SUBSIDIARY LEGISLATION 545.18

QUALITY OF FUELS REGULATIONS

1st February, 2008;
28th August, 2009

LEGAL NOTICE 44 of 2008, as amended by Act XV of 2009; and Legal Notices 79 of 2010, 66 of 2011, 123 and 231 of 2012, 300 and 303 of 2014, and 168 of 2015; Act XXV of 2015, and Legal Notices 264 of 2017, 309 of 2020, 217 of 2022 and 50 of 2026.

Citation and scope.
Amended by:
L.N. 79 of 2010;
L.N. 123 of 2012;
L.N. 231 of 2012;
L.N. 300 of 2014;
L.N. 168 of 2015.

1. (1) The title of these regulations is the Quality of Fuels Regulations.

(2) The scope of these regulations is to regulate the quality of fuels available in Malta and to transpose Directive 93/ 12/EEC, Directive 98/70/EC, Directive 1999/32/EC, Directive 2003/17/EC, Directive 2005/33/EC, Directive 2009/30/EC, Directive 2012/33/EU and Directive 2014/77/EU.

Definitions.
Amended by:
XV. 2009.49;
L.N. 79 of 2010;
L.N. 66 of 2011;
L.N. 231 of 2012;
L.N. 300 of 2014;
XXV. 2015.41;
L.N. 50 of 2026.

2. (1) In these regulations, 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;

"biofuels" means liquid fuel for transport produced from biomass;

"boil-off gas" means LNG vapors which are produced during various stages of LNG production and transport as a result of heat input and pressure variations, and which is either re-liquefied and returned to storage, so that it is then diverted to the boilers by pumping from storage into the vessel tanks to be used as a fuel for marine vessels, or compressed and exported as natural gas, which is cooled down to atmospheric pressure, at which point the gas condenses to a liquid, in order to facilitate transport;

"CN codes" means the code numbers of the combined nomenclature established by Regulation 2658/87 on the tariff and statistical nomenclature and on the customs tariff; OJ L 256, 7.9.1987, pg 1

"combustion plant", "new plant" and "existing plant" shall have the same meaning as defined in the Limitations of Emissions of Certain Pollutants into the Air from Large Combustion Plants Regulations; S.L. 435.56

"the Commission" means the European Commission established by article 7 of the Treaty establishing the European Community signed on March 25th, 1957;

"the Community" means the European Community established by the Treaty establishing the European Economic Community signed on March 25th, 1957;

"the competent authority" means the Regulator for Energy and Water Services established by the Regulator for Energy and Water Services Act; Cap. 545.

Cap. 226.

"contiguous zone" means the zone referred to in article 4 of the Territorial Waters and Contiguous Zones Act;

"diesel fuels" means gas oils falling within CN code 2710 19 41 as defined in Regulation (EEC) 2658/87 and used for self-propelling vehicles;

O.J. L 74, 27.3.93, p. 81.

"Directive 93/12/EEC" means Council Directive 93/12/EEC of 23 March 1993 relating to the sulphur content of certain liquid fuels;

O.J. L 350, 28.12.98, p. 58.

"Directive 98/70/EC" means Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC, as amended by Directive 2003/17/ EC;

OJ L 121, 11.5.1999, p. 13

"Directive 1999/32/EC" means Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC;

OJ L 309, 27.11.2001, p. 1-21

"Directive 2001/80/EC" means Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants;

O.J. L 76, 22.03.2003, p. 10.

"Directive 2003/17/EC" means Directive 2003/17/EC of the European Parliament and of the Council of 3 March 2003 amending Directive 98/70/EC relating to the quality of petrol and diesel fuels;

O.J. L 191, 22.07.2005, p. 59

"Directive 2005/33/EC" means to Directive 2005/33/EC of the European Parliament and of the Council of 6 July 2005 amending Directive 1999/32/EC as regards the sulphur content of marine fuels;

"emission abatement method" means any fitting, material, appliance or apparatus to be fitted in a ship or other procedure, alternative fuel, or compliance method, used as an alternative to low sulphur marine fuel meeting the requirements set out in these regulations, that is verifiable, quantifiable and enforceable;

"end user" means the person to whom fuel is sold or marketed by retail;

"EN 228:2012+A1:2017" means the requirements and test methods specified by the European Committee for Standardization in relation to the quality of unleaded petrol fuel for automotive use;

"EN 590:2013+A1:2017" means the requirements and test methods specified by the European Committee for Standardization in relation to the quality of diesel fuel for automotive use;

"EN Method 24260 (1987)" means the method specified by the European Committee for Standardization in relation to the determination of sulphur content in Petroleum products using the Wickbold combustion method;

"gas oil" means:

(*a*) any petroleum-derived liquid fuel, excluding marine fuel, falling within CN code 2710 19 25, 2710 19 29, 2710 19 47, 2710 19 48, 2710 20 17 or 2710 20 19, or

(*b*) any petroleum-derived liquid fuel, excluding marine

fuel, of which less than 65% by volume (including losses) distils at 250°C and of which at least 85% by volume (including losses) distils at 350 °C by the ASTM D86 method:

Provided that it shall not include:

(i) diesel fuels; or

(ii) fuels used in non-road mobile machinery and agricultural and forestry tractor;

"gas oils intended for use by non-road mobile machinery, agricultural and forestry tractors, and recreational craft" means any petroleum-derived liquid, falling under CN codes 2710 19 41 and 2710 19 45 intended for use in compression ignition engines referred to in Directives 94/25/EC, 97/68/EC and 2000/25/EC;

"heavy fuel oil" means:

(*a*) any petroleum-derived liquid fuel, excluding marine fuel, falling within CN code 2710 19 51 to 2710 19 68, 2710 20 31, 2710 20 35, 2710 20 39, or

(*b*) any petroleum-derived liquid fuel, other than 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% by volume (including losses) distils at 250°C by the ASTM D86 method. If the distillation cannot be determined by the ASTM D86 method, the petroleum product is likewise categorised as a heavy fuel oil;

"International Maritime Organisation" means the organisation established by the Convention on the Inter-Governmental Consultative Or ganisation, adopted by the United Nations Maritime Conference in Geneva on 6 March 1948, as amended;

"ISO 4259 (1992)" means the method specified by the International Organization for Standardisation in relation to the determination and application of precision data in relation to methods of tests of petroleum products;

"ISO 8754 (1992)" means the method specified by the International Organization for Standardisation in relation to the determination of sulphur content in Petroleum products using the Energy-dispersive X-ray fluorescence method;

"ISO 14596 (1998)" means the method specified by the International Organization for Standardisation in relation to the determination of sulphur content in Petroleum products using the Wavelength-dispersive X-ray fluorescence spectrometry method;

"LNG" means liquefied natural gas which has been converted to liquid form for ease of storage or transport, and which for the purpose of these regulations, is produced and used as a marine fuel for cargo vessels;

"Liquefied Natural Gas (LNG) carrier" means a cargo ship constructed or adapted and used for the carriage in bulk of liquefied natural gas as defined under the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in

Bulk (IGC) Code;

"Authority for Transport in Malta" means the Authority for Transport in Malta established by article 3 of the Authority for Transport in Malta Act; Cap. 499.

"the Environment and Resources" means the Environment and Resources Authority established by the Environment Protection Act; Cap. 549.

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

"marine fuel" means any petroleum-derived liquid fuel intended for use or in use on board a vessel, including those fuels defined in ISO 8217. It includes any petroleum-derived liquid fuel in use on board recreational craft, as defined in the Recreational Craft Regulations when such vessels are at sea; S.L. 427.61

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

"MARPOL" means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto;

"MARPOL Annex VI" means the annex, entitled "Regulations for the Prevention of Air Pollution from Ships", that the Protocol of 1997 adds to MARPOL;

"master" shall have the same meaning as is assigned to it under the Merchant Shipping Act; Cap. 234

"Member State" means a state which is a member of the European Union;

"non-road mobile machinery" shall have the same meaning as defined in the Measures against the Emission of Gaseous and Particulate Pollutants from Internal Combustion Engines (Non-road Mobile Machinery) Regulations; S.L. 235.30

"passenger" means every person other than:

(*a*) the master and the members of the crew or other person employed or engaged in any capacity on board a ship on the business of that ship; and

(*b*) a child under one year of age;

"passenger ship" means any ship which carries more than twelve passengers;

"petrol" means any volatile mineral oil intended for the operation of internal combustion positive-ignition engines for the propulsion of vehicles and falling within CN codes 2710 1 41, 2710 1 45, 2710 11 49, 2710 11 51 and 2710 11 59 as defined in Regulation (EEC) 2658/87;

"placing on the market" means supplying or making available to third persons, against payment or free of charge, anywhere within Malta's jurisdiction, marine fuels for on-board combustion

excluding supply or making available marine fuels for export in ships' cargo tanks;

"port" shall have the same meaning assigned to it by article 2 of the Ports and Shipping Act; Cap. 352.

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

(*a*) according to a published timetable; or

(*b*) with crossings so regular or frequent that they constitute a recognisable schedule;

"Regulation (EC) No 2099/2002" means Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships; OJ L 324, 29.11.2002, p. 1

"Regulation (EEC) 2658/87" means Council Regulation (EEC) 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended, and shall also include the Annexes to the said Regulation; OJ L 256, 7.9.1987, p. 1

"ships at berth" means ships which are securely moored or anchored in a Maltese port while they are loading, unloading or hotelling, including the time spent when not engaged in cargo operations;

"SO_x Emission Control Areas" shall mean sea areas defined as such by the IMO under MARPOL Annex VI;

"supplier" means an entity supplying fuel to the market that is responsible for passing fuel through an excise duty point or where no excise is due or where duly justified, any other relevant entity so designated;

"vehicle" shall have the same meaning assigned to it by regulation 3.1.4. of the Motor Vehicles (EC Type Approval) Regulations; S.L. 427.23

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

3. The limitations provided for by these regulations on the sulphur content of petroleum-derived liquid fuels shall not apply to: Non-applicability. *Amended by: L.N. 300 of 2014.*

(*a*) fuels intended for the purposes of research and testing;

(*b*) fuels intended for processing prior to final combustion;

(*c*) fuels to be processed in the refining industry;

(*d*) fuels used by warships and other vessels on military service:

Provided that these vessels shall, so far as is reasonable and practical, act in a manner consistent with these regulations;

(*e*) any use of fuels in a vessel necessary for the specific purpose of securing the safety of a ship or saving life at sea;

(*f*) any use of fuels in a ship necessitated by damage sustained to it or its equipment:

(i) where the owner or master has not acted with intent or recklessly; and

(ii) all reasonable measures are taken after the occurrence of the damage to prevent or minimise excess emissions; and

(iii) measures are taken as soon as possible to repair the damage;

(*g*) without prejudice to regulation 8A, fuels used on board vessels employing emission abatement methods in accordance with regulations 12 and 12C.

Petrol.
Amended by: L.N. 66 of 2011; XXV. 2015.41.

4. (1) Leaded petrol may not be sold, offered for sale, or otherwise marketed:

Provided that the Regulator for Energy and Water Services may permit the sale, offering for sale or marketing of small quantities of leaded petrol, to a maximum of 0.03% of total sales, to be used by old vehicles of a characteristic nature and to be distributed through special interest groups:

Provided further that the lead content of this leaded petrol is not to exceed 0.15 g/l and its benzene content shall comply with the specifications set out in the First Schedule.

(2) Unleaded petrol may be sold, offered for sale, or otherwise marketed, only if it complies with the specifications set out in the First Schedule to these regulations.

(3) Notwithstanding the provisions of sub-regulation (2), suppliers shall ensure that petrol is placed on the market with a maximum oxygen content of 2.7% and a maximum ethanol content of 5%. They shall also ensure the provision of appropriate information to consumers concerning the biofuel content of petrol and, in particular, the appropriate use of different blends of petrol.

(4) Any person who fails to comply with any of the provisions of this regulation shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not of not less than ten thousand euro (€10,000) but not exceeding sixty-nine thousand eight hundred euro (€69,800) or to imprisonment for a term not exceeding eighteen months, or to both such fine and imprisonment.

Diesel fuel.
Amended by: L.N. 66 of 2011; L.N. 123 of 2012; XXV. 2015.41; L.N. 217 of 2022; L.N. 50 of 2026.

5. (1) Subject to the provisions of subregulation (2), diesel fuel may be used, sold, offered for sale, or otherwise marketed only if it complies with the specifications set out in the Second Schedule.

(2) Suppliers shall place on the market diesel with a fatty acid methyl ester (FAME) content of not more than seven percent (7%). Any person placing on the market diesel fuel shall ensure the provision of appropriate information to consumers concerning the biofuel content in particular FAME.

(3) Gas oils intended for use by non-road mobile machinery, including inland waterway vessels, agricultural and forestry tractors and recreational crafts shall be sold, offered for sale, or otherwise placed on the market only if the sulphur content of those gas oils does not exceed 10 mg/kg. Liquid fuels other than those gas oils may be used in inland waterway vessels and recreational craft only if the sulphur content of those liquid fuels does not exceed the maximum permissible content of those gas oils.

(4) Diesel fuel having code HS27101943 containing the national marker and dye shall not be sold, offered for sale, or otherwise marketed to ships of over twenty-four (24) metres in length excluding registered fishing vessels.

(5) Any person who fails to comply with any of the provisions of this regulation shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than ten thousand euro (€10,000) but not exceeding sixty-nine thousand eight hundred euro (€69,800) or to imprisonment for a term not exceeding eighteen (18) months, or to both such fine and imprisonment:

Provided that in the case of non-compliance with the provisions of sub-regulation (4), the Court shall also order the suspension of the Bunkering Authorisation issued by the Regulator in accordance with the Bunkering (Authorisation) Regulations for any such period which shall not be less than six (6) months.

S.L. 545.25.

Compliance with requirements.
Amended by: L.N. 66 of 2011; L.N. 123 of 2012; XXV. 2015.41; L.N. 264 of 2017; L.N. 50 of 2026.

6. (1) The Regulator for Energy and Water Services shall monitor compliance with the requirements of regulations 4 and 5, in respect of petrol and diesel fuels, on the basis of the analytical methods referred to in First and Second Schedules respectively. The Regulator for Energy and Water Services shall monitor compliance:

(*a*) in respect of petrol on the basis of the analytical methods referred to in standard EN 228:2012+A1:2017;

(*b*) in respect of diesel fuels on the basis of the analytical methods referred to in standard EN 590:2013+A1:2017;

(*c*) in respect of gas oils intended for use by non-road mobile machinery, agricultural and forestry tractors

and recreational crafts on the basis of the analytical methods referred to in standard EN ISO 8754.

(2) The Regulator for Energy and Water Resources shall establish a fuel quality monitoring system in accordance with the requirements of the relevant standards.

(3) By the 31st August of each year, the Regulator, after consultation with the Minister responsible for Energy, shall submit to the Commission a report on:

(*a*) national fuel quality data for the preceding calendar year;

(*b*) the total volumes of petrol and diesel fuels marketed in Malta and the volumes of unleaded petrol and diesel fuels marketed with a maximum sulphur content of 10 mg/kg;

(*c*) the availability on an appropriately balanced geographical basis of petrol and diesel fuels with a maximum sulphur content of 10 mg/kg that are marketed in Malta.

MMT Additive prohibited. *Added by: L.N. 66 of 2011. Amended by: L.N. 303 of 2014.*

6A. (1) The use, sale, offering for sale, or otherwise marketing of any fuel with a presence of the metallic additive methylcyclopentadienyl manganese tricarbonyl (MMT) in fuel of more than 2 mg of manganese per litre shall be prohibited.

(2) A label concerning the metallic additive content of fuel shall be displayed at any point where a fuel with metallic additives is made available to consumers. The label shall contain the text: "Contains metallic additives". The label shall be attached to the place where information indicating the type of fuel is displayed, in a clearly visible position. The label shall be of a size and font that is clearly visible and easily legible.

(3) Any person who fails to comply with any of the provisions of this regulation shall be guilty of an offence and shall be liable, on conviction, to a fine (multa) of not of not less than ten thousand euro (€10,000) but not exceeding sixty-nine thousand eight hundred euro (€69,800) or to imprisonment for a term not exceeding eighteen months, or to both such fine and imprisonment.

Maximum sulphur content of heavy fuel oil. *Amended by: L.N. 300 of 2014.*

7. (1) The use of heavy fuel oils, the sulphur content of which exceeds one per cent by mass is prohibited.

(2) Subject to appropriate monitoring of emissions by the Environment and Resources Authority, until the 31st of December 2015, sub-regulation (1) shall not apply to heavy fuel oils used:

(*a*) in combustion plants which fall within the scope of Directive 2001/80/EC of the European Parliament and of the Council of 23rd October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants, which are subject to Article 4(1) or (2) or Article 4(3)(a) of that Directive and which comply with the emission limits for sulphur dioxide for such plants as set out in that Directive;

(*b*) in combustion plants which fall within the scope of Directive 2001/80/EC, which are subject to Article 4(3)(b) and Article 4(6) of that Directive and the monthly average sulphur dioxide emissions of which do not exceed 1 700 mg/Nm^3 at an oxygen content in the flue gas of 3% by volume on a dry basis;

(*c*) in combustion plants which do not fall under paragraphs (*a*) or (*b*), and the monthly average sulphur dioxide emissions of which do not exceed 1 700 mg/Nm^3 at an oxygen content in the flue gas of 3% by volume on a dry basis;

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

(3) Subject to appropriate monitoring of emissions by the Environment and Resources Authority as from 1 January 2016, sub-regulation (1) shall not apply to heavy fuel oils used:

(*a*) in combustion plants which fall within the scope of Chapter III of Directive 2010/75/EU of the European Parliament and of the Council, and which comply with the emission limits for sulphur dioxide for such plants as set out in Annex V to that Directive or, where those emission limit values are not applicable according to that Directive, for which the monthly average sulphur dioxide emissions do not exceed 1 700 mg/Nm^3 at an oxygen content in the flue gas of 3% by volume on a dry basis;

(*b*) in combustion plants which do not fall under paragraph (*a*), and the monthly average sulphur dioxide emissions of which do not exceed 1 700 mg/Nm^3 at an oxygen content in the flue gas of 3% by volume on a dry basis;

(*c*) for combustion in refineries, where the monthly average of emissions of sulphur dioxide averaged over all combustion plants in the refinery, irrespective of the type of fuel or fuel combination used, but excluding plants falling under paragraph (*a*), gas turbines and gas engines, do not exceed 1 700 mg/Nm^3 at an oxygen content in the flue gas of 3% by volume on a dry basis.

(4) No combustion plant using heavy fuel oil with a sulphur concentration greater than that referred to in sub-regulation (1) shall be operated without a permit issued by a competent authority with the responsibility for specifying the emission limits.

(5) Any person who fails to comply with any of the provisions of this regulation shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than ten thousand euro (€10,000) but not exceeding sixty-nine thousand eight hundred euro (€69,800) or to imprisonment for a term not exceeding eighteen months, or to both such fine and imprisonment.

Maximum sulphur content in gas oil. *Amended by: L.N. 79 of 2010; L.N. 300 of 2014.*

8. (1) The use of gas oils with a sulphur content exceeding 0,10 per cent by mass is prohibited.

(2) Any person who fails to comply with subregulation (1) shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than ten thousand euro (€10,000) but not exceeding sixty-nine thousand eight hundred euro (€69,800) or to imprisonment for a term not exceeding eighteen months, or to both such fine and imprisonment.

Maximum sulphur content in marine fuel. *Added by: L.N. 300 of 2014.*

8A. The use of marine fuels, the sulphur content of which exceeds 3,50% by mass, is prohibited within the Maltese territory:

Provided that this shall not apply to fuels supplied to ships using emission abatement methods subject to regulation 12 operating in closed mode.

Maximum sulphur content of marine fuels used in territorial seas, internal waters, any exclusive economic zones and any pollution control zones, including SO_x Emission Control Areas and by passenger ships operating on regular services to or from European Union ports. *Amended by: L.N. 300 of 2014.*

9. (1) The use of marine fuels is prohibited:

(*a*) in the areas of the territorial sea, internal waters, any exclusive economic zone and any pollution control zones falling within SOx Emission Control Areas if the sulphur content of those fuels by mass exceeds:

(i) 1,00% until 31 December 2014;

(ii) 0,10% as from 1 January 2015:

Provided that this shall apply to all vessels of all flags, including vessels whose journey began outside the European Union;

(*b*) in the areas of the Maltese territorial sea, internal waters, any exclusive economic zone and any pollution control zones if the sulphur content of those fuels by mass exceeds:

(i) 3,50% as from 18 June 2014;

(ii) 0,50% as from 1 January 2020:

Provided that this shall apply to all vessels of all flags, including vessels whose journey began outside of the European Union, and without prejudice to sub-regulation (1)(*a*) and sub-regulation (4) of this regulation and regulation 9A.

(2) The application date for subregulation (1) shall be twelve months following the designation by the IMO of SO_x Emission Control Areas in accordance with regulation 14(3)(b) of MARPOL Annex VI.

(3) Sub-regulation (1)(*a*) shall be applicable to:

(*a*) vessels flying the Flag of Malta; and

(*b*) vessels of all flags whilst in Maltese ports, if such

ports border SOx Emission Control Areas:

Provided that additional enforcement action may be taken by the competent authority in respect of other vessels in accordance with international maritime law.

(4) The use of marine fuels with a sulphur content exceeding 1,50% by mass is prohibited until the 1st January 2020 in the territorial seas, internal waters, any exclusive economic zones and any pollution control zones falling outside SOx Emission Control Areas by passenger ships operating on regular services to or from any European Union port. This shall apply to vessels flying the flag of Malta and to vessels of all flags while in Maltese ports.

(5) The Master shall correctly complete the ship's logbook, including fuel changeover operations.

(6) The competent authority shall endeavour to ensure the availability of marine fuels which comply with these regulations.

(7) If a ship is found not to be in compliance with the standards for marine fuels which comply with these regulations, the competent authority or the Authority for Transport in Malta as appropriate may require the ship to:

(*a*) present a record of the actions taken to attempt to achieve compliance; and

(*b*) provide evidence that it attempted to purchase marine fuel which complies with these regulations in accordance with its voyage plan and, if it was not made available where planned, that attempts were made to locate alternative sources for such marine fuel and that, despite best efforts to obtain marine fuel which complies with these regulations, no such marine fuel was made available for purchase.

The ship shall not be required to deviate from its intended voyage or to delay unduly the voyage in order to achieve compliance. If a ship provides the information referred to in paragraphs (*a*) and (*b*), the competent authority or the Authority for Transport in Malta, as appropriate, shall take into account all relevant circumstances and the evidence presented to determine the appropriate action to take, including not taking control measures.

A ship shall notify its flag State, and the competent authority of the relevant port of destination, when it cannot purchase marine fuel which complies with these regulations.

(8) The placing on the market in Malta of marine diesel oils with a sulphur content exceeding 1,50 % by mass is prohibited.

Maximum sulphur content of marine fuels used by ships at berth in ports in Malta.
Added by: L.N. 79 of 2010. Substituted by: L.N. 300 of 2014.

9A. (1) The use of marine fuels with a sulphur content exceeding 0,10% by mass by ships at berth in ports in Malta is prohibited:

Provided that the crew shall be allowed sufficient time to complete any necessary fuel-changeover operation as soon as possible after arrival at berth and as late as possible before departure. The time of any fuel-changeover operation is to be

recorded in ships' logbooks:

Provided further that this sub-regulation shall not apply:

(*a*) whenever, according to published timetables, ships are due to be at berth for less than two hours;

(*b*) to ships which switch off all engines and use shore-side electricity while at berth in ports.

(2) The placing on the market of marine gas oils with a sulphur content exceeding 0,10% by mass is prohibited.

Suppliers of marine fuel. *Substituted by: L.N. 79 of 2010. Amended by: L.N. 300 of 2014.*

10. (1) The competent authority shall in accordance with regulation 18 of Annex VI to MARPOL maintain a publicly available register of local suppliers of marine fuel.

(2) Local suppliers of marine fuel shall:

(*a*) document on a bunker delivery note the sulphur content of all marine fuels sold in the Maltese territory. Such bunker delivery note shall also be accompanied by a sealed sample signed by the representative of the receiving ship;

(*b*) ensure that the fuel delivered complies with the specification stated on the bunker delivery note;

(*c*) take remedial action to bring any non-compliant marine fuel discovered into compliance.

(3) Any person who fails to comply with sub-regulation (2) shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than ten thousand euro (€10,000) but not exceeding sixty-nine thousand eight hundred euro (€69,800) or to imprisonment for a term not exceeding eighteen months.

Sampling and analysis. *Amended by: XV. 2009.49; L.N. 79 of 2010. Substituted by: L.N. 300 of 2014.*

11. (1) The competent authority shall take all necessary measures to check by sampling that the sulphur content of fuels used complies with the provisions of regulations 7, 8, 8a, 9 and 9A. The competent authority shall commence sampling on the date on which the relevant limit for maximum sulphur content in the fuel comes into force. Sampling shall be carried out periodically with sufficient frequency and quantities in such a way that the samples are representative of the fuel examined, and in the case of marine fuel, of the fuel being used by vessels while in relevant sea areas and ports. The samples shall be analysed without undue delay. The following means of sampling, analysis and inspection of marine fuel shall be used:

(*a*) inspection of marine fuel: inspection of ships' log books and bunker delivery notes; and

(*b*) as appropriate, the following means of sampling and analysis: sampling of the marine fuel for on-board combustion while being delivered to ships, in accordance with the Guidelines for the sampling of fuel oil for determination of compliance with the revised MARPOL Annex VI adopted on 17 July 2009 by Resolution 182(59) of the Marine Environment Protection Committee (MEPC) of the IMO, and

analysis of its sulphur content; or

(*c*) sampling and analysis of the sulphur content of marine fuel for on-board combustion contained in tanks, where technically and economically feasible, and in sealed bunker samples on board ships.

(2) The reference method adopted for determining the sulphur content shall be ISO method 8754 (2003) or PrEN ISO 14596 (2007). In order to determine whether marine fuel delivered to and used on board ships is compliant with the sulphur limits required by regulations 8, 8a, 9 and 9A, the fuel verification procedure set out in Appendix VI to Annex VI to MARPOL shall be used.

Emission abatement methods. *Amended by: XV. 2009.49. Substituted by: L.N. 300 of 2014.*

12. (1) The competent authority, or the Authority for Transport in Malta, as appropriate, shall allow the use of emission abatement methods by ships of all flags in Maltese ports, territorial seas, internal waters, any exclusive economic zones and any pollution control zones, as an alternative to using marine fuels that meet the requirements of regulations 9 and 9A, and subject to sub-regulations (2) and (3).

(2) Ships using the emission abatement methods referred to in sub-regulation (1) shall continuously achieve reductions of sulphur dioxide emissions that are at least equivalent to the reductions that would be achieved by using marine fuels that meet the requirements of regulations 9 and 9A. Equivalent emission values shall be determined in accordance with the Fourth Schedule.

(3) The competent authority shall, as an alternative solution for reducing emissions, encourage the use of onshore power supply systems by docked vessels.

(4) The emission abatement methods referred to in sub-regulation (1) shall comply with the criteria specified in the instruments referred to in the Fifth Schedule.

LNG carriers. *Added by: L.N. 231 of 2012.*

12A. (1) LNG carriers shall use and comply with the calculation criteria set out in the Third Schedule to meet the objective on reducing emissions from ships through an alternative technological abatement method by a mixture of marine fuel and boil-off gas.

(2) The LNG carriers may use the alternative technological abatement method while at berth in Community ports, allowing sufficient time for the crew to accomplish any necessary measures to employ a mixture of marine fuel and boil-off gas as soon as possible after arrival at berth and as late as possible before departure.

(3) The achieved emission reductions in sulphur emissions due to the application of the method referred to in sub-regulation (2) shall be at least equivalent to the reduction that would be achieved through the limits of the sulphur in fuel specified in these regulations.

(4) LNG carriers which use the alternative technological abatement method and call at ports under their jurisdiction are to provide a detailed record in the ship's log- book, containing the

type and quantity of fuels used on board. For this purpose, these ships shall be equipped for continuous monitoring and metering of the boil-off gas and marine fuel consumption.

(5) The competent authority shall take appropriate measures to monitor and verify the use of the alternative technological abatement method while at berth based on the achieved emissions reductions provided by LNG carriers.

Approval of emission abatement methods for use on board ships flying the flag of a Member State. *Added by: L.N. 300 of 2014.* S.L.427.60.

12B. (1) Emission abatement methods falling within the scope of the Conformity Assessment of Marine Equipment Regulations shall be approved in accordance with those regulations.

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

(*a*) guidelines developed by the IMO;

(*b*) the results of any trials conducted under regulation 12;

(*c*) effects on the environment, including achievable emission reductions, and impacts on ecosystems in enclosed ports, harbours and estuaries; and

(*d*) the feasibility of monitoring and verification.

Trials of new emission abatement methods. *Added by: L.N. 300 of 2014.*

12C. (1) The competent authority or the Authority for Transport in Malta, as appropriate, may in cooperation with the competent authorities of other Member States, as appropriate, approve trials of ship emission abatement methods on vessels flying the flag of Malta, or in sea areas within Malta's jurisdiction.

(2) During those trials, the use of marine fuels meeting the requirements of regulations 9 and 9A shall not be mandatory, provided that all of the following conditions are fulfilled:

(*a*) the Commission and any port State concerned are notified in writing at least six months before trials begin;

(*b*) permits for trials do not exceed eighteen months in duration;

(*c*) all ships involved install tamper-proof equipment for the continuous monitoring of funnel gas emissions and use it throughout the trial period;

(*d*) all ships involved achieve emission reductions which are at least equivalent to those which would be achieved through the sulphur limits for fuels specified in these regulations;

(*e*) there are proper waste management systems in place for any waste generated by the emission abatement methods throughout the trial period;

(*f*) there is an assessment of impacts on the marine

environment, particularly Ecosystems in enclosed ports, harbours and estuaries throughout the trial period; and

(*g*) full results are provided to the Commission, and made publicly available, within six months of the end of the trials.

Criminal offences.

13. (1) Any person shall be guilty of an offence under these regulations if:

(*a*) he fails to comply with any provision of these regulations or with any order lawfully given in terms of any provision of these regulations; or

(*b*) he conspires with or aids, or abets, any other person by whatever means, not to comply with any any provision of these regulations or with any order lawfully given in terms of any provision of these regulations.

Penalties.

(2) Any person who commits an offence against these regulations shall, on conviction and unless otherwise specifically provided elsewhere in these regulations, be liable to a fine (*multa*) of not less than ten thousand euro (€10,000) but not exceeding sixty-nine thousand eight hundred euro (€69,800) or to imprisonment for a term not exceeding eighteen months, or to both such fine and imprisonment:

Provided that whenever any person is found guilty of committing an offence under these regulations by means of a vehicle, the owner of the said vehicle is held liable in the same manner and degree:

Provided further that the court shall order any person who has been found guilty of committing an offence against these regulations to pay for the expenses incurred by the public entities and, or other persons acting on their behalf, the revocation of the permit issued by the public entity whichever it may be, and the confiscation of the *corpus delicti*.

Cap. 9.

(3) The provisions of articles 23 and 30(1) of the Criminal Code shall, *mutatis mutandis*, apply to proceedings, in respect of offences against these regulations, so however that the disqualification from holding or obtaining a licence, permit or authority shall in no case be for less than one year.

Cap. 9.

(4) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts of criminal judicature.

Cap. 9.

(5) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations.

Administrative fines.
Amended by: XXV. 2015.41.

14. The Regulator for Energy and Water Resources may impose an administrative fine upon any person who infringes any provision of these regulations or who fails to comply with any directive or decision given by the Regulator in ensuring compliance with these regulations.

Substituted by:
L.N. 66 of 2011.
Amended by:
L.N. 231 of 2012;
L.N. 168 of 2015;
XXV. 2015.41;
L.N. 309 of 2020;
L.N. 50 of 2026.

FIRST SCHEDULE
[Regulation 4(2)]

ENVIRONMENTAL SPECIFICATIONS FOR MARKET FUELS WHICH SHALL BE USED FOR VEHICLES EQUIPPED WITH POSITIVE-IGNITION ENGINES

Parameter(1)	Unit	Limits(2)	
		Minimum	Maximum
Research octane number		95(3)	-
Motor octane number		85	-
Vapour pressure, summer period(4)	kPa	-	60.0(5)
Distillation			
- percentage evaporated at 100°C	0% v/v	46.0	-
- percentage evaporated at 150°C	0% v/v	75.0	-
Hydrocarbon analysis			
- olefins	% v/v	-	18.0
- aromatics	% v/v	-	35.0
- benzene	% v/v	-	1.0
Oxygen content	% m/m		3.7
Existent gum content (solvent washed)			
Oxygenates			
- Methanol (stabilising agents must be added)	% v/v		3.0
- Ethanol (stabilising agents must be added)	% v/v		10.0
- Iso-propyl alcohol	% v/v	-	12.0
- Tert-butyl alcohol	% v/v	-	15.0
- Iso-butyl alcohol	% v/v	-	15.0
- Ethers containing five or more carbon atoms per Molecule	% v/v	-	22.0
- Other oxygenates[5]	% v/v	-	15.0
Sulphur content	Mg/kg	-	10.0
Lead content	g/l	-	0.005

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1 Test methods shall be those specified in EN 228:2012+A1:2017. The competent authority may adopt the analytical method specified in replacement EN 228:2012+A1:2017 standard if it may be shown to give at least the same accuracy and at least the same level of precision as the

analytical method it replaces.

2 The values quoted in the specification are "true values". In the establishment of their limit values, the terms of EN ISO 4259-1:2017/A1:2021 "Petroleum and related products – Precision of measurement methods and results – Part 1: Determination of precision data in relation to methods of test" have been applied and in fixing a minimum value, a minimum difference of 2R above zero has been taken into account (R = reproducibility). The results of individual measurements shall be interpreted on the basis of the criteria described in EN ISO 4259-2:2017/A1:2019.

3 The Regulator for Energy and Water Services may decide to continue to permit the marketing of unleaded regular grade petrol with a minimum motor octane number (MON) of 81 and a minimum research octane number (RON) of 91.

4 The summer period shall be taken to start on 1 May and end on 30 September:

Provided that, limitedly for the year 2020, the start of the summer period shall be taken to start from the 1st of July 2020 and end on 30 September 2020.

5 Other mono-alcohols and ethers with a final boiling point not higher than that stated in EN 228:2012 +A1:2017.

SECOND SCHEDULE
[Regulation 5(1)]

Substituted by:
L.N. 66 of 2011.
Amended by:
L.N. 231 of 2012;
L.N. 168 of 2015;
L.N. 50 of 2026.

ENVIRONMENTAL SPECIFICATIONS FOR MARKET FUELS WHICH SLALL BE USED FOR VEHICLES EQUIPPED WITH COMPRESSION-IGNITION ENGINES

Parameter[6]	Unit	Limits[7]	
		Minimum	Maximum
Cetane number		51.0	-
Density at 15°C	kg/m[3]	-	845.0
Distillation - 95% (v/v) recovered at	°C	-	360.0
Polycyclic aromatic hydrocarbons	%m/m	-	8.0
Sulphur content	mg/kg	-	10.0
Fatty Acid Methyl ester (FAME) content[8]	%v/v	-	10.0[3]

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6 Test methods shall be those specified in EN 590:2013+A1:2017. The competent authority may adopt the analytical method specified in replacement EN 590:2013+A1:2017 standard if it may be shown to give at least the same accuracy and at least the same level of precision as the analytical method it replaces.

7 The values quoted in the specification are "true values". In the establishment of their limit values, the terms of EN ISO 4259-1:2017/A1:2021 "Petroleum and related products – Precision or measurement methods and results – Part 1: Determination of precision data in relation to methods of test" have been applied and in fixing a minimum value, a minimum difference of 2R above zero has been taken into account (R = reproducibility). The results of individual measurements shall be interpreted on the basis of the criteria described in EN ISO 4259-2:2017/ A1:2019.

8 FAME shall meet the requirements of EN 14214

Added by:
L.N. 231 of 2012.

THIRD SCHEDULE
[Regulation 12A]

1. The formula

For the purpose of establishing equivalence within the meaning of regulation 12A, the following formula shall be used:

$$S_F\,(\%) \cdot M_F \leq 0{,}1\ \% \cdot M_{F0{,}1\ \%}$$

Where:

- $S_F\,(\%)$: percentage of sulphur content per unit of mass of the marine fuel used,
- M_F: mass of the marine fuel consumed while the ship is at berth in kg,
- $M_{F0{,}1\ \%}$: equivalent mass in kg of a fuel with a sulphur content ≤ 0,1 %. This factor shall be calculated according to the following formula:

$$M_{F0{,}1\ \%} = (M_{BOG} \cdot E_{BOG} + M_F \cdot E_F)/E_{F0{,}1\ \%}$$

Where:

- M_{BOG}: mass of the boil-off gas consumed at berth in kg,
- E_{BOG}: energy value of the boil-off gas used in MJ/kg,
- M_F: mass of the marine fuel consumed at berth in kg,
- E_F: energy value of the marine fuel used in MJ/kg.
- $E_{F0{,}1\ \%}$: energy value of a marine fuel with a sulphur content ≤ 0,1 % in MJ/kg

Development 1 of the formula

The two formulas referred to above can be combined as follows:

$$S_F\,(\%) \cdot M_F\,/(M_{BOG} \cdot E_{BOG} + M_F \cdot E_F) \leq 0{,}1\ \%/E_{F0{,}1\ \%}$$

Development 2 of the formula

The formula can be further developed as follows:

$$S_F\,(\%)/(R_{G/F} \cdot E_{BOG} + E_F) \leq 0{,}1\ \%/E_{F0{,}1\ \%}$$

Where:

- $R_{G/F}$:the ratio between the mass of boil-off gas and marine fuel consumed at berth (M_{BOG}/M_F)

This second development can also be expressed in the following way:

$$R_{G/F} \geq (S_F\,(\%) \cdot E_{F0{,}1\ \%} - 0{,}1\ \% \cdot E_F)/0{,}1\ \% \cdot E_{BOG}$$

2. Application of the formula

Since the energy values of the different marine fuels involved in the formula are largely similar, it is justified to use standard values for $E_{F0{,}1\ \%}$, E_F and E_{BOG} in order to simplify the application of the formula in practice. More particularly, the following standard energy values may be presumed to apply:

$E_{F0,1\ \%}$ = 43,0 MJ/kg (source: DNV Petroleum Services)

E_{F} = 40,8 MJ/kg (source: DNV Petroleum Services)

E_{BOG} = 50,0 MJ/kg (ISO energy figure for methane)

The formula would accordingly be simplified as follows:

$$R_{G/F} \geq 8{,}6 \cdot S_{F}\,(\%) - 0{,}816$$

On this basis, the only value that needs to be introduced to the formula to arrive at the required ratio between the mass of boil-off gas and marine fuel consumed ($R_{G/F}$ or M_{BOG}/M_{F}) is the sulphur content of the marine fuel used while at berth. By means of examples, the table below indicates the minimum ratio required to meet the equivalence criteria for marine fuels with different sulphur contents.

Sulphur content (%)	1,0 %	1,5 %	2,0 %	2,5 %	3,0 %	3,5 %
M_{BOG}/M_{F}	7,8	12,1	16,4	20,7	25,0	29,3

FOURTH SCHEDULE

Added by: L.N. 300 of 2014.

[Regulation 12(2)]

EQUIVALENT EMISSION VALUES FOR EMISSION ABATEMENT METHODS AS REFERRED TO IN REGULATION 12(2)

Marine fuel sulphur limits referred to in regulations 9 and 9A and regulations 14.1 and 14.4 of Annex VI to MARPOL and corresponding emission values referred to in regulation 12(2):

Marine fuel Sulphur Content (% m/m)	Ratio Emission SO_2 (ppm)/CO_2 (% v/v)
3,50	151,7
1,50	65,0
1,00	43,3
0,50	21,7
0,10	4,3

Note:

- The use of the Ratio Emissions limits is only applicable when using petroleum based Distillate or Residual Fuel Oils.

- In justified cases where the CO_2 concentration is reduced by the exhaust gas cleaning (EGC) unit, the CO_2 concentration may be measured at the EGC unit inlet, provided that the correctness of such a methodology can be clearly demonstrated.

Added by:
L.N. 300 of 2014.

FIFTH SCHEDULE

[Regulations 11, 12(4)]

CRITERIA FOR THE USE OF EMISSION ABATEMENT METHODS REFERRED TO IN REGULATION 11(4)

The emission abatement methods referred to in regulation 11 shall comply at least with the criteria specified in the following instruments, as applicable:

Emission abatement method	Criteria for use
Mixture of marine fuel and boil-off gas	Regulation 12A
Exhaust gas cleaning systems	Resolution MEPC.184(59) adopted on 17 July 2009 "Wash water resulting from exhaust gas cleaning systems which make use of chemicals, additives, preparations and relevant chemical created *in situ*", referred to in point 10.1.6.1 of Resolution MEPC.184(59), shall not be discharged into the sea, including enclosed ports, harbours and estuaries, unless it is demonstrated by the ship operator that such wash water discharge has no significant negative impacts on and do not pose risks to human health and the environment. If the chemical used is caustic soda it is sufficient that the wash water meets the criteria set out in Resolution MEPC.184(59) and its pH does not exceed 8,0.
Biofuels	Use of biofuels as defined in Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources* that comply with the relevant CEN and ISO standards. The mixtures of biofuels and marine fuels shall comply with the sulphur standards set out in regulations 8A, 9(1)(*a*), (1)(*b*) and (4), and 9A.

*OJ L 140, 5.6.2009, p. 16.