing of personal data and any personal data found or uncovered during such a review may not be gathered nor taken into consideration and if gathered accidentally it shall be destroyed immediately.

(5) The Minister, the Authority, economic operators and the central stockholding entity shall preserve all data, records, summaries and documents relating to emergency stocks and specific stocks for a period of at least 5 years.

Protection of individuals with regard to the processing of data.

33. These Regulations are without prejudice to, and shall in no way affect, the level of protection of individuals with regard to the processing of personal data under the Data Protection Act 2004.

Emergency procedures.

34.(1) The Government may direct the Authority to release quickly, effectively and transparently some or all of the emergency stocks and specific stocks in the event of a major supply disruption, and to impose general or specific restrictions on consumption in line with the estimated shortages, inter alia, by allocating petroleum products to certain groups of users on a priority basis.

(2) The Authority shall at all times have contingency plans to be implemented in the event of a major supply disruption and shall provide for organisational measures to be taken to allow those plans to be implemented.

(3) Where requested, the Minister shall provide the Commission with information regarding the contingency plans and the corresponding organisational arrangements referred to in subregulation (2).

(4) In the event of an effective international or Community decision to release stocks affecting one or more Member States the Authority may use emergency stocks and specific stocks to fulfil international obligations under that decision and if so doing, the Minister shall ensure the Commission is notified immediately.

(5) The Authority may release emergency and specific stocks below the compulsory minimum level set by these Regulations in amounts immediately necessary for an initial response in cases of particular urgency or in order to meet local crises and in the event of such release, the Minister ensure that the Commission is informed immediately of the amount released.

(6) Where subregulations (4) or (5) of these Regulations are applied, the Authority may temporarily permit that stocks are held at levels lower than those stipulated by these Regulations.

PART 4
MISCELLANEOUS

Administrative penalty.

35.(1) The Authority may impose an administrative penalty upon any person who infringes any provision of these Regulations or who fails to comply with any direction given by the Government or by the Authority in ensuring compliance with these Regulations.

- (2) Without prejudice to subregulation (1), an economic operator who—
- (a) does not submit data to the Authority within the established time-frame; and, or
 - (b) supplies information which is erroneous or misleading or inaccurate; and, or
 - (c) submits data in a format which is different from that requested by the Authority; and, or
 - (d) by any act or omission whatsoever and howsoever described, fails to maintain the oil stocks as required to be held by the Authority in terms of these Regulations,

shall be liable to the imposition of an administrative penalty which shall not exceed £10,000 and shall be further liable to a further penalty of one tenth thereof for each day of non-compliance.

(3) An administrative penalty shall be recoverable as a civil debt due to the Authority.

(4) Any sums collected by the Authority pursuant to this regulation shall be paid into the Consolidated Fund.

Appeal to Magistrates' Court.

36.(1) A person who has been issued an administrative penalty pursuant to regulation 19 may appeal to the Magistrate's Court.

(2) The Magistrates' Court may confirm, vary or quash an administrative penalty.

Offences.

37. A person who—

- (a) fails to comply with any lawful order made by an inspector, employee or officer of the Authority in the performance of his duties;
- (b) hinders, obstructs, molests or interferes or attempts to hinder, obstruct, molest or interfere with the performance of the duties of any inspector, any employee or officer of the Authority; or

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- (c) makes a declaration for any of the purposes of these Regulations which is false, misleading or incorrect in any material particular,

shall be guilty of an offence and be liable to a fine not exceeding level 5 on the standard scale.

SCHEDULE 1

Regulation 20

**METHOD FOR CALCULATING THE CRUDE OIL EQUIVALENT
OF IMPORTS OF PETROLEUM PRODUCTS**

The crude oil equivalent of imports of petroleum products, as referred to in regulation 20, must be calculated using the following method-

the crude oil equivalent of imports of petroleum products is obtained by calculating the sum of the net imports of crude oil, NGL, refinery feedstocks and other hydrocarbons as defined in Section 4 of Annex B to Regulation (EC) No 1099/2008, adjusting the result to take account of any stock changes, deducting 4% for naphtha yield (or, if the average naphtha yield within Gibraltar is greater than 7%, deducting the net actual consumption of naphtha or the average naphtha yield) and adding this to the net imports of all other petroleum products excluding naphtha, also adjusted to take account of stock changes and multiplied by a factor of 1.065.

International marine bunkers are not included in the calculation.

SCHEDULE 2

Regulations 3, 20, 25

**METHOD FOR CALCULATING THE CRUDE OIL EQUIVALENT OF
INLAND CONSUMPTION**

For the purpose of regulation 20, the crude oil equivalent of inland consumption must be calculated using the following method:

Inland consumption is the sum of the aggregate ‘observed gross inland deliveries’, as defined in Section 3.2.1 of Annex C to Regulation (EC) No 1099/2008, of the following products only: motor gasoline, aviation gasoline, gasoline-type jet fuel (naphtha-type jet fuel or JP4), kerosene-type jet fuel, other kerosene, gas/diesel oil (distillate fuel oil) and fuel oil (high sulphur content and low sulphur content) as defined in Section 4 of Annex B to Regulation (EC) No 1099/2008.

International marine bunkers are not included in the calculation.

The crude oil equivalent of inland consumption is calculated by multiplying by a factor of 1.2.

SCHEDULE 3

Regulation 21

METHODS FOR CALCULATING THE LEVEL OF STOCKS HELD

The following methods must be used to calculate stock levels—

Without prejudice to the case addressed in regulation 21(3), no quantity may be counted as stock more than once.

Crude oil stocks are reduced by 4%, which corresponds to the average naphtha yield.

Stocks of naphtha and petroleum products for international marine bunkers are not included.

Other petroleum products are included in the stock count using one of the two methods set out below. The method chosen must continue to be used throughout the whole calendar year in question.

The Authority may—

- (a) include all other stocks of the petroleum products identified in the first paragraph of Section 3.1 of Annex C to Regulation (EC) No 1099/2008 and calculate the crude oil equivalent by multiplying the quantities by a factor of 1.065; or
- (b) include stocks of only the following products: motor gasoline, aviation gasoline, gasoline-type jet fuel (naphtha-type jet fuel or JP4), kerosene-type jet fuel, other kerosene, gas/diesel oil (distillate fuel oil) and fuel oil (high sulphur content and low sulphur content) and calculate the crude oil equivalent by multiplying the quantities by a factor of 1.2.

The calculation may include quantities held:

- in refinery tanks,
- in bulk terminals,
- in pipeline tankage,
- in barges,
- in intercoastal tankers,
- in oil tankers in port,
- in inland ship bunkers,
- in storage tank bottoms,

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- as working stocks,
- by large consumers as required by law or otherwise controlled by governments.

However, those quantities except for any held in refinery tanks, in pipeline tankage or in bulk terminals, may not be included when calculating levels of specific stocks where such stocks are calculated separately from emergency stocks.

The calculation may never include—

- (a) crude oil not yet produced;
- (b) quantities held:

- in pipelines,
- in rail tank cars,
- in seagoing ships' bunkers,
- in service stations and retail stores,
- by other consumers,
- in tankers at sea,
- as military stocks.

When calculating stocks, the Authority must reduce the quantities of stocks calculated as set out above by 10%. That reduction applies to all quantities included in a given calculation.

However, no 10% reduction is to be applied when calculating the level of specific stocks or the levels of the different categories of specific stocks where those stocks or categories are considered separately from the emergency stocks, particularly with a view to verifying compliance with the minimum levels laid down by regulation 25.

**RULES FOR THE PREPARATION AND SUBMISSION TO THE
MINISTER OF STATISTICAL SUMMARIES OF STOCKS TO BE HELD
PURSUANT TO REGULATION 20**

The Authority must draw up and submit to the Minister, on a monthly basis, a definitive statistical summary of the level of stocks actually held on the last day of the calendar month, calculated either on the basis of the number of days of net oil imports or on the basis of the number of days of inland oil consumption, in accordance with regulation 20.

The statistical summary must provide precise details of why the calculation is based on the number of days of imports or, conversely, on the number of days of consumption and must specify which of the calculation methods set out in Schedule 3 was used.

If some of the stocks included when calculating the level of stocks held pursuant to regulation 20 are held outside national territory, each summary shall give details of the stocks held by the various Member States and CSEs concerned on the last day of the period to which it relates. In its summary, the Authority shall also indicate, in each case, whether the stocks are being held pursuant to a delegation request made by one or more economic operators or whether they are being held at its request or at the request of its CSE.

For any stocks held in Gibraltar on behalf of other Member States or CSEs, the Authority shall draw up and submit to the Minister a summary showing the stocks existing on the last day of each calendar month, broken down by product category. In that summary, the Authority shall also indicate, in particular, the Member State or CSE concerned and the quantities involved in each case.

The statistical summaries referred to in this Schedule must be submitted to the Commission within 55 days of the end of the month to which they relate. Those same summaries must also be submitted within 2 months of a request by the Commission.

Such requests may be made no later than 5 years after the date to which the data relate.