



# Guidance on the introduction of the new Petroleum (Consolidation) Regulations 2014

## Foreword

This guidance supersedes and expands on all guidance given in previous PETELs on the subject, and forms part of a series of PETELs issued as part of the PELG-PETEL series from 2012 onwards by the Petroleum Enforcement Liaison Group (PELG), a health and safety advisory committee hosted by the Energy Institute. It comprises representatives of the Retail Petroleum Industry, the Petroleum Enforcement Authorities (PEA), UKLPG and the Environment Agency, with technical support from the Health and Safety Executive. It has the aim of facilitating appropriate and consistent enforcement by PEAs through the dissemination of advice, guidance and good practice.

The new Petroleum (Consolidation) Regulations 2014 (PCR) comes/come into force from 1st October 2014, this guidance is to inform both PEAs and employers (site operators) of premises where petrol is dispensed of the changes, how they will be implemented, and the action that needs to be taken. This guidance does not include non workplace/ domestic storage (refer to HSE guidance via <http://www.hse.gov.uk> ).

The guidance is directed at those with a responsibility for the safe operation of facilities where petrol is stored and dispensed into vehicle fuel tanks, and personnel who carry out administrative functions associated with compliance with the Regulations.

## Introduction

1. It is important to state that the changes do not interfere with the requirements of the General Duties of the Health & Safety at Work etc. Act 1974 (HSWA), the Management of Health & Safety at Work Regulations 1999 and the Dangerous Substances & Explosive Atmospheres Regulations 2002 (DSEAR); with respect to the safe operation of the site, or the manner or frequency in which site visits are carried out by the PEA. The most significant changes relate to the administrative processes, and have been designed to reduce administration for both PEA's and the operators of petrol filling stations. Guidance on the changes has been published by the Health and Safety Executive, and can be found at:

<http://www.hse.gov.uk/fireandexplosion/petroleum.htm> .

2. This guidance and associated template documents may be used to facilitate the transition from the existing licensing regime into the new administration, which includes:

- Granting storage certificates and notification of changes 'Petroleum Storage Certificate' (PSC).
- Notification of the 'keeper of petrol' (for a definition of who should apply for a certificate, refer to Regulation 5 and Regulation 6 of the PCR).
- Fee collection arrangements.

3. The new legislation allows for a site to operate within the law until either the dates at which the current Petroleum Licence expires, or prescribed material changes (as detailed in Regulation 8 of the PCR) are made to the petrol installation at the site. A PSC must be granted to come into force immediately on the expiry of the Petroleum Licence or on completion of any prescribed material changes to the petrol installation. This allows for a phased transition into the PSC regime, which could take up to three years to complete (where a three year licence has been granted from 1<sup>st</sup> September 2014).

## Action 1 – by the PEA

4. Complete and send a 'transitional notification letter, form and information pack' at a date that will allow sufficient time for the operator of the dispensing premises to complete and return the 'transitional form', examples of which are included in the appendixes. Included on the form is a table which provides a record of those tanks registered to store

petrol at the site. The tanks may be used to store other vehicle fuels. Tanks that meet the following criteria should be included on the table:

- Existing licensed petrol storage tanks.
- Double skin tanks with class 1 or 2 leak detection.
- Double skin lined tanks to EN13160-7.
- A compartment of an existing single skin compartmented storage tank in which petrol is currently stored in one or more other compartment of the same tank.
- Above ground existing protected petrol storage tanks to UL2085 and small (movable) fuelling units such as those found on golf courses, or vehicle end of life sites.
- Single skin steel tank with auditable proof that it was installed to the petroleum standards in force at the time of installation, and that it has auditable statistical inventory reconciliation records to EN13160-6. Note: these tanks are most likely to have been installed at the same time, and in the same excavation, and surrounded with the same backfill material as a number of petrol tanks.

### **Action 1 – by the existing Licensee, (who may become the ‘Keeper’ following the granting of a PSC)**

5. On receipt of the ‘transitional notification letter’, and ‘transitional form’;

- Complete the details required as indicated;
- Confirm or refute any information supplied by the PEA; and
- Return the form as soon as possible.

This will enable the PEA to issue the PSC before the date when the Petroleum Licence expires.

Wherever possible, the opportunity is to be taken by both the PEA and the Keeper to communicate electronically.

6. One of the methods by which the burdens of administration are to be reduced, is the clarification of when the PEA must be notified prior to ‘prescribed material changes’ being carried out at the premises, that would result in the granting of a new PSC. If a tank that would be suitable for the storage of petrol, but that currently contains another

product is included within the tank table on the PSC, this will remove the need for notifications of grade changes. The Keeper should therefore use this opportunity to check that all tanks that they believe are suitable for petrol have been included within the table.

**Note:** Although the Keeper does not have to notify the PEA of a grade change, they are still legally obliged to comply with their statutory duties under the following legislation:

- Dangerous Substances & Explosive Atmosphere Regulations 2002
- Section 2 of the Health and Safety at Work etc. Act 1974
- Regulations 11 & 13 of the Management (Health and Safety at Work) Regulations 1999

The form also includes a section in which the Keeper must indicate the period (in whole years) for which they would like to be invoiced for the fee.

#### 7. Notes on fees:

The fees are set by Regulation, and may be subject to change.

- The band for the fee is set by the total of the Maximum Working Capacities for the tanks/compartments in which petrol is being stored at the time of the invoice.
- The length of period to be covered by the fee is to be chosen by the Keeper, at the point of transition, and at the expiry of the initial fee period i.e. a different fee period may be nominated when the first and subsequent fee period expires.
- The fee paid may be for any period (in whole years) up to 10 years, however the Regulations are due to be reviewed during 2019, and this could result in a change in the fee arrangements. This means that the Keeper will not be subject to any increase in fees during the period for which they have paid, and may reduce their administrative burden by having a lower frequency of fee payments.
- The need under existing legislation to transfer a Licence has been replaced by the requirement for both the outgoing and incoming Keeper to notify the PEA of the change but this is not subject to a fee.
- Once the total fee has been paid, there is no additional payment to be made until the end of the period chosen by the Keeper, even if

the keeper of the site changes or the site is subject to prescribed material changes i.e. a new PSC is to be issued without the collection of a new fee.

- There is no facility for the payment of refunds, a new Keeper automatically inherits the unexpired fee period. If they choose to do so, the outgoing Keeper should seek recompense for the unexpired fee from the incoming Keeper.

## **Action(s) 2 – by the PEA**

8. The PEA must grant the PSC to come into force immediately on the expiry of the Petroleum Licence or on completion of any prescribed material changes.

9. Notes relating to the PSC:

- The PSC remains valid until either prescribed material changes require a new PSC, or if the premises cease to be used for the keeping of petrol for a continuous period exceeding 12 months.
- The PSC has the facility for identifying the storage arrangements by referring to three drawings. If these drawings are not held by the PEA, they must enter the date from which the PSC becomes valid, i.e. the date immediately following the date at which the Petroleum Licence would have expired. The PEA shall not ask the Keeper for drawings to facilitate the granting of the PSC, the rationale is that the transition into the new Regulations must not impose any additional burdens on the site operator, and the PEA had been renewing a Petroleum Licence without holding the drawings. The PEA may require relevant drawings when a Keeper is intending to carry out 'prescribed material changes'.