EXPLANATORY MEMORANDUM TO

THE OIL STOCKING ORDER 2012

2012 No. 2862

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change (DECC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument amends the existing regime for holding oil stocks, the purpose of which is to ensure that stocks are available for release to the market in the event of an oil supply crisis. In particular, it sets out when a person will be a substantial supplier to the UK market, to whom the Secretary of State may give a direction to create oil stocks under section 6 of the Energy Act 1976 ("the Act"). It also sets out when stocks can be treated as "United Kingdom stocks" in order to comply with such a direction. The Order also establishes an authorisation regime to enable a stocks to be held in the UK on behalf of other member States, including provision to protect the stocks of other states when held in the United Kingdom.

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

3.1 None

4. Legislative Context

4.1 The instrument forms part of the United Kingdom's implementation of Council Directive 2009/119/EC imposing an obligation on member States to maintain minimum stocks of crude oil and / or petroleum products ("the Directive"), which replaces previous Directive 2006/67/EC. The objective of the Directive is to ensure a high level of security of oil supply in the EU. In addition to its obligations under EU law, the United Kingdom has parallel obligations to hold emergency oil stocks by virtue of its membership of the International Energy Agency ("IEA"), under the International Energy Program of 1974 (as amended in 2008), and the Directive is intended to make the EU regime more compatible with IEA practice.

4.2 The new Directive was considered by the EU Scrutiny Committee in January, March and June 2009 and debated on 9th June 2009.

4.3 The existing domestic regime for emergency oil stocks is set out in the Act and in orders and directions made under that Act. In particular, the Secretary of State has the power under section 6 of the Act to give directions to any person who in the course of an undertaking carried on by him produces, supplies or uses crude liquid petroleum or petroleum products, requiring oil stocks to be brought up to and maintained at a specified level. Where a person supplies crude liquid petroleum or petroleum products, but does not already hold stocks, a direction may only be given requiring that person to create stocks if the person is a "substantial supplier" to the United Kingdom market.

4.4 Much of the Directive is implemented using the existing legal framework, but some amendments need to be made, through this Order (which revokes previous orders made under section 6 of the Act) and in the directions issued under the Act. A Transposition Note has been prepared, and is attached as an Annex to this Memorandum.

4.5 The Directive was published in the Official Journal of the European Communities on 9th October 2009. The Regulatory Policy Committee (RPC) considered DECC's Impact Assessment (IA) and on 21st March 2012 gave it an 'Amber, Fit for Purpose' opinion. The European Affairs/Reducing Regulation Committee clearance was issued by the Chancellor of the Exchequer on 30th May 2012.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 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 The new Directive brings in revisions which enhance the EU oil stocking system, bringing it into line with the existing rules of the International Energy Agency (IEA, part of the OECD). The aim of transposing the Directive into UK law is to ensure that the UK can meet its EU and international oil stocking obligations and be able to participate effectively in maintain the security of supply for oil.

7.2 The Directive gives member States some discretion about how to meet their stockholding obligations, and can therefore largely be implemented through the UK's existing oil stocking regime. However, it does require a number of changes to the detailed arrangements for calculating and regulating stockholding obligations. It also requires more reporting by industry stakeholders. Some of these changes will be made in the directions issued by the Secretary of State to companies, e.g. instead of specifying the volume of fuel companies are required to hold based on three fuel categories, directions will in future require companies to hold 1/3rd of stocks in the form of specified petroleum products and the remainder in the form of any crude oil or petroleum products (see further the Transposition Table annexed to this Memorandum).

7.3 In order to minimise disruption to, and burdens on business, we are, as far as possible, relying on the existing domestic regime in order to comply with the Directive. The particular nature of the regime, including the use of quarterly directions to substantial suppliers to the UK market, has meant that it has not always been possible to copy out obligations in the Directive. However, the approach taken

is designed to avoid gold-plating and to take advantage, wherever possible, of opportunities within the Directive to minimise burdens on business.

7.4 The remaining changes are made through the Order. In particular, the Order:

- makes provision about the cases and circumstances in which stocks held by companies can be counted towards their oil stocking obligations (Part 2). While these provisions largely build on the existing methodology for calculating stock levels, there are changes, for example prohibiting the sub-delegation of obligations to third parties. These changes ensure that only stocks which satisfy the requirements of the Directive can be relied on to meet the requirements of a direction by the Secretary of State. In doing so, we have selected the option in Annex III of the Directive which gives companies the greatest flexibility when choosing the type of stock to hold to meet their stockholding obligations;
- makes provision to ensure that stock remains available at all times (Part 3). Article 7 of the Order addresses the requirement in Article 10(3) of the Directive that stocks which are specific stocks have unconditional immunity from enforcement action. Article 8 of the Order clarifies the arrangements under which directions will come to an end where a person required to hold emergency stocks ceases trading. The Secretary of State may extend the period of a direction for up to three months, giving the Secretary of State time where needed to make alternative provision to meet the United Kingdom's stockholding obligations. The Secretary of State can also vary or revoke a direction under section 17(2) of the Act;
- establishes an authorisation regime to enable stocks to be held in the UK on behalf of other member States in accordance with the Directive (Part 4). This puts on a formal footing the informal arrangements previously used;
- sets out how applications for authorisation can be made (Part 5);
- introduces measures to protect stocks held in the UK on behalf of another member State (Part 7). A person who does not hold such stock in accordance with obtain proper authorisation, or who seeks to block the transfer, use or release of such stocks in an emergency without a reasonable excuse will be guilty of an offence under Article 17. This replicates the criminal offence regime which is available in respect of UK stock in sections 18 and 19 of the Energy Act 1976.

- **Consolidation**

7.5 This Order revokes the Orders previously made under section 6 of the Act, namely the Petroleum Stocks Order 1976 ("the 1976 Order") and the Orders which amended that Order. This Order therefore makes provision to re-enact the definition of "substantial supplier" previously contained in the 1976 Order (Part 6 of the Order). A person who supplies crude liquid petroleum or petroleum products to the UK market but who does not already hold emergency stocks can only be required by the Secretary of State to create such stocks if they come within this definition.

8. Consultation outcome

8.1 DECC has worked closely with industry stakeholders to develop the new Oil Stocking Order 2012. Consultation meetings were held on 29th November 2011 and 22nd June 2012. After those meetings stakeholders were encouraged to submit their comments and questions and DECC replied to the issues raised. Companies were invited in to work with DECC staff in the preparation of new reporting forms which will be used when the Directive comes into force. Most recently, the draft guidance, which will be placed on the DECC web-site was circulated to stakeholders for comment in September 2012. The responses received have helped to finalise detail.

8.2 In the various stages of consultation, stakeholders have been content with a large proportion of the UK proposals to transpose the Directive. However, they have raised concerns about issues such as the proportion of biofuels which can be counted towards their obligation, the formula which DECC has adopted to calculate the overall obligation and the changes in the Directive which mean that sub-delegation is no longer allowed. We have endeavoured to address their concerns, within the limited opportunities for flexibility within the Directive.

8.3 We consulted the European Commission on the biofuels concerns which were raised by stakeholders to ensure that we were interpreting the provisions of the Directive correctly and giving the maximum flexibility possible.

8.4 With regard to the formula for calculating the obligation, the Directive offered two possible methods, A & B. On behalf of the UK, DECC has decided to count stocks using Method A which allows industry to hold the widest possible range of fuels to meet its obligation and consequently to buy in greater bulk and obtain the best prices. Under the EU Directive, it is possible to change to the other method, Method B, after 1 calendar year. DECC will monitor the position carefully with stakeholders.

9. Guidance

9.1 As mentioned in 8.1 above, DECC has drafted guidance on the measures the UK has adopted to meet its international obligations to maintain emergency stocks. Stakeholders have been consulted and the final version of the guidance will be placed on the DECC web-site when the Oil Stocking Order 2012 comes into force. DECC's audit and enforcement policies are being updated and will be published on the web-site as one new document with the guidance.

10. Impact

10.1 The impact on business, charities or voluntary bodies as a result of this Order is expected to be minimal. Although the new Directive increases the UK's overall obligation by 250kt (about 3%), it creates greater flexibility for companies in terms of the types of stocks they can hold and their ability to purchase in greater bulk at cheaper prices. It will also lower the administrative burden for companies as EU & IEA obligations are aligned.

10.2 The impact on the public sector as a result of this Order is expected to be negligible.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

11.1 The legislation applies to small business. It is highly unlikely that the Secretary of State would issue a direction under section 6 of the Act to such a business as such directions are normally only issued to a person who is a substantial supplier to the UK market. Article 16 of this Order makes clear that such a person must supply in excess of 50,000 tonnes of crude liquid petroleum or petroleum products to the UK market, which represents a significant financial commitment. It is also highly unlikely that such a business would choose to hold stock on behalf of another member State. It is, however, possible that a small business might chose to hold stock on behalf of a person to whom a direction has been given, in which case that person may apply to the Secretary of State for authorisation but must comply with the terms of that authorisation when holding the stock.

11.2 The Order gives the Secretary of State flexibility when imposing the terms of an authorisation, subject to the need to ensure that those terms enable the Secretary of State to comply with the requirements of the Directive. In the event that the Secretary of State is asked to approve an arrangement under which stock will be held by a small business the Secretary of State will be able to take into account the particular circumstances relating to that business when imposing terms.

12. Monitoring & review

12.1 The operation of the oil stocking regime will continue to be monitored by DECC and discussed with stakeholders. In particular, DECC will review the calculation methods being used, as described in 8.4 after 1 calendar year.

12.2 Article 19 requires the Secretary of State to review the Order and report on the findings by 31st December 2015, and every 5 years thereafter. The timing for the first review is designed to align with the Commission's review of the functioning and implementation of this Directive by 31st December 2015. DECC will commence this review in mid 2015.

13. Contact

Anne Pearcey at the Department of Energy and Climate Change, tel: 0300 068 5353 or email:anne.pearcey@decc.gsi.gov.uk can answer any queries regarding the instrument.

COUNCIL DIRECTIVE 2009/119/EC IMPOSING AN OBLIGATION ON MEMBER STATES TO MAINTAIN MINIMUM STOCKS OF CRUDE OIL AND / OR PETROLEUM PRODUCTS

TRANSPOSITION NOTE

FOR

THE OIL STOCKING ORDER 2012

Statement on over-implementation: This Order does no more than is necessary to implement the relevant requirements of the Directive.

In this note, "the Act" is the Energy Act 1976, and "the Order" is the Oil Stocking Order 2012.

Article	Result to be achieved	Implementation measures	Comments
1	**Objective**		No transposition necessary.
2	**Definitions**	Article 2 of the Order incorporates the Directive definitions, with minor amendments in some cases, such as where there is a risk of confusion with respect to terminology used in the Energy Act 1976.	
3	**Emergency stocks – calculating stockholding obligations**		
3.1	Requires member States to adopt provisions to ensure that the total oil stocks maintained within the Community correspond to a specified minimum level based on their imports or consumption levels (whichever is greater).	Article 16. Section 6 of the Act already gives the Secretary of State power to direct persons who produce, supply or use crude liquid petroleum or petroleum products to hold stocks at a specified level, which he will do based on his calculation of consumption levels.	Article 16 of the Order broadly re-enacts the definition of 'substantial supplier' previously found in the Petroleum Stocks Order 1976 (which this Order revokes), which determines the circumstances in which companies which supply oil to the UK market can be required to create emergency stocks.
3.2 with Annex I and II	The basis on which a member States' import or consumption levels are to be calculated.		No transposition necessary. However, the Secretary of State uses the calculated consumption levels to determine the minimum level of

			stocks to be specified in directions given under section 6 of the Act.
3.3	The period for which import or consumption data is to be taken.		No transposition necessary.
3.4	Provides that the methods and procedures set out in the Directive for calculating obligations may be amended.		No transposition necessary.
4	**Calculating stock levels**		
4.1 with Annex III	The basis on which the level of stocks held must be calculated.	Articles 3, 4 and 5 of the Order.	These provisions of the Order set out the cases and circumstances in which stocks of a particular type, held at a particular location or for a particular purpose can be treated by companies as part of their United Kingdom stocks for the purposes of satisfying a direction given under section 6 of the Act.
4.2	The period for which the level of stocks held must be calculated.		No transposition necessary.
4.3	For member States which propose to hold specific stocks in accordance with Article 9, permits any stocks held to be counted towards both their emergency and specific stocks.		No transposition necessary. The United Kingdom does not propose to hold specific stocks.
4.4	Provides that the methods and procedures for calculating stock levels may be amended.		No transposition necessary.
5	**Availability of stocks**		
5.1	Stocks must be available and accessible.	Articles 3(1)(d) and (2)(c) of the Order.	These provisions of the Order set out the cases and circumstances in which stocks can be treated by companies as being available for

			the purposes of satisfying a direction given under section 6 of the Act.
	There must be arrangements to verify stocks.	Article 13(2)(a) of the Order. The Secretary of State has existing powers under Schedule 2 of the Act to verify stocks, including powers to direct a person to keep accounts and records and make returns, as well as to call for documents and access premises.	In order to ensure there is necessary cover where stocks are not held by a person who is subject to a direction, the provisions of the Order require the Secretary of State to make any authorisation subject to terms enabling such verification.
	Member States must take all necessary measures to prevent obstacles and encumbrances that could hamper the availability of stocks.	Articles 7 and 8 of the Order. The Secretary of State also has existing powers under section 17(2) of the Act to vary the terms of a direction. In addition, the court's case management powers include an ability to grant a stay of any proceedings or judgment either generally or until a specified date or event (Civil Procedure Rule 3.1). The court can also grant various interim remedies (rule 25.1(1)(a)). Courts also have specific powers in the case of insolvency proceedings under sections 126, 147 and 227 of the Insolvency Act 1986.	Article 7 confers unconditional immunity from enforcement action for specific stocks. Article 8 ensures that stocks do not become unavailable where companies cease to trade. The Secretary of State may extend the period for a direction, ensuring the stocks can continue to be relied up until the stockholder or Secretary of State has made alternative stockholding arrangements.
	Member States may set limits or additional conditions on the possibility of its emergency stocks and specific stocks being held outside its territory.	Articles 2 (definition of international storage arrangement), 3(1)(c)(ii) and 12-15 of, and Schedule 1 to, the Order.	The United Kingdom does not propose to impose limits or additional conditions on such holding, provided that it is held in accordance with an authorisation by the Secretary of State.

5.2	Prohibition on any measure hindering transfer, use or release of emergency or specific stocks of other member States in the event of a supply crisis.	Article 11 of the Order.	
6.	**Register of emergency stocks – Annual report**		
6.1	Requirement for member States to keep a register of all emergency stocks. Register must contain information needed to pinpoint stock location, quantities held, and the owner and nature of the stocks.	Article 13(2)(a) of the Order. The Secretary of State also has existing powers under Schedule 2 of the Act to direct companies to provide such information.	In order to ensure there is necessary cover where stocks are not held by a person who is subject to a direction, the provisions of the Order require the Secretary of State to make any authorisation subject to terms requiring the keeping and provision of information.
6.2	Summary register must be sent to Commission by 25th February each year.		No transposition necessary.
6.3	Full register must be sent to the Commission on request.		No transposition necessary.
7	**Central stockholding entities**		
7.1	Member States may set up a Central Stockholding Entity (CSE).		No transposition necessary. The UK does not currently propose to exercise the option to establish a CSE.
7.2	Sets out the purpose of a CSE.		See 7.1.
7.3	Sets out the conditions under which member States or their CSEs may delegate tasks relating to the management of emergency and specific stocks.	Article 2 (definition of delegation arrangement), 9 and 12-15 of, and Schedule 1 to, the Order.	Although the UK does not currently propose to have its own stockholding capacity or establish a CSE, economic operators may carry out tasks delegated to them by other States or their CSEs; these provisions set out the conditions under which an economic operator can carry out such a delegation.
7.4	Makes provision about the operation of CSEs.		See 7.1

8	**Economic operators**		
8.1	Sets out the conditions under which economic operators given stockholding obligations may delegate those obligations.	Articles 2 (definitions of United Kingdom ticket arrangement, CSE ticket arrangement, and international ticket arrangement), 3(1)(c)(iii), 9, 12-15 of, and Schedule 1 to, the Order.	These provisions of the Order set out the cases and circumstances in which stocks delegated to another person can be treated by companies as part of their United Kingdom stocks for the purposes of satisfying a direction given under section 6 of the Act.
8.2	Derogation from 8.1 for member States wishing to restrict delegation rights of economic operators.		No transposition necessary. The UK does not intend to restrict delegation rights of its economic operators.
8.3	Derogation from 8.1 for member States wishing to require economic operators to delegate obligations to a CSE.		No transposition necessary. The UK does not currently propose to exercise option to establish a CSE.
8.4	Member States to take the necessary measures to inform economic operators 200 days in advance of calculation modalities for stockholding obligations. If informed after this date, operators can delegate to a CSE at anytime.	Article 12(6) of the Order. The Secretary of State informs economic operators of their obligations in directions given under section 6 of the Act.	This provision requires an application for authorisation of such a delegation to be made within the required time limits.
9	**Specific stocks**		
9.1	Member States may undertake to hold state-owned owned stocks which they designate as 'specific stocks'.		No transposition necessary. The UK does not propose to have specific stocks.
9.2	Sets out the categories of petroleum products which can be specific stocks.		See 9.1.
9.3	Sets out the rules which must be met for stocks to be designated as specific stocks.		See 9.1.
9.4	Sets out the process for designating specific stocks.		See 9.1.
9.5	Provides that where member States have decided not to hold specific stocks, they must instead hold at least 1/3rd of their stockholding obligation in the form of	The Secretary of State has the power to issue directions to a person under section 6 of the Act which specify the arrangements to be	

	finished petroleum products.	made in respect of that person's stocks, including the form in which the stock must be held.	
10	**Managing specific stocks**		
10.1	Requirement for member States to keep a register of all specific stocks held on its territory. Register must contain information needed to pinpoint the stock location.	Article 13(2)(a) of the Order. The Secretary of State already has powers to under Schedule 2 of the Act to direct companies to provide such information.	No transposition necessary. In order to ensure there is necessary cover where stocks are not held by a person who is subject to a direction, the provisions of the Order require the Secretary of State to make any authorisation subject to terms requiring the keeping and provision of information.
10.2	Where specific stocks are commingled with other stocks, movement of the stocks requires prior written authorisation by relevant state authorities.	Article 10 and 13(2)(b)(i) of the Order.	Article 10 prevents stock being moved without consent. A delegation arrangement cannot be approved without a term requiring compliance with that article.
10.3	Member States must confer unconditional immunity from enforcement action on all specific stocks maintain or transported within their territory.	Article 7 of the Order.	
11	**The effect of delegations**		
	Provides that member State obligations are not altered by the delegation of obligations by CSEs or economic operators.	Article 3(1)(d) of the Order.	The provision makes clear that even if a stockholding obligation is delegated, that stock must still be available to and physically accessible to the economic operator who is subject to a direction at all times. The Secretary of State continues to have the power to take

			enforcement action under sections 18 and 19 of the Act against an operator which is failing to meet obligations which it has delegated.
12	**Statistical summaries of stocks covered by Article 3**		
12.1 with Annex IV	Requirement for Member State to submit regular statistical summaries of emergency stocks.		No transposition necessary. The Secretary of State has powers in Schedule 2 of the Act and Article 13(2)(a) of the Order to require companies to provide the information needed to draw up the statistical summary.
12.2	Provides that rules in the Directive for submission of statistical summaries can be amended.		No transposition necessary.
12.3	Member States may not include unavailable stocks in their statistical summary.		No transposition necessary.
13	**Statistical summaries of specific stocks**		
13.1	Requirement for member States to submit regular statistical summaries of their specific stocks.		No transposition necessary. The UK does not propose to hold specific stocks.
13.2	Requirement for member State to submit regular statistical summary of specific stocks held on behalf of other member States in its territory.		No transposition necessary. The Secretary of State has powers in Schedule 2 of the Act, and Article 13(2)(a) of the Order to require companies to provide the information needed to draw up the statistical summary.
13.3	Timing of submission of summaries.		No transposition necessary.
13.4	Requirement to send copies of summaries to the Commission on request.		No transposition necessary.
13.5	Provides that rules for submission of summaries in Directive may be amended.		No transposition necessary.
14	**Summaries of commercial stocks**		

14.1	Requirement for member States to submit regulatory statistical summaries of commercial stocks. Sensitive data included in summaries must be protected.	 Paragraph 7 of Schedule 2 to the Act already prohibits any disclosure of information obtained by virtue of the Act except in specified circumstances. In addition, commercially sensitive information is protected in the UK by virtue of the Data Protection Act 1998 and the Freedom of Information Act 2000, and common law duties in respect to confidence.	No transposition necessary. The Secretary of State has powers in Schedule 2 of the Act and Article 13(2)(a) of the Order to require companies to provide the information needed to draw up the statistical summary.
14.2	Provision for the Commission to publish statistical summaries of commercial stocks.		No transposition necessary.
14.3	Provides that the rules for submitting and publishing summaries in the Directive may be amended.		No transposition necessary.
15	**Data processing**		
	Requirements for Commission to manage and process statistical data.		No transposition necessary.
16	**Biofuels and additives**		
16.1	Provides that biofuels and additives can only be counted towards stockholding obligations once blended with petroleum products.	Article 3(1)(a) and Article 4(2). Section 6 of the Act already gives the Secretary of State power to direct persons who produce, supply or use crude liquid petroleum or petroleum products to hold stocks at a specified level, which he will do based on his calculation of consumption levels	These provisions make clear that biofuels and additives which have been blended with petroleum products can be counted towards a stockholding obligations in a direction given under section 6 of the Act.

		(including consumption of biofuels and additives).	
16.2	Sets out the rules under which biofuels and additives can be counted towards stock levels actually maintained.	Article 3(1)(a) and Article 4(2) for blended biofuels and additives (see 16.1). Article 3(2) and 6 for biofuels and additives which have not yet been blended.	These provisions ensure that biofuels and additives can only be counted towards a stockholding obligations in a direction given under section 6 of the Act if they are held in the United Kingdom, and are to be blended with the petroleum products of a person subject to a stockholding obligation for use as a transport fuel.
16.3	Provides that the rules on biofuels and additives in the Directive may be amended.		No transposition necessary.
17	**Coordination Group for oil and petroleum products**		
17.1	Provides for the establishment of an EU level Coordination Group.		No transposition necessary.
17.2	Makes provision about the membership of the Group.		No transposition necessary.
18	**Reviews of emergency preparedness and stockholding**		
18.1	Provides for the Commission, in coordination with member States, to review state emergency preparedness.		No transposition necessary.
18.2	Makes provision for who can participate in Commission reviews. Requires member States subject to review to provide the Commission with full information concerning stock location.	 Paragraph (7) of Schedule 2 of the Act already gives the Secretary of State power to share such information with the Commission. Further information can be obtained by the Secretary of State by virtue of article 13(2)(a)	No transposition necessary

		of the Order.	
18.3	Requirement for member State to cooperate with the Commission review, in particular by ensuring access to documents, registers and sites at which stocks are held.	The Secretary of State already has the power under paragraphs (2) and (3) of Schedule 2 to the Act to authorise persons to call for documents and access premises, and information contained in registers and other documents can be disclosed to the Commission under paragraph (7) of Schedule 2 to the Act. Further provision is made by article 13(2)(a) of the Order.	
18.4	Provision for member States and the Coordination Group to be notified of the outcome of reviews.		No transposition necessary.
18.5	Requires member States and Commission to protect sensitive information obtained in a review.	Insofar as this is a member State obligation, see 14.1.	
18.6	Prohibition on the processing of personal data as part of a review.		See 14.1.
18.7	Requirement for member States to keep records for at least 5 years.		No transposition necessary.
19	**Protection of individuals with regard to the processing of data**		
	Provides that the Directive is without prejudice to other regimes for protection of personal data.		No transposition necessary.
20	**Emergency Procedures**		
20.1	Requires member States to have procedures in place and to take such measures necessary to release stocks in the event of a major supply disruption, and to impose restrictions on consumption where necessary, including by allocating petroleum products to certain users on a priority basis.	The Secretary of State has existing powers to take such action. Section 6 of the Act makes provision for the Secretary of State to authorise the release of stocks in an emergency. Sections 1-4 of the Act make provision for controlling energy	

		products in an emergency, including provision under section 2(2) to direct companies which produce, supply or use such products requiring supplies to be made to specified persons in accordance with specified requirements.	
20.2	Requires member States to have contingency plans and organisation arrangements for a supply disruption, and provide those to the Commission on request.		Implemented administratively - necessary plans and organisation arrangements are in place.
20.3	(a) Provides that member States may release their stocks in response to an IEA stock release decision, and requires notification of the Commission where this occurs.		See 20.1 for powers to release stocks.
	(b) Provides for the Commission to encourage action by other member States to support the IEA decision.		No transposition necessary.
20.4	Provides for the release of stocks in the absence of an IEA decision. The Commission must coordinate with the IEA and Coordination Group as appropriate and determine whether a major supply disruption has occurred.		See 20.1 for powers to release stocks.
20.5	Provides for release of stocks by member States in cases of particular urgency or to meet local crises.		See 20.1 for powers to release stocks.
20.6	Makes provision for the Commission to determine the time in which stocks must be restored back to minimum levels after a stock release.		No transposition necessary.
20.7	Provides that stock release decisions taken by the Commission are without prejudice to member States' international obligations.		No transposition necessary.
21	**Penalties**		
	Requires member States to	Article 17 and Schedule	Article 17 of the

	lay down effective, proportionate and dissuasive sanctions for breach of national provisions adopted pursuant to the Directive.	2 to the Order. Breach of any provision of the Act or a direction given under the Act is already a criminal offence under section 18(2) of the Act, and is punishable by a fine of up to £5,000 in the Magistrates' Court or of an unlimited amount on indictment.	Order creates new offences to provide equivalent sanctions in relation to actions which threaten the stocks of other member States held in the UK. Schedule 2 ensures the Secretary of State has equivalent enforcement powers to those in Schedule 2 to the Act when enforcing the new offences.
22	**Review**		
	Requirement for the Commission to review functioning and implementation of Directive in 2015		No transposition necessary.
23	**Committee Procedure**		
23.1	Commission to be assisted by a Committee.		No transposition necessary.
23.2	Provision as to the procedures to be followed in amending the Directive.		No transposition necessary.
24	**Repeal**		
	Repeals Directives 73/238/EEC and 2006/67/EEC and Decision 68/416/EC.		No transposition necessary.
25	**Transposition**		
25.1	Transposition required by 31 December 2012 (subject to derogation for non-IEA members).		Necessary implementing measures all due to be transposed on time.
	National implementing measures to refer to the Directive.	Reference to Directive in Explanatory Note to Order.	
25.2	Member States must communicate implementing measures to Commission.		This transposition note will be notified to the Commission.
26	**Entry into force**		No transposition necessary.
27	**Addresses**		No transposition necessary.