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L.N. 336 of 2021

REGULATOR FOR ENERGY AND WATER SERVICES ACT (CAP. 545)

Petroleum for the Inland (Wholesale) Fuel Market, Bottling of LPG and Primary Storage Facilities (Amendment) Regulations, 2021

IN EXERCISE of the powers conferred by article 37 of the Regulator for Energy and Water Services Act, the Minister for Energy, Enterprise and Sustainable Development, after consultation with the Regulator for Energy and Water Services, has made the following regulations:-

Citation.

1. The title of these regulations is the Petroleum for the Inland (Wholesale) Fuel Market, Bottling of LPG and Primary Storage Facilities (Amendment) Regulations, 2021 and these regulations shall be read and construed as one with the Petroleum for the Inland (Wholesale) Fuel Market, Bottling of LPG and Primary Storage Facilities Regulations, hereinafter referred to as "the principal regulations".

S.L. 545. 17.

Amends regulation 2 of the principal regulations.

2. Regulation 2 of the principal regulations shall be amended as follows:

(a) immediately after the definition "the Act" there shall be added the following new definition:

" "advanced biofuel" means biofuels that are produced from the feedstock listed in Part One of the Eighth Schedule;";

(b) immediately after the definition "final consumer" there shall be added the following new definition:

" "food and feed crop" means starch-rich crops, sugar crops or oil crops produced on agricultural land as a main crop excluding residues, waste or lingo-cellulosic material and intermediate crops, such as catch crops and cover crops, provided that the use of such intermediate crops does not trigger demand for additional land; ";

(c) immediately after the definition "inspector" there shall be added the following new definition:

" "ligno-cellulosic material" means material composed of lignin, cellulose and hemicellulose, such as biomass sourced from forests, woody energy crops and forest-based industries' residues and wastes;";

(d) the definitions "MSA EN 228" and "MSA EN 590" shall be deleted; and

(e) immediately after the definition "service provider" there shall be added the following new definitions:

" "SM EN 228 petrol" means fuel which is compliant with the requirements and test methods approved and endorsed by the Malta Competition and Consumer Affairs Authority in relation to the quality of unleaded petrol for automotive use;

"SM EN 590 diesel" means fuel which is compliant with the requirements and test methods approved and endorsed by the Malta Competition and Consumer Affairs Authority in relation to the quality of diesel for automotive use;

"SM EN 14214" means the requirements and test methods specified by the European Committee for Standardisation in relation to the quality of fatty acid methyl esters (FAME) for diesel engines for automotive use;

"SM EN 15376" means the requirements and test methods specified by the European Committee for Standardisation in relation to ethanol as a blending component for petrol for automotive use;

"SM EN 15940" means the requirements and test methods specified by the European Committee for Standardisation in relation to the quality of paraffinic diesel fuel from synthesis or hydrotreatment for automotive use;

"starch-rich crops" means crops comprising mainly cereals, regardless of whether the grains alone or the whole plant, such as in the case of green maize, are used; tubers and root crops, such as potatoes, Jerusalem artichokes, sweet potatoes, cassava and yams; and corm crops, such as taro and cocoyam;".

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Substitutes regulation 33 of the principal regulations.

3. Regulation 33 of the principal regulations shall be substituted by the following new regulation:

"33. (1) An importer shall release for consumption to the inland fuel market biofuel amounts which are to be used as fuel in all forms of transport which, as a minimum, shall be as provided in the Sixth Schedule, which amounts shall be calculated in accordance with the methodology provided in the same Schedule:

Provided that, the aforesaid obligation shall be incumbent only on the importer who releases for consumption for excise tax purposes the SM EN 228 petrol and SM EN 590 diesel.

(2) The total amount of biofuels to be released for consumption to the inland market shall be calculated using the energy content as listed in the Seventh Schedule:

Provided that for the purposes of sub-regulations (3) and (4) and the calculation of the energy content of the substituted biofuels, the energy content of biofuels produced from the feedstock listed in Part One and Part Two of the Eighth Schedule shall be considered to be twice its energy content.

(3) The biofuels shall be released for consumption to the inland market pre-blended with the SM EN 228 petrol and, or SM EN 590 diesel, and may also be released pre-blended with fuel supplied to the aviation and maritime sectors.

Provided that for the purposes of SM EN 590 diesel, the fatty acid methyl-ester (FAME) shall be in compliance with SM EN 14214 and the paraffinic diesel shall be in compliance with SM EN 15940 and that for the purpose of SM EN 228 petrol, the bioethanol shall be in compliance with SM EN 15376:

Provided further that the supplier shall be responsible to ensure that the quality of biofuel added to fuel used for marine and aviation purposes shall be in accordance with international and commercial standards, applicable thereto.

(4) Where biofuels are released pre-blended with fuel supplied to the aviation and maritime sectors, for the purposes of this regulation and the calculation of the biofuel amounts as provided for in the Sixth Schedule, fuel supplied to the maritime sector shall be considered to be limited to fuel supplied directly by the importer to vessels engaged in inland and domestic navigation and fuel supplied to the aviation sector shall be considered to be that fuel which is supplied in Malta directly by the importer to aircraft for aviation purposes:

Provided that, fuel supplied to the maritime sector shall only be valid for the calculation of the biofuel amounts as provided for in the Sixth Schedule only when the importer is also the holder of a valid authorisation issued under the Bunkering (Authorisation) Regulations.

S.L. 545. 25.

(5) The importer referred` to in sub-regulation (1) shall ensure that the minimum biofuel amounts released for consumption to the inland market, as provided for in the Sixth Schedule, are in compliance with the sustainability criteria set out in regulation 3 of the Biofuels (Sustainability Criteria) Regulations, and shall ensure these are audited and verified according to the provisions of regulation 4 of the same regulations.".

S.L. 545. 28.

4. The Sixth Schedule to the principal regulations shall be substituted by the following new Schedule:

Substitutes the Sixth Schedule to the principal regulations.

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"SIXTH SCHEDULE
regulation 33(1)

A	B	C	D	E[1]
	Minimum biofuel content expressed as a percentage amount (%) to be released to the inland market by the importer of SM EN 228 petrol and, or SM EN 590 diesel calculated in accordance with the methodology in this Schedule	Minimum advanced biofuel content expressed as a percentage amount (%) to be released to the inland market by the importer of SM EN 228 petrol and, or SM EN 590 diesel calculated in accordance with the methodology in this Schedule	MAXIMUM (%) share of biofuels and bioliquids, where produced from food and feed crops, expressed as a percentage amount (%) to be released to the inland market by the importer of SM EN 228 petrol and, or SM EN 590 diesel calculated in accordance with the methodology in this Schedule	MAXIMUM (%) share of high indirect land- use change-risk biofuels, bioliquids or biomass fuels produced from food and feed crops for which a significant expansion of the production area into land with high-carbon stock is observed, expressed as a percentage amount (%) to be released to the inland market by the importer of SM EN 228 petrol and, or SM EN 590 diesel calculated in accordance with the methodology in this Schedule
2021	10.5%	0.1%	% share released in 2020 + 1% up to a maximum of 7%	Equal to or less than share of such fuels released in 2019.
2022	11.0%	0.2%	% share released in 2020 + 1% up to a maximum of 7%	Equal to or less than share of such fuels released in 2019.
2023	11.0%	0.2%	% share released in 2020 + 1% up to a maximum of 7%	Equal to or less than share of such fuels released in 2019.

2024	11.5%	0.5%	% share released in 2020 + 1% up to a maximum of 7%	0%
2025	12.0%	1.0%	% share released in 2020 + 1% up to a maximum of 7%	0%
2026	12.5%	1.5%	% share released in 2020 + 1% up to a maximum of 7%	0%
2027	13.0%	2.0%	% share released in 2020 + 1% up to a maximum of 7%	0%
2028	13.0%	2.5%	% share released in 2020 + 1% up to a maximum of 7%	0%
2029	13.5%	3.0%	% share released in 2020 + 1% up to a maximum of 7%	0%
2030	14.0%	3.5%	% share released in 2020 + 1% up to a maximum of 7%	0%

Calculation method

The minimum amounts of biofuel expressed as a percentage amount (%) which shall be released for consumption in the inland market pre-blended with the SM EN 228 petrol and, or SM EN 590 diesel, or pre-blended with fuel supplied to the aviation and maritime sectors, and calculated by the energy content shall be:

$$\left(\frac{Energy_{bio}^{(*)}}{Energy_{bioroad} + Energy\ content\ petroleum\ (SM\ EN\ 228\ \&\ SM\ EN\ 590)^{(+)}}\right) \times 100$$

Where:

$Energy_{bio}$ = (a) + (b) + 1.2(c)

And

$Energy_{bioroad}$ = (a) where:

(a) Shall be the energy content contribution of biofuels supplied to the road transport sector;

(b) Shall be the energy content contribution of biofuels

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from food and feed crops supplied to the aviation and maritime sectors; and

(c) Shall be the energy content contribution of biofuels not from food and feed crops supplied to the aviation and maritime sectors;

And where:

(*) The energy contribution arising from feedstocks listed in Part One and Part Two of the Eighth Schedule shall be considered to be twice the energy content of said feedstocks.

(+) Only energy content of SM EN 228 petrol and SM EN 590 diesel used in road transport shall be counted.

The share of energy in fuel released in the inland market by the importer of SM EN 228 petrol and, or SM EN 590 diesel which shall be met with biofuels produced from feedstocks listed in Part One of the Eighth Schedule shall be the number of percentage points indicated in Column C and shall be calculated as follows:

$$\left(\frac{(2)(Energy_{advanced})}{Energy_{bioroad}+Energy\ content\ petroleum\ (SM\ EN\ 228\ \&\ SM\ EN\ 590)^{(+)}}\right) \times 100$$

Where:

$Energy_{advanced}$ shall be the energy content of biofuels produced from feedstocks listed in Part One of the Eighth Schedule supplied to the road transport, aviation and maritime sectors;

$Energy_{bioroad}$ shall be the energy content of biofuels supplied to the road transport sector;

and where:

(+) Only energy content of SM EN 228 petrol and SM EN 590 diesel used in road transport shall be counted.

1 This cap shall not apply to fuels types which are identified as being high indirect land-use change-risk biofuels, bioliquids or biomass fuels produced from food and feed crops for which a significant expansion of the production area into land with high-carbon stock is observed, in line with Commission Delegated Regulation (EU) 2019/807, but which are certified to be low indirect land-use change-risk biofuels, bioliquids or biomass fuels in line with the provisions of the same regulation.".

5. The Seventh Schedule to the principal regulations shall be substituted by the following new Schedule:

Substitutes the Seventh Schedule to the principal regulations.

"SEVENTH SCHEDULE
regulation 33(2)

Fuel	**Energy content by weight (lower calorific value, MJ/kg)**	**Energy content by volume (lower calorific value, MJ/l)**
FUELS FROM BIOMASS AND/OR BIOMASS PROCESSING OPERATIONS		
Bio-Propane	46	24
Pure vegetable oil (oil produced from oil plants through pressing, extraction or comparable procedures, crude or refined but chemically unmodified)	37	34
Biodiesel - fatty acid methyl ester (methyl-ester produced from oil of biomass origin)	37	33
Biodiesel - fatty acid ethyl ester (ethyl-ester produced from oil of biomass origin)	38	34
Biogas that can be purified to natural gas quality	50	—
Hydrotreated (thermochemically treated with hydrogen) oil of biomass origin, to be used for replacement of diesel	44	34
Hydrotreated (thermochemically treated with hydrogen) oil of biomass origin, to be used for replacement of petrol	45	30

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Hydrotreated (thermochemically treated with hydrogen) oil of biomass origin, to be used for replacement of jet fuel	44	34
Hydrotreated oil (thermochemically treated with hydrogen) of biomass origin, to be used for replacement of liquefied petroleum gas	46	24
Co-processed oil (processed in a refinery simultaneously with fossil fuel) of biomass or pyrolysed biomass origin to be used for replacement of diesel	43	36
Co-processed oil (processed in a refinery simultaneously with fossil fuel) of biomass or pyrolysed biomass origin, to be used to replace petrol	44	32
Co-processed oil (processed in a refinery simultaneously with fossil fuel) of biomass or pyrolysed biomass origin, to be used to replace jet fuel	43	33
Co-processed oil (processed in a refinery simultaneously with fossil fuel) of biomass or pyrolysed biomass origin, to be used to replace liquefied petroleum gas	46	23
RENEWABLE FUELS THAT CAN BE PRODUCED FROM VARIOUS RENEWABLE SOURCES, INCLUDING BIOMASS		
Methanol from renewable sources	20	16
Ethanol from renewable sources	27	21

Propanol from renewable sources	31	25
Butanol from renewable sources	33	27
Fischer-Tropsch diesel (a synthetic hydrocarbon or mixture of synthetic hydrocarbons to be used for replacement of diesel)	44	34
Fischer-Tropsch petrol (a synthetic hydrocarbon or mixture of synthetic hydrocarbons produced from biomass, to be used for replacement of petrol)	44	33
Fischer-Tropsch jet fuel (a synthetic hydrocarbon or mixture of synthetic hydrocarbons produced from biomass, to be used for replacement of jet fuel)	44	33
Fischer-Tropsch liquefied petroleum gas (a synthetic hydrocarbon or mixture of synthetic hydrocarbons, to be used for replacement of liquefied petroleum gas	46	24
DME (dimethylether)	28	19
Hydrogen from renewable sources	120	—
ETBE (ethyl-tertio-butyl-ether produced on the basis of ethanol)	36 (of which 37% from renewable sources)	27 (of which 37% from renewable sources)
MTBE (methyl-tertio-butyl-ether produced on the basis of methanol)	35 (of which 22% from renewable sources)	26 (of which 22% from renewable sources)

TAEE (tertiary-amyl-ethyl-ether produced on the basis of ethanol)	38 (of which 29% from renewable sources)	29 (of which 29% from renewable sources)
TAME (tertiary-amyl-methyl-ether produced on the basis of methanol)	36 (of which 18% from renewable sources)	28 (of which 18% from renewable sources)
THxEE (tertiary-hexyl-ethyl-ether produced on the basis of ethanol)	38 (of which 25% from renewable sources)	30 (of which 25% from renewable sources)
THxME (tertiary-hexyl-methyl-ether produced on the basis of methanol)	38 of which 14% from renewable sources)	30 (of which 14% from renewable sources)
FOSSIL FUELS		
Petrol	43	32
Diesel	43	36

".

Adds new Schedule to the principal regulations.

6. Immediately after the Seventh Schedule to the principal regulations there shall be added the following new Schedule:

"EIGHTH SCHEDULE
regulation 33(3)

Part One - Feedstocks for the production of biogas for transport and advanced biofuels, the contribution of which towards the minimum shares referred to in regulation 33 may be considered to be twice their energy content:

(a) Algae if cultivated on land in ponds or photobioreactors;

(b) Biomass fraction of mixed municipal waste, but not separated household waste subject to recycling targets under paragraph (a) of item 12 of Schedule 5 of the Waste Regulations;

(c) Biowaste as defined in regulation (4) of the Waste Regulations from private households subject to separate

collection as defined in regulation 4 of the aforesaid regulations;

(d) Biomass fraction of industrial waste not fit for use in the food or feed chain, including material from retail and wholesale and the agro-food and fish and aquaculture industry, and excluding feedstocks listed in Part Two of this Schedule;

(e) Straw;

(f) Animal manure and sewage sludge;

(g) Palm oil mill effluent and empty palm fruit bunches;

(h) Tall oil pitch;

(i) Crude glycerine;

(j) Bagasse;

(k) Grape marcs and wine lees;

(l) Nut shells;

(m) Husks;

(n) Cobs cleaned of kernels of corn;

(o) Biomass fraction of wastes and residues from forestry and forest-based industries, namely, bark, branches, pre-commercial thinning, leaves, needles, tree tops, saw dust, cutter shavings, black liquor, brown liquor, fibre sludge, lignin and tall oil;

(p) Other non-food cellulosic material;

(q) Other ligno-cellulosic material except saw logs and veneer logs.

Part Two - Feedstocks for the production of biofuels and biogas for transport, the contribution of which towards the minimum share established in regulation 33 may be considered to be twice their energy content:

(a) Used cooking oil;

(b) Animal fats classified as categories 1 and 2 in accordance with Regulation (EC) No 1069/2009.".

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