

**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

Transposing:

Directive 1999/32/EC

ARRANGEMENT OF SECTIONS

Section

**PART I
PRELIMINARY**

1. Citation.
2. Interpretation.

**PART II
LEAD AND BENZENE CONTENT OF MOTOR FUEL**

3. Lead and benzene content and motor octane number of motor fuel.
4. Measurement methods for lead and benzene content and octane ratings.
5. Notice to purchasers.
6. Distribution of unleaded and leaded petrol.
7. Deemed licence conditions.
8. Derogation.

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

9. Application of Part.
10. Maximum sulphur content of heavy fuel oil.
11. Maximum sulphur content in gas oil.
12. Sampling and analysis.

**PART IV
FINAL PROVISIONS**

13. Regulations.

2001-10

Motor Fuel (Composition and Content)

This version is out of date

SCHEDULE 1

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

SCHEDULE 2

SULPHUR CONTENT OF LIQUID FUELS LICENCES

SCHEDULE 3

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

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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—

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

“Minister” means the Minister with responsibility for Trade and Industry;

(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 Part III and unless the context otherwise requires—

"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;

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

"gas oil" means—

- (a) any petroleum derived liquid fuel falling within CN code 2710 00 67 or 2710 00 68; or
- (b) any petroleum derived liquid fuel which, by reason of its distillation limits, falls within the category of middle distillates intended for use as fuel and of which at least 85 per cent by volume (including losses) distills at 350°C by the ASTM D86 method,

but shall not include diesel fuels, as defined in Article 2(2) of Council Directive 98/70/EC relating to the quality of petrol and diesel fuels and fuels used in non-road mobile machinery and agricultural tractors;

"heavy fuel oil" means—

- (a) any petroleum derived liquid fuel falling within CN code 2710 00 71 to 78; or
- (b) any petroleum derived liquid fuel, other than gas oil or marine gas oil, 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 per cent by volume (including losses) distills at 250°C by the ASTM D86 method or of which the distillation cannot be determined by that method;

"marine gas oil" means fuel intended for marine use which is gas oil or which has a viscosity or density falling within the ranges of viscosity or density defined for marine distillates in Table I of ISO 8217 (1996);

"sulphur content of liquid fuels licence" has the meaning given in section 10(6)(c)(ii).

(4) Words used in Part III which are also used in Council Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels have the same meaning as in that 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 of Part.**

9. This Part does not apply to—

- (a) the use of fuel, other than of marine gas oil, by seagoing ships;
- (b) the use of marine gas oil by ships crossing a frontier between a third country and a Member State;
- (c) the use of fuel intended for processing prior to final combustion; and
- (d) the use of fuel to be processed in the refining industry.

Maximum sulphur content of heavy fuel oil.

10.(1) Subject to the following provisions of this section, any person who, on or after 1st January 2003, uses heavy fuel oil with a sulphur content exceeding 1 per cent by mass shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Subsection (1) shall not apply to the use of heavy fuel oil in a new large combustion plant which is operated in accordance with a condition in a licence which contains emission limit values for sulphur dioxide which are at least as stringent as those set out for such plant in Annex IV to Council Directive 88/609/EEC.

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(3) Subsection (1) shall not apply to the use of heavy fuel oil in a combustion plant which is not a new large combustion plant and which is operated in accordance with a condition in a licence which prohibits the emissions of sulphur dioxide from the plant exceeding 1,700 mg/Nm³ at an oxygen content in the flue gas of 3 per cent by volume on a dry basis.

(4) Subsection (1) shall not apply to the use of heavy fuel oil in a combustion plant which—

- (a) is not a new large combustion plant;
- (b) is used for combustion in a refinery with other combustion plant; and
- (c) is operated in accordance with a condition in a licence which provides that the plant may only be operated if (irrespective of the type of fuel or fuel combination used) the monthly average of emissions of sulphur dioxide averaged over all of the plant in the refinery (excluding new large combustion plant) does not exceed 1,700 mg/Nm³ at an oxygen content in the flue gas of 3 per cent by volume on a dry basis.

(5) Where the Licensing Authority grants a licence referred to in subsections (2) to (4), it shall ensure that the appropriate monitoring of emissions of sulphur dioxide is carried out for the purpose of checking compliance with the conditions referred to in those subsections.

(6) In this section—

- (a) “large combustion plant” means a combustion plant, the rated thermal input of which is equal to or greater than 50 MW, irrespective of the type of fuel used (solid, liquid or gaseous);
- (b) "new large combustion plant" means a large combustion plant which is also a “new plant” within the meaning of Article 2(9) of Directive 88/609/EEC;
- (c) "licence" means, in relation to a combustion plant—
 - (i) a licence granted under section 93C of the Public Health Act if the operation of the plant requires such a licence;
 - (ii) in any other case, a licence granted for the purpose of this Act (a "sulphur content of liquid fuels licence").

(7) 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.(1) Any person who, on or after 1st July 2000 and before 1st January 2008, uses gas oil or marine gas oil with a sulphur content exceeding 0.2 per cent by mass shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Any person who, on or after 1st January 2008, uses gas oil or marine gas oil with a sulphur content exceeding 0.1 per cent by mass shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Sampling and analysis.

12.(1) The Minister shall take all necessary measures to ensure that sampling is carried out of heavy fuel oil and gas oil used in Gibraltar to check that the use of the fuel complies with section 10(1) and 11(1) and (2).

(2) Sampling under paragraph 1 shall begin—

- (a) for the purpose of checking for compliance with section 10(1), by 1st July 2003;
- (b) for the purpose of checking for compliance with section 11(1), at the date of coming into force of this Act;
- (c) for the purpose of checking for compliance with section 11(2), by 1st July 2008.

(3) Sampling under subsection (1) shall be carried out with sufficient frequency and in such a way that the samples are representative of the fuel examined.

(4) Schedule 3 shall apply for the purpose of determining the sulphur content of fuel sampled under subsection (1).

PART IV

FINAL PROVISIONS

Regulations.

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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(3) or (4) 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(3) or (4).
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.

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(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 12

TECHNICAL REQUIREMENTS FOR ANALYSIS OF SAMPLES

1. The reference method adopted for determining the sulphur content of fuels sampled pursuant to regulation 12 shall be that defined by—
 - (a) ISO method 8754 (1992) and PrEN ISO 14596 for heavy fuel oil and marine gas oil;
 - (b) EN method 4260 (1987), ISO 8754 (1992) and PrEN ISO 14596 for gas oil.
2. The arbitration method shall be PrEN ISO 14596.
3. The statistical interpretation of the verification of the sulphur content of the gas oils used shall be carried out in accordance with ISO standard 4259 (1992).