EXPLANATORY MEMORANDUM TO

THE MOTOR FUEL (COMPOSITION AND CONTENT) (AMENDMENT) REGULATIONS 2012

2012 No. 2567

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These Regulations transpose into United Kingdom law the changes to the fuel test procedures set out in European Directive 98/70/EC (The Fuel Quality Directive) that are introduced by European Directive 2011/63/EU.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 A clarification of the meaning of the term “other liquid fuel” used in the Regulations has been made in response to the 15th report of the session 2010-11 of the Joint Committee on Statutory Instruments.

4. Legislative Context

4.1 Directive 98/70/EC, as amended (the Fuel Quality Directive) is transposed into United Kingdom law in part by the Motor Fuel (Composition and Content) Regulations 1999, SI 1999 No. 3107 (“the UK Regulations”).

4.2 The current instrument amends the UK Regulations so as to reflect minor changes made to the Fuel Quality Directive by Commission Directive 2011/63/EU.

4.3 Member States were required to transpose Directive 2011/63/EU into national law by 2nd June 2012.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 This instrument updates the definition of "the Directive" in the UK Regulations to refer to Directive 98/70/EC as last amended by Directive 2011/63/EU. It also clarifies the meaning of the term "other liquid fuel" used in the UK Regulations.

7.2 Article 1 of Directive 2011/63/EU updates footnotes in Annexes I and II of the Fuel Quality Directive (which set out petrol and diesel specifications) so as to reference the latest versions of the industry fuel standards EN228 and EN590. These standards are referenced primarily to define the methods used for testing whether fuels comply with the specifications. The UK Regulations define petrol and diesel specifications by reference to Annexes I and II of "the Directive" and the amendment will ensure that the latest version of the Annexes, with the footnotes referencing the 2008 and 2009 versions of EN 228 and EN 590 respectively, are called up by the UK regulations. These are the versions of the EN 228 and EN 590 specifications actually being used by industry, so that the amendment simply aligns the detail of the legislation with current practice.

7.3 The clarification of the meaning of the term "other liquid fuel" used in the UK Regulations has been inserted in response to the 15th report of the session 2010-11 of the Joint Committee on Statutory Instruments identifying some uncertainty as to whether the term included or excluded petrol and diesel. The term is used in Regulation 5B of the UK Regulations on the distribution and sale of gas oil ("red diesel"), where "other liquid fuel" supplied for use in non-road mobile machinery, tractors, and recreational craft which do not normally operate at sea, is required to meet the same maximum sulphur and manganese content limits, as well as the same metallic additive labelling requirements, as gas oil. The amendment makes it clear that "other liquid fuel" does not include petrol and diesel (which other elements of the Regulations already require to have a maximum sulphur content of 10mg/kg etc).

7.4 Directive 2011/63/EU also makes some minor amendments to Annex III of Directive 98/70/EC which defines the numerical values for the "vapour pressure waiver" for petrol containing bioethanol. Since the UK applies the alternative "low ambient summer temperature" derogation permitted by Directive 98/70/EC, the amendments to Annex III of the Directive are of no relevance to the UK and will not be transposed into the UK Regulations.

- Consolidation

7.5 This instrument does not consolidate the Regulations. We have chosen not to consolidate the Regulations now as the changes made are very minor and in order to save

time, and so reduce the risk of infraction proceedings being pursued against the United Kingdom by the European Commission.

8. Consultation outcome

8.1 We have undertaken a consultation on the amendments with bodies representing fuel suppliers and with both manufacturers and users of vehicles and of contractors' plant and equipment. The responses we received to our consultation supported our proposed amendments to the Regulations.

8.2 In view of the very minor and wholly technical nature of the amendments we judged it sensible to limit our consultation to industry stakeholders who might have a direct or indirect interest in them.

9. Guidance

9.1 Since the substantive changes made by the Regulations are of direct interest only to professionals involved in fuel testing who are already applying its substance, the publication of guidance is considered unnecessary.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

10.4 Since this amendment changes a minor technical detail of the Regulations so as to align the letter of them with current industry practice it will place no burden upon business, will not impact upon the price of fuel to consumers, and will have no impact upon the environment. We have not judged it appropriate, in the circumstances, to commit resources to the production of a formal impact assessment.

11. Regulating small business

11.1 The legislation applies to small business. Some companies involved in fuel testing may be small businesses, but the Regulations will place no burden upon businesses generally and so will place no burden upon small businesses in the sector.

12. Monitoring & review

12.1 The Regulations include a provision requiring a statutory review to be held no later than five years after the Regulations have come into force.

13. Contact

Simon Davies at the Department for Transport Tel: 0207 944 2116 or email: simon.davies@dft.gsi.gov.uk, can answer any queries regarding the instrument.

TRANSPOSITION NOTE FOR:

COMMISSION DIRECTIVE 2011/63/EU (AMENDING ANNEXES I, II, AND III OF DIRECTIVE 98/70/EC RELATING TO THE QUALITY OF PETROL AND DIESEL FUELS)

BY

THE MOTOR FUEL (COMPOSITION AND CONTENT) (AMENDMENT) REGULATIONS 2012

1. For the purposes of this note:-

   "The 1999 Regulations" means SI 1999 No. 3107, The Motor Fuel (Composition and Content) Regulations 1999 as last amended by SI 2010 No.3035, The Motor Fuel (Composition and Content) and Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2010

   "The 2012 Regulations" means the Motor Fuel (Composition and Content) (Amendment) Regulations 2012

   "The 1998 Directive" means Directive 98/70/EC as amended by instruments up to and including Directive 2009/30/EC

   "The 2011 Directive" means Directive 2011/63/EU

2. These Regulations do what is necessary to implement Annexes I, II, and III of the 1998 Directive as amended by the 2011 Directive. They also clarify the meaning of the term "liquid fuel" used in the 1999 Regulations.

   With the agreement of the devolved administrations, the Secretary of State has taken on the responsibility of implementing these Articles of the Directive for the whole of the UK via the 2012 Regulations.

The 2011 Directive		
Article	Objective	Implementation
Article 1	Article 1(1) - Amends footnote 1 and footnote 6 to Annex I of the 1998 Directive so as to replace references to the standard EN 228:2004 with references to the later version of that standard, EN 228:2008.	These provisions are implemented by regulation 3(2) of the 2012 Regulations. Regulation 3(2) amends regulation 2 of the 1999 Regulations to refer to the 2011 Directive. This ensures that subsequent references to "Annex I of the Directive" refer to Annex I as amended by the 2011 Directive.
	Article 1(2) - Amends footnote 1 to Annex II of the 1998 Directive so as to replace references to the standard EN 590:2004 with references to the later version of that standard, EN 590:2009.	This provision is implemented by regulation 3(2) of the 2012 Regulations. Regulation 3(2) amends regulation 2 of the 1999 Regulations to refer to the 2011 Directive. This ensures that subsequent references to "Annex I of the Directive" refer to Annex I as amended by the 2011 Directive.
	Article 1(3) - Substitutes an amended text for the existing text of Annex III of the 1998 Directive so as to adjust the numerical values tabulated for the purposes of the "vapour pressure waiver."	This provision is not implemented by the 2012 Regulations. Since the United Kingdom makes use of an alternative "low summer temperature" derogation, the amendments to Annex III of the 1998 Directive are of no relevance to the UK.