



Neutral Citation Number: [2023] EWHC 1229 (KB)

Case Numbers: QB-2022-001241  
QB-2022-001259  
QB-2022-001420

**IN THE HIGH COURT OF JUSTICE**  
**KING'S BENCH DIVISION**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 23/05/2023

**Before :**

**MRS JUSTICE HILL**

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**Between:**

Case Number: QB-2022-001241

**SHELL UK LIMITED**

**Claimant**

**-and-**

**PERSONS UNKNOWN ENTERING OR REMAINING AT THE CLAIMANT'S SITE  
KNOWN AS SHELL HAVEN, STANFORD-LE-HOPE (AND AS FURTHER DEFINED  
IN THE PARTICULARS OF CLAIM) WITHOUT THE CONSENT OF THE  
CLAIMANT, OR BLOCKING THE ENTRANCES TO THAT SITE**

**Defendants**

Case Number: QB-2022-001259

**SHELL INTERNATIONAL PETROLEUM LIMITED**

**Claimant**

**-and-**

**PERSONS UNKNOWN ENTERING OR REMAINING IN OR ON THE BUILDING  
KNOWN AS SHELL CENTRE TOWER, BELVEDERE ROAD, LONDON ("SHELL  
CENTRE TOWER") WITHOUT THE CONSENT OF THE CLAIMANT, OR  
DAMAGING THE BUILDING, OR DAMAGING OR BLOCKING THE ENTRANCES  
TO THE SAID BUILDING**

**Defendants**

Case Number: QB-2022-001420

**SHELL UK OIL PRODUCTS LIMITED**

**Claimant**

**-and-**

**PERSONS UNKNOWN DAMAGING AND/OR BLOCKING THE USE OF OR ACCESS TO ANY SHELL PETROL STATION IN ENGLAND AND WALES, OR TO ANY EQUIPMENT OR INFRASTRUCTURE UPON IT, BY EXPRESS OR IMPLIED AGREEMENT WITH OTHERS, IN CONNECTION WITH ENVIRONMENTAL PROTEST CAMPAIGNS WITH THE INTENTION OF DISRUPTING THE SALE OR SUPPLY OF FUEL TO OR FROM THE SAID STATION**

**Defendants**

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**Myriam Stacey KC and Joel Semakula** (instructed by **Eversheds Sutherland**)  
for the **Claimants**

**Stephen Simblet KC and Owen Greenhall** (instructed by **Hodge Jones & Allen**) for Jessica  
Branch

Hearing dates: 25 and 26 April 2023

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**Approved Judgment**

This judgment was handed down remotely at 09.30am on 23 May 2023 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MRS JUSTICE HILL

**Introduction**

1. The Claimants in the first two of these claims are Shell UK Limited and Shell International Petroleum Limited. They are, respectively, the freehold owners of (i) the Shell Haven Oil Refinery (“Haven”), a substantial fuel storage and distribution installation; and (ii) the Shell Centre Tower (“Tower”), a large office building. On 5 May 2022 Bennathan J granted these two Claimants interim injunctions against Persons Unknown in respect of the Haven and the Tower.
2. The Claimant in the third claim is Shell UK Oil Products Limited. It markets and sells fuels to retail customers in England and Wales through a network of Shell-branded petrol stations, and in some cases has an interest in the land where the Shell petrol

station is located. On 20 May 2022 Johnson J granted this Claimant an interim injunction against Persons Unknown in respect of Shell petrol stations.

3. All three injunctions seek to restrain unlawful protests by environmental activists. The Haven and Tower injunctions were due to expire on 2 May 2023, with the petrol stations injunction expiring on 12 May 2023. By application notices dated 30 March 2023 Shell sought extensions of all three injunctions for a maximum of one year and various other orders. The applications were listed together over 25 and 26 April 2023.
4. During the morning of 24 April 2023, Jessica Branch, a member of one of the key protest groups, Extinction Rebellion (“XR”), served a witness statement and lengthy skeleton argument asking to be heard at the hearing. The Claimants objected to her being heard at the hearing given the lateness of her documentation and for other reasons. It was not possible to resolve the issue of Ms Branch’s participation easily at the outset of the hearing. Mr Simblet KC on her behalf indicated that she was keen to avoid incurring further costs by being required to return on a further day. I therefore heard all his submissions on a provisional basis.
5. The issues that required determination were as follows:
  - (1): Whether to permit Ms Branch to make submissions, and if so on what basis and to what extent;
  - (2): Whether to grant the Claimant in the petrol stations claim permission to amend the description of the Persons Unknown Defendants;
  - (3): Whether to extend the three injunctions for up to a further year in the manner sought by the Claimants;
  - (4): Whether to grant the Claimants permission to serve any order and ancillary documents by alternative means; and
  - (5): Whether to grant the Claimant in the petrol stations claim its application for a third party disclosure order against the Commissioner of Police of the Metropolis (“the Commissioner”).
6. There were only two working days between the end of the hearing and the expiry of the Haven and Tower injunctions; and only three working days until the last date on which Shell could begin complying with the extensive service requirements in respect of any further injunction covering the petrol stations.
7. In those circumstances the parties raised the possibility of granting a short extension to the injunctions to permit proper consideration of the arguments raised, including certain novel legal points relating to CPR 40.9 advanced by Ms Stacey KC. On 27 April 2023 I indicated to the parties that I considered that this course was appropriate. On 28 April 2023 I made orders with the effect of extending the injunctions for one calendar month, until 25 May 2023. I also made the third party disclosure order sought.
8. This judgment gives my decisions and reasons on Issues (1)-(4) and my reasons for making the third party disclosure order referred to under Issue (5).

9. Regrettably, despite the fact that their submissions invited me to uphold the detail of Bennathan J’s reasoning on the Haven and Tower claims, and despite the passage of over a year since his judgment, no transcript of his judgment has been obtained by the Claimants. It was therefore necessary to work from a note of his judgment taken by the Claimants’ former solicitor. Johnson J’s judgment can be found at *Shell UK Oil Products v Persons Unknown* [2022] EWHC 1215.

### **The background to the May 2022 injunctions**

10. The background to the obtaining of the three injunctions was summarised in a witness statement from Christopher Prichard-Gamble, the Country Security Manager for the Shell group of companies’ UK assets, dated 30 March 2023.
11. He explained that in early 2022 Shell became aware that XR, a campaign group formed in October 2018, which seeks to effect Government policy on climate change through civil disobedience, had published guidance about its intention to take disruptive action to end the fossil economy. It called upon members of the public to support its aims. Several other groups were associated with XR’s stance including Just Stop Oil (“JSO”), Youth Climate Swarm (“YCS”) and Scientists’ Rebellion. Matters came to a head in April and May 2022 when various activities were undertaken with what Mr Prichard-Gamble described as the “apparent aim of causing maximum disruption to Shell’s lawful activities and thereby generating publicity for the protest movement”.

#### *Haven*

12. Bennathan J was provided with witness statements from Ian Brown, Distribution Operations Manager, dated 13 and 22 April 2022 in respect of the Haven. The protest activities relating to the Haven which Mr Brown described included (i) a six hour incident on 3 April 2022 which saw a group of protestors blocking the main access road to the Haven, boarding tankers and blocking a tanker, requiring police attendance; (ii) protestors scoping and attempting to access the jetty at Haven; and (iii) similar incidents at fuel-related sites geographically proximate to the Haven, causing concern that the Haven could be an imminent target.
13. In Mr Brown’s second witness statement, provided after the grant of the ex parte injunction by Sweeting J on 15 April 2022, he indicated that there had been no further protests targeted at the Haven. However, he said that there had been other protests in the vicinity and indications of future action.
14. Mr Brown explained that his main concerns related to the fact that the Haven site is used for the storage and distribution of highly flammable hazardous products. If unauthorised access is gained, this could lead to a leak causing a fire or explosion and very significant danger. Unauthorised access to the jetty created an additional risk of damage which could lead to significant release of hydrocarbons into the Thames Estuary. He had concerns over the personal safety of staff/contractors and the protestors themselves (who had, for example, climbed on to moving vehicles) as well as the security of energy supply and Shell’s assets.

#### *Tower*

15. Bennathan J was provided with witness statements from Keith Garwood, Asset Protection Manager dated 14 and 22 April 2022 in respect of this claim. The matters he referred to included (i) an occasion on 6 April 2022, when a paint-like substance was thrown, leaving large black marks and splashes on the walls and above one of the staff entrances to the Tower; (ii) a significant incident on 13 April 2022, when around 500 protesters converged on the Tower, banging drums and displaying banners stating, “Jump Ship” and “Shell=Death” directed at Shell staff, with several glue-ing themselves to the reception area of the Tower and another Shell office nearby; (iii) an incident on 15 April 2022 when around 30 protestors holding banners obstructed the road where the Tower is located; and (iv) an incident on 20 April 2022 when 11 protestors held banners, used a megaphone and ignited smoke flares. He also described protestors having graffitied and stuck stickers on the outside of the Tower with the XR logo and how on several occasions it was necessary to place the Tower in “lockdown”.
16. Having reviewed the evidence from Mr Brown and Mr Garwood, Bennathan J emphasised that there was “no account of any violence against any person” and that “[t]he protests are loud, no doubt upsetting to some and potentially disruptive, but are peaceful”.
17. Mr Garwood expressed his concerns that protestors would continue to enter, vandalise or damage the Tower, intimidate staff/visitors and block the entrances and exits to the Tower. The latter was a health and safety risk, in particular, because it restricted access for emergency vehicles and sometimes meant that members of the public had to walk on the road.

*The petrol stations*

18. Johnson J was provided with witness statements from Benjamin Austin, the Claimant’s Health, Safety and Security Manager, dated 3 and 10 May 2022. In his judgment he explained that on 28 April 2022, there were protests at two petrol stations (one of which was a Shell petrol station) on the M25, at Clacket Lane and Cobham. Entrances to the forecourts were blocked. The display screens of fuel pumps were smashed with hammers and obscured with spray paint. The kiosks were “sabotaged...to stop the flow of petrol”. Protestors variously glued themselves to the floor, a fuel pump, the roof of a fuel tanker, or each other. A total of 55 fuel pumps were damaged (including 35 out of 36 pumps at Cobham) to the extent that they were not safe for use, and the whole forecourt had to be closed: [12]-[13]. Johnson J also referred to wider protests in April/early May 2022 at oil depots in Warwickshire and Glasgow: [14]-[15].
19. Johnson J explained that he had not been shown any evidence to suggest that XR, JSO or Insulate Britain had resorted to physical violence against others. He noted, however, that they are “committed to protesting in ways that are unlawful, short of physical violence to the person”. He observed that their websites demonstrate this, with references to “civil disobedience”, “direct action”, and a willingness to risk “arrest” and “jail time”: [9].
20. He summarised the various risks that arise from these types of protest, in addition to the physical damage and the direct financial impact on the Claimant (from lost sales), as follows:

“18. Petrol is highly flammable. Ignition can occur not just where an ignition source is brought into contact with the fuel itself, but also where there is a spark (for example from static electricity or the use of a device powered by electricity) in the vicinity of invisible vapour in the surrounding atmosphere. Such vapour does not disperse easily and can travel long distances. There is therefore close regulation...

19. The use of mobile telephones on the forecourt (outside a vehicle) is prohibited for that reason. The evidence shows that at the protests on 28 April 2022 protestors used mobile phones on the forecourts to photograph and film their activities. Further, as regards the use of hammers to damage pumps, Mr Austin says: “Breaking the pump screens with any implement could cause a spark and in turn potentially harm anyone in the vicinity. The severity of any vapour cloud ignition could be catastrophic and cause multiple fatalities. Unfortunately, Shell Group has tragically lost several service station employees in Pakistan in the last year when vapour clouds have been ignited during routine operations.” I was not shown any positive evidence as to the risks posed by spray paint, glue or other solvents in the vicinity of fuel or fuel vapour, but I was told that this, too, was a potential cause for concern.”

21. He noted the evidence that the campaign orchestrated by the groups in question looked set to continue and cited JSO’s statement on its website that the disruption would continue “until the government makes a statement that it will end new oil and gas projects in the UK”: [16].

### **The terms of the injunctions**

22. The Haven injunction provides that the Defendants must not (i) enter or remain upon any part of the Haven without the consent of the Claimant; (ii) block access to any of the gateways to the Haven, the locations of which are identified marked blue on plans appended to the order; or (iii) cause damage to any part of the Haven whether by (a) affixing themselves, or any object, or thing, to any part of the Haven, or to any other person or object or thing on or at the Haven; (b) erecting any structure in, on or against the Haven; (c) spraying, painting, pouring, sticking or writing with any substance on or inside any part of the Haven; or (d) otherwise. The injunction further provides that a Defendant must not do any of these actions by means of another person acting on his/her/their behalf, or acting on his/her/their instructions, or by another person acting with his/her/their encouragement.

23. The Tower injunction is in materially similar terms.

24. The petrol stations injunction provides that:

“2...the Defendants must not do any of the acts listed in paragraph 3 of this Order in express or implied agreement with any other person, and with the intention of disrupting the sale or supply of fuel to or from a Shell Petrol Station.

3. The acts referred to in paragraph 2 of this order are:

3.1. blocking or impeding access to any pedestrian or vehicular entrance to a Shell Petrol Station or to a building within the Shell Petrol Station;

3.2. causing damage to any part of a Shell Petrol Station or to any equipment or infrastructure (including but not limited to fuel pumps) upon it;

3.3. operating or disabling any switch or other device in or on a Shell Petrol Station so as to interrupt the supply of fuel from that Shell Petrol Station, or from one of its fuel pumps, or so as to prevent the emergency interruption of the supply of fuel at the Shell Petrol Station;

3.4. affixing or locking themselves, or any object or person, to any part of a Shell Petrol Station, or to any other person or object on or in a Shell Petrol Station;

3.5. erecting any structure in, on or against any part of a Shell Petrol Station;

3.6. spraying, painting, pouring, depositing or writing any substance on to any part of a Shell Petrol Station.

3.7. encouraging or assisting any other person do any of the acts referred to in sub-paragraphs 3.1 to 3.6.”

25. Paragraph 4 then provides that a Defendant must not do any of these acts by means of another person acting on his/her/their behalf, or acting on his/her/their instructions, or by another person acting with his/her/their encouragement. This appears to replicate clause 3.7.

26. Johnson J made the following observations on how the injunction operates:

“21. Some of the conduct referred to in paragraph 3 is, in isolation, potentially innocuous (“depositing... any substance on... any part of a Shell Petrol Station” would, literally, cover the disposal of a sweet wrapper in a rubbish bin). The injunction does not prohibit such conduct. The structure is important. The injunction only applies to the defendants. The defendants are those who are “damaging, and/or blocking the use of or access to any Shell petrol station in England and Wales, or to any equipment or infrastructure upon it, by express or implied agreement with others, with the intention of disrupting the sale or supply of fuel to or from the said station.” So, the prohibitions in the injunction only apply to those who fall within that description. Further, the order does not impose a blanket prohibition on the conduct identified in paragraph 3. It only does so where that conduct is undertaken “in express or implied agreement with any other person, and with the intention of disrupting the sale or supply of fuel to or from a Shell Petrol Station.”

22. It follows that while paragraph 3 is drafted quite widely, its impact is narrowed by the requirements of paragraph 2. This is deliberate. It is

because the claimant is not able to maintain an action in respect of the activity in paragraph 3 (read in isolation) in respect of those Shell petrol stations where it has no interest in the land. It is only actionable where that conduct fulfils the ingredients of the tort of conspiracy to injure (as to which see paragraph 26 below). The terms of the injunction are therefore deliberately drafted so as only to capture conduct that amounts to the tort of conspiracy to injure”.

27. The Claimants seek orders extending all three injunctions on the same terms for up to one further year, save that the Claimant on the petrol station claim seeks to amend the definition of Persons Unknown (see further under Issue (2) below).

### **Evidence in support of the applications to extend the injunctions**

28. The Claimants’ solicitors provided detailed chronologies setting out the incidents which they have been able to identify since May 2022 of direct-action protest against the Claimants, the Shell business and those operating within the wider oil/gas industry. Specific chronologies were prepared setting out incidents involving protest activity at the Haven and other oil refinery sites, the Tower and other corporate buildings and at petrol stations.
29. These incidents were more fully described in (i) a witness statement from Fay Lashbrook, the Haven’s Terminal Manager; (ii) a third statement from Mr Garwood in respect of the Tower; and (iii) a third statement from Mr Austin in respect of the petrol stations. These statements were all dated 30 March 2023. They were supported by voluminous exhibits. The statement from Mr Prichard-Gamble referred to at [10] above provided further detail.

#### *Haven*

30. There do not appear to have been any further unlawful protest incidents at the Haven. However, the evidence shows a significant number of incidents in relation to oil refinery sites between August 2022 and February 2023. These included protest action at a number of oil refineries located in Kingsbury. The main road used to access the site was closed as a result of protestors making the road unsafe by digging and occupying a tunnel underneath it, access roads were also blocked by protestors performing a sit-down roadblock. Similar activity occurred at the Gray’s oil terminal in west Thurrock in August/September 2022. On 28 August 2022 eight people were arrested after protestors blocked an oil tanker in the vicinity of the Gray’s terminal, climbing on top of it and deflating its’ tyres. On 14 September 2022 around fifty protestors acted in breach of the North Warwickshire local authority injunction in relation to the Kingsbury site.

#### *Tower*

31. In respect of the Tower, the evidence suggests that Bennathan J’s injunction has had a deterrent effect: the Claimant’s evidence shows no incidences of unlawful activity during protests held within the vicinity of the Tower. However, it continued to be a prime location for protests and corporate buildings more broadly have been the target of unlawful activity since the injunction was made. For example, the evidence referred to (i) prominent buildings and venues across London having been targeted by JSO; (ii)



various government and high-profile buildings such as a Rolex shop and high-end car dealerships having been targeted by protest groups; and (iii) on 14 November 2022, JSO supporters having targeted the Silver Fin building in Aberdeen where the Shell group have offices, covering it in orange paint.

*The petrol stations*

32. In relation to the petrol stations, there have been two further incidents, on 24 August and 26 August 2022. Fuel pumps were vandalised, customers' access to the forecourt was blocked and on the first of these dates protestors super glued themselves to the forecourt. The first incident involved three petrol stations on the M25 and the second related to seven across London.
33. Mr Prichard-Gamble also described a significant number of incidents of direct-action protest against the wider Shell business and the wider oil and gas industry and operators within it. He described over twenty such incidents between May 2022 and February 2023. These included (i) the targeting of Shell's annual shareholders meeting in May 2022; (ii) JSO's call in May 2022 for the seizure of Shell's assets; (iii) protestors spraying paint on the Treasury building; (iv) JSO's month-long campaign of civil disobedience and protest involving a series of incidents in October 2022; (v) JSO protestors starting a campaign of targeting motorway gantries in different locations on the M25 in November 2022 causing police to halt the traffic; and (vi) an incident in early 2023 involving protestors boarding and beginning to occupy a moving Shell floating production and storage facility while it was in transit heading for the North Sea.
34. These activities have led the Claimants to incur the costs of further security at the Kingsbury oil facility and the Tower and an additional vessel to shadow the floating facility referred to above.

*The risk of future harm*

35. Mr Prichard-Gamble's evidence on this issue was, in summary, as follows.
36. The Claimants liaise regularly with the police whose intelligence indicates that there continues to be an ongoing threat; that the protest campaign is not over; and that protest groups will continue to attempt to put pressure on the government to halt new investment in fossil fuels. It is apparent that JSO continues to have the ability to draw on a large group of protestors who are willing to be arrested; that they take action using a variety of tactics and target locations across the UK; and that they employ tactics that attract the media and public interest. Further there is a high level of crossover between the individual protest groups, who appear to share disruptive tactics between them. His view was that activities of the sort described above would be likely to increase as a result of the government's recent approval of the building of a new power station, the cost-of-living crisis and the likely increase in support for JSO given that environmental concerns affect the majority of the public.
37. There is the following specific evidence of the likelihood of continuing action against the Claimants and the wider Shell business: (i) a 30 November 2022 report that JSO had stated they will "continue to escalate unless the government meets our demand to stop future gas and oil projects"; (ii) an 11 January 2023 report that JSO had said that they planned more large-scale disruption this year; (iii) a 29 January 2023 Twitter post

from Fossil Free London inviting people to a meeting on the basis that “in the last year, we’ve closed down Shell’s AGM, challenged their legal director, sabotaged their CEO’s leaving party & more! Now we want to go bigger”; and (iv) JSO’s 14 February 2023 “ultimatum letter” issued to 10 Downing Street which stated that unless the UK government provided an assurance that it would immediately halt all future licensing and consents for the exploration, development and production of fossil fuels in the UK by 10 April 2023, they would be forced to escalate their campaign.

38. Further, during the hearing Ms Stacey took me to press coverage dated 26 April 2023 indicating that following a four-day demonstration XR and other groups said that it would step up campaigns to force the government to tackle the climate emergency. The co-founder of XR was quoted as saying that the government had a week to respond to the group’s demands.
39. Mr Prichard-Gamble’s overall view was that (i) the incidents described demonstrate a clear nationwide targeting of members of the wider Shell group of companies and its business operations since April/May 2022; (ii) such demonstrations will continue for the foreseeable future; and (iii) the injunctions need to be extended as they provide a strong deterrent effect and mitigate against the risk of harm which unlawful activities at the sites would otherwise give rise to. Unlawful activity at the sites presents an unacceptable risk of continuing and significant danger to the health and safety of staff, contractors, the general public and other persons visiting them.
40. He emphasised that the Claimants do not wish to stop protestors from undertaking peaceful protests whether near their sites or otherwise. Many such peaceful protests have in fact taken place without breaching the injunctions, in particular outside and in the vicinity of the Tower and outside of Shell petrol stations.

**Issue (1): Whether to permit Ms Branch to make submissions, and if so on what basis and to what extent**

*Ms Branch’s application*

41. Ms Branch provided witness statements dated 24 and 26 April 2023, a statement from Nancy Friel and a detailed skeleton argument from Mr Simblet and Mr Greenhall.
42. Ms Branch is an environmental activist who has been a member of XR since April 2019. She has not breached any of the injunctions obtained by the Claimants. However, she contended that she is directly affected by them as she is keen to participate in protests that make people aware of the damage caused by fossil fuels but does not wish to risk breaching the injunctions. She believes that the injunctions have a chilling effect on her right to peacefully protest in the manner and at the location of her choosing.
43. In relation to the Haven, Ms Branch noted that the injunction covers anyone who enters or remains at the site without consent. She was concerned that if a Shell employee asked her to leave the area outside the site and she chose to remain, she could be caught by the injunction even though she had not entered the site, blocked any of its entrances or sought to do. She was also concerned that she could breach the injunction by placing a poster or flyer on the external walls of the site.

44. In respect of the Tower, she said that XR and many other protest groups see it as a key site from which to make their points. They often gather outside the building, hold banners and signs and chant slogans to make the reason for their protests clear. They do often cause some disruption, but they allow traffic to pass, and they do not prevent pedestrians from passing through. They welcome interaction with the public and make the most of the opportunities to speak to people about their protest. She said that in light of the fact that the injunction prohibits blocking the entrance or sticking anything to the building, she would be nervous about joining a protest outside the Tower because even if she blocked the entrance inadvertently for a few minutes this would risk breaching the order.
45. She is particularly troubled by the petrol stations injunction. She explained that they are a symbolically important place to hold demonstrations because they will gain the attention of people who drive cars and encourage them to think about their choices. She would be happy to participate in such a protest if that persuaded people to use their cars less and would be happy if petrol sales were drastically reduced. She is therefore concerned that simply by participating in protests at a petrol station she would be understood to be doing so with the intention of disrupting the sale or supply of fuel and would thus be within the wording of the injunction.
46. She argued that (i) the geographical scope of the injunction was unclear and it was not apparent whether it included areas of the public highway or other areas not necessarily owned by the Shell-branded petrol station where there is public access; (ii) there is a lack of clarity about the “blocking or impeding access” provisions; (iii) the prohibition on “affixing any object” might prevent her attaching a leaflet or flyer to a petrol station or a vehicle in a petrol station, including in the public area not owned by Shell but within the vicinity of a petrol station; (iv) and the “encouraging” provisions within the injunction might mean that if she was present and chanting, waving banners or handing out leaflets while someone else was blocking an entrance, even briefly, or placing leaflets on cars, she would be at risk of breaching the injunction. She also opposed Shell’s application to extend the scope of the current petrol station injunction to all protestors and not simply environmental protestors: she argued that this would significantly increase the number of people who could be caught by it.
47. Several of Ms Branch’s observations about the wording of parts of the petrol stations injunction also applied to the Haven and Tower injunctions.
48. Finally, Ms Branch made several overarching points about Articles 10 and 11 of the European Convention on Human Rights (“the ECHR”). She referenced the fact that the injunctions all state that they do not intend to prevent lawful protest. She said this did not reassure her: simply because the injunctions are not intended to have that effect does not mean that they will not in practice do so. She fears being arrested, especially if her children are present with her at the protest.
49. The skeleton argument from Mr Simblet and Mr Greenhall made detailed legal submissions in support of Ms Branch’s position. In particular he addressed Articles 10 and 11, the tort underlying the petrol stations claim, the applicability of the HRA, section 12(3) and Ms Branch’s concerns about the wording of some specific terms in the injunctions.

50. Ms Branch was clear that she did not wish to be joined as a Defendant: she explained that the risk of having damages and costs awarded against her would be catastrophic for her as she does not have the resources to defend a civil action; and would cause her numerous difficulties in respect of her employability, credit score and other matters.
51. However, she sought the right to make submissions on the injunctions. Mr Simblet contended that this could be achieved by the inherent power of the court or by formally recognising Ms Branch under CPR 40.9.

*CPR 40.9*

52. CPR 40.9 provides that “A person who is not a party but who is directly affected by a judgment or order may apply to have the judgment or order set aside or varied”. This provision has been recognised by the Court of Appeal as the route, or at least the primary route, to be used by non-parties wishing to set aside or vary Persons Unknown injunctions: see *Barking and Dagenham LBC v Persons Unknown* [2022] EWCA Civ 13, per Sir Geoffrey Vos MR at [89].
53. The injunctions in this case all provided, as it is common in cases of this nature, that anyone “affected” by the order may apply to the court to vary or discharge it “at any time”, upon giving not less than 24 hours’ notice to the Claimant. Such a party was required to provide their name and address and “must” also apply to be joined as a Defendant.
54. However, it has been recognised that joinder as a Defendant is not a pre-requisite to applying under CPR 40.9, notwithstanding the existence of such a provision: see Johnson J’s judgment on the petrol stations claim at [5]-[6], citing *National Highways Limited v Persons Unknown* [2022] EWHC 1105 (QB) at [20]-[22] and *Barking and Dagenham* at [89]. In *Esso Petroleum Company Limited v Breen and Persons Unknown* [2022] EWHC 1105 (QB) (“*Breen*”), Ritchie J set out a series of factors he had found helpful in deciding whether to require someone to become a named Defendant or simply permit them to apply under CPR 40.9.
55. Accordingly, despite the terms of the injunctions referred to at [53] above, the fact that Ms Branch did not wish to be joined as a Defendant was not fatal to her CPR 40.9 application. Ms Stacey did not argue that Ms Branch should be so joined.
56. In *National Highways Limited v Persons Unknown* [2022] EWHC 1105 (QB) at [20], Bennathan J observed that CPR 40.9 is, on its face, a “strikingly wide” rule which gives no guidance as to how its provisions are to be interpreted; nor is there appellate authority on the issue. In *Breen* at [40] Ritchie J made a similar observation about the lack of appellate authority on CPR 40.9 cited in the White Book.
57. In post-hearing submissions, Ms Stacey referred to *Mohamed & Others v Abdelmamoud* [2018] EWCA Civ 879 at [27], where Newey LJ said:

“It is clear from its terms...that CPR 40.9 does not empower the court to set aside a judgment or order wherever it might think that appropriate. It is a precondition that the applicant is ‘directly affected’ by the judgment or order. That the power should not be untrammelled makes obvious sense. In general, a defendant to a claim should be left to decide

for himself whether to defend it. Further, it could hardly be appropriate to allow a third party to apply to have a judgment set aside unless he would then be in a position either to defend the claim on the defendant's behalf or to put forward a defence of his own.”

58. She also cited the underlying judgment which was upheld by the Court of Appeal, at [2015] EWHC 1013 (Ch). At [58]-[59] Edward Murray (as he then was, sitting as a Deputy Judge of the Chancery Division), after referring to a number of previous cases on CPR 40.9, held:

“These cases support the proposition that in order for a non-party to be ‘directly affected’ by a judgment or order for the purposes of CPR 40.9, it is necessary that some interest capable of recognition by the law is materially and adversely affected by the judgment or order, or would be materially and adversely affected by the enforcement of the judgment or order.

Since the “directly affected” test is for the purpose of establishing *locus standi*, it is sufficient that the relevant judgment or order would *prima facie* be capable of materially and adversely affecting a legal interest. It is not necessary to show that it would, in fact, do so, for that would be the subject of the application itself”.

59. It does not appear that either judgment in *Abdelmamoud* were cited to Bennathan or Ritchie JJ in the cases referred to at [\*\*56] above. That said, in *Breen* at [43.1], Ritchie J observed that:

“A person can be directly affected in many ways. The order may affect the person financially. It may affect the person’s property rights or possession of property. It may affect the person’s investments or pension. The order may affect a person’s ability to travel or to use a public highway. The order may affect the person’s ability to work or enjoy private life or social life or to obtain work and in so many other ways. It may affect rights enshrined in the Human Rights Act 1988”.

60. Further, one of the factors he identified as pertinent to the issue of CPR 40.9 status in *Breen* was “Whether the final decision in the litigation will adversely affect the interested person, whether by way of civil rights, financial interests, property rights or otherwise” (factor (3)).
61. Both of these formulations chime with the test set out in *Abdelmamoud*.
62. In *Breen*, Ritchie J concluded that affording someone the right to be heard under CPR 40.9 required them to pass through a “gateway”, requiring them to satisfy the court that they were (i) “directly affected” by the injunction; and (ii) had a “good point” to raise.
63. At [45(6)] he observed that given the draconian nature of injunctions against Persons Unknown, and the fact that they may be wide in geographical and/or temporal scope, there should be a “low” threshold for interested persons to be able to take part. This reflects Bennathan J’s observations in *National Highways Limited v Persons Unknown* [2022] EWHC 1105 (QB) at [21(2)-(3)] that (i) in cases where orders are sought against

unnamed and unknown Defendants and where Convention rights are engaged, it is proper for the court to adopt a “flexible” approach to CPR 40.9; and (ii) in a case where the court is being asked to make wide ranging orders and, but for a successful rule 40.9 application, would not hear any submissions in opposition to those advanced by the Claimants, it is desirable to take a “generous” view of such applications. I agree with and gratefully adopt these sentiments.

64. In *Ageas Insurance v Stoodley* [2019] Lloyds Rep. LR 1 (HHJ Cotter QC, as he then was) had approached an application under CPR 40.9 by asking whether the applicant had a “real prospect of success” in showing that the order should be set aside or varied. Ms Stacey contended that the court should determine Ms Branch’s CPR 40.9 application by applying this and/or something akin to the test used for determining whether permission to appeal should be granted.
65. *Ageas* was not a Persons Unknown case. As *Breen* is the most recent High Court authority on the use of CPR 40.9 and is specific to the context of Persons Unknown injunctions, I consider it appropriate to follow Ritchie J’s approach set out therein. I observe that applying an unduly strict approach to the merits of a CPR 40.9 application in a Persons Unknown case could cut across the need for a low threshold for involvement and a flexible/general approach, given the particular features of these cases, as set out at [63] above.

(i): *Direct effect*

66. Ms Stacey initially conceded that Ms Branch was directly affected by the petrol stations injunction (albeit not the Haven and Tower injunctions) but then withdrew that concession in her post-hearing submissions.
67. She relied on the fact that Ms Branch has expressly stated that she has no intention of breaching the prohibitions in the injunctions. On that basis she would not fall within the definition of Persons Unknown, is not a party and has no prospect of being a Defendant. It was therefore difficult to see on what basis she would be entitled to seek to defend the claim on a potential Defendant’s behalf and to do so without being exposed to any of the costs risks associated with joinder. Moreover, given that the orders only prohibit specific acts which are by their nature unlawful, it is difficult to see how Ms Branch can assert that her interests are “materially” affected. She contended that the approach of Bennathan J and Ritchie J renders the qualifier ‘directly’ in the phrase “directly affected” otiose and is contrary to the approach of the Court of Appeal in *Abdelmamoud*.
68. I disagree. A key concern Ms Branch has raised is that the injunctions have a chilling effect on her rights under Articles 10 and 11. She does not accept that the injunctions only prohibit unlawful acts. She is keen to understand the limits of the injunctions as she fears inadvertently breaching them through her protest activity and thus leaving herself vulnerable to the damaging consequences of committal proceedings. She has specific concerns about the existence, scope and wording of each of these injunctions and considers that they impede her right to lawful protest at those locations. I accept Ms Branch’s evidence that a final decision in the litigation would adversely affect her civil rights under Articles 10 and 11 (albeit in a manner which is said to be justified) and if she breached any of them, this would affect her financial interests and expose her to the risk of a prison sentence.

69. For these reasons I consider that she meets the “direct effect” test set out in *Abdelmamoud* at first instance and in the Court of Appeal test: the injunctions are *prima facie* capable of materially and adversely affecting her recognised legal interests.
70. Although determinations under CPR 40.9 turn on their own facts, and although it does not appear that *Abdelmamoud* has been previously cited, my assessment as to Ms Branch’s status mirrors Bennathan J’s “tentative” view when considering the Haven and Tower injunctions that the words “directly affected” are “just wide enough” to encompass someone in Ms Branch’s position, such that her submissions would have been taken into account had she not withdrawn her application under CPR 40.9 (on the basis that a named Defendant had applied to join the action). It is also consistent with the recognition of Ms Branch under CPR 40.9 in (i) *National Highways Limited v Persons Unknown (blocking traffic) and others* [2021] EWHC 3081 (QB) at [20]-[22], where Lavender J concluded that she was affected by the initial injunction although she had not taken part in the relevant protests and so took into account her submissions; and (ii) *National Highways Limited v Persons Unknown* [2022] EWHC 1105 (QB) at [21(1)], where Bennathan J accepted that her concern that the order “might catch people such as her who, while not involved in IB or any of its protests, might protest near some of the many roads specified in NHL’s draft order and find herself inadvertently caught up in contempt proceedings” was “not fanciful and would amount to a sensible basis to regard her as “directly affected”.

(ii): “Good point”

71. In *Breen* at [43.2], Ritchie J framed the relevant question thus: “Does the IP have a good point to raise? If the point raised is weak or irrelevant there is no need for the CPR rule 40.9 permission”.
72. Ms Stacey argued that Ms Branch did not have a good point to make and therefore did not proceed through the second of Ritchie J’s gateways. She argued that all the points Ms Branch wished to advance had been made at the earlier hearings by the Claimants’ counsel and fully considered by Bennathan and Johnson JJ: for example, they had grappled with the issues she raised relating to *DPP v Ziegler* [2021] UKSC 23; [2022] AC 408 and the HRA, section 12(3).
73. I found this submission conceptually troubling: it amounted to an invitation to the court to approve a process by which one party is assumed to have advanced all of the opposing party’s submissions, in exactly the same way as they would have done, such that the opposing party should be denied the right to be heard. Putting aside the question of whether such a submission might find favour in a conventional case, a court would surely be particularly nervous about adopting such a course in cases of this nature, for the reasons given at [63] above.
74. In any event, I am satisfied that Ms Branch had good points to make on all three injunctions. Her evidence and skeleton argument raised a series of important and helpful points about the tension between the injunctions and Articles 10 and 11; the conspiracy to injure tort underpinning the petrol stations claim; the section 12(3) issue and about the specific wording of some of the terms. As will become apparent I have accepted some of her arguments.

*The Breen factors and discretion under CPR 40.9*

75. The factors identified by Ritchie J in *Breen* are focussed on whether someone should be afforded CPR 40.9 status or joined as a Defendant. As Ms Stacey did not press any application to join Ms Branch as a Defendant, they are of limited direct relevance.
76. However, Ms Stacey contended that even if someone satisfied both elements of the CPR 40.9 “gateway”, the use of the word “may” in the rule indicates that the court retains a residual discretion as to whether to permit that person to make an application under CPR 40.9. I am not confident that such an analysis is correct: it seems to me that this places a further gloss on the rule that its wording does not indicate is necessary beyond the “gateways”, nor is it supported by authority. It seems to me that the wording of CPR 40.9 simply establishes the basis on which someone “may” apply to have a judgment or order set aside or varied, but whether they succeed in doing so is a separate matter.
77. In case Ms Stacey’s analysis is correct, and in case any or all of the factors identified by Ritchie J in *Breen* are relevant to how that discretion is exercised, I have considered them. In fact, taken as a whole they support the view that Ms Branch should be recognised under CPR 40.9 and not joined as a Defendant.
78. I understood Ms Stacey to accept Mr Simblet’s submissions on factors (1) and (4)-(7): Ms Branch will not profit from the litigation financially or otherwise; she is not funding the defence of the litigation; she is raising a substantial public interest or civil liberties point; there is a need for a “low” threshold given the draconian and potentially wide nature of these injunctions; and Ms Branch could be faced with costs risks and difficulties due to orders which she did not instigate.
79. As to factor (2), Ms Branch is not “controlling the whole or a substantial part of the litigation”: she is making wide-ranging submissions but does not purport to speak for all the protest groups caught by the orders or for those who have already been caught by the orders even if they have not yet been named.
80. As to factor (3), as noted above, I accept Ms Branch’s evidence that a final decision in the litigation would adversely affect her rights as set out at [68] above.
81. Factor (8) is whether there would be any prejudice to the Claimant by granting someone CPR 40.9 status rather than requiring them to become parties. Ms Stacey did not press an argument about particular prejudice in this sense.
82. She did advance a much broader point about prejudice, which she contended was relevant to the general discretion under CPR 40.9, to the effect that the Claimants had been “ambushed” by Ms Branch’s late application. She was keen to stress that the Claimants did not wish to “shut down” Ms Branch’s submissions but argued that Ms Branch had inappropriately delayed. She had been aware of the injunctions since they were made in May 2022 and her solicitors had been on notice since 28 February 2023 that applications to renew all three injunctions were being made.
83. I had limited sympathy with this argument. The injunctions obtained by the Claimants all permit someone who is merely “affected” (not “directly” so) to apply to vary or discharge them on 24 hours’ notice, a timescale with which Ms Branch had complied. Interested members of protest groups regularly attend hearings of this kind and seek to be heard, as the cases referred to at [70] above and *Breen* illustrate: indeed Ms Branch



had attended the hearing before Bennathan J and Ms Friel had attended before Johnson J. If the Claimants wish to ensure they are given greater notice of such applications it is open to them to seek to increase the 24 hours' notice provision. If they are concerned to make sure review hearings are not "derailed" by such applications it is open to them to provide more realistic time estimates for hearings which do not assume a lack of opposition to the orders they seek.

84. Further, Ms Branch provided a credible reason for only applying to the court when she did: she was willing to live with the May 2022 injunctions for a year but wished to wait to see if the Claimant sought to extend them for a further year; and she acted reasonably promptly once she became aware of that fact, especially bearing in mind she does not retain solicitors on a standing basis.
85. I also accept Mr Simblet's submissions that (i) Ms Branch could be placed in no worse a position than someone who sought joinder as a Defendant who only had to give 24 hours' notice under the order; (ii) it was consistent with the overriding objective for her to make her application at a hearing when the court would already be reviewing the injunctions, rather than by insisting that the court conduct a further hearing to hear her submissions; and (iii) she was entitled to limit her costs liability in this way. As to the overriding objective, her actions in seeking to have her application dealt with at the review hearing were consistent with CPR 1.4(2), which provides that active case management includes "(i) dealing with as many aspects of the case as it can on the same occasion".
86. In the event, Ms Stacey was able to reply in detail to Mr Simblet's submissions during the hearing (a half day of further court time having been made available for it) and was permitted to make additional written submissions after it, to which Mr Simblet could respond. Accordingly, any prejudice the Claimants suffered by the timing of Mr Branch's application has been mitigated by these case management steps.
87. Ms Stacey argued that the poor merits of Ms Branch's submissions were also relevant to the residual discretion under CPR 40.9. Aside from the issue of whether such a discretion exists (see [76] above) I have addressed the merits in the context of the "good point" element of the gateway at [74] above.

*The limits of CPR 40.9*

88. During the hearing Ms Stacey advanced a novel point about the limits of CPR 40.9 which does not appear to have been taken in any of the other Persons Unknown cases. She developed this further in her written post-hearing submissions.
89. She contended that CPR 40.9 must be construed by reference to its language which sets out its parameters. It only permits submissions to be made as to whether an order that has already been made should be set aside or varied but cannot relate to any future order the court was being asked to make. She submitted that there was a window of time in which Ms Branch could have made her application in relation to the May 2022 orders, but she had now lost that opportunity due to delay. Instead, she would need to wait until the court made any orders extending the injunctions and if so, return to court to make her submissions.

90. I pause to observe that the “window of time” point in this submission is directly contrary to the wording of the injunctions themselves, which make clear that someone seeking to vary or discharge them may do so “at any time”.
91. As to the main point about the scope of CPR 40.9 involvement, Ms Stacey’s interpretation of the provision is understandable in conventional cases between two or more named defendants, where a final order has been made after trial, that does not involve an injunction.
92. However, matters are more complicated in cases involving Persons Unknown injunctions. This is primarily because unlike most court orders, they are not made against known individuals; and because the injunctions so made are the subject of regular review by the court: either at the return date (shortly after an ex parte injunction) or at a review hearing (as here, after an injunction has run for a considerable period of time such as a year). At either type of hearing, if a person seeks to make submissions under CPR 40.9, it is in my judgment artificial to regard them as only being permitted to do so in relation to the injunction that has already been made, because the very focus of that hearing is whether the injunction that has already been made should be set aside, renewed or varied in some form.
93. The point is illustrated by the fact that the only orders Ms Stacey sought from me were ones that had no independent existence of their own, but which referred back to the May 2022 injunctions, and amended their temporal scope. Ms Stacey was, herself, effectively seeking a variation of the May 2022 injunctions in those respects. In those circumstances it is artificial to contend that Ms Branch could not challenge the proposed variation and submit that other variations should be made, if the injunctions were not set aside in full.
94. Albeit that I appreciate this is a novel legal point that has not been taken before, the practical position is illustrated by how previous cases have played out. In *National Highways Limited v Persons Unknown (blocking traffic) and others* [2021] EWHC 3081 (QB), Lavender J took into account Ms Branch’s submissions not only as to terms but also the service provisions of the injunction he was being asked to make. He clearly did not consider that his role was solely “backward-looking”. Indeed, he discharged the interim injunction and made an entirely fresh order for the future. Similarly, in *National Highways Limited v Persons Unknown* [2022] EWHC 1105 (QB), Bennathan J took into account Ms Branch’s submission to the effect that the IB protests described by NHL were all in 2021 and there had been no repetition of them in the past year, which was clearly a “future-facing” point about whether the injunctions should be renewed.
95. Indeed, the very nature of the ability to “vary” an order under CPR 40.9 illustrates that the right to intervene under that rule is to some degree “forward-looking”.
96. Interpreting CPR 40.9 in this way in Persons Unknown cases would limit the efficacy of this route for non-parties, the route having been recognised at Court of Appeal level. There is also a need for flexibility of approach in these cases for the reasons given at [63] above.
97. Even if Ms Stacey’s interpretation of CPR 40.9 is correct, it would make limited difference on the facts of this case. That is because I would be able to consider all of Ms Branch’s submissions on the basis that they related solely to the May 2022

injunctions or indeed the short extension orders I made in late April 2023. If I was persuaded by any of her submissions that the orders were wrong in principle and should be set aside or varied, I would, by definition, not be persuaded that extending them in materially identical terms to their current form was appropriate.

98. In her post-hearing submissions Ms Stacey modified her position that Ms Branch could not be heard now and would need to return to court in the future once I had made any fresh orders. Rather, she contended that it would be open to me to “treat the application as having been made immediately after the review and consider it on that basis”. This was a pragmatic suggestion. To the extent that the same is necessary I consider that such a step is sensible case management, consistent with CPR 1.4(2) (see [85] above).
99. For all these reasons I conclude that Ms Branch should be permitted to apply to set aside or vary the May 2022 injunctions under CPR 40.9. I do not therefore need to determine Mr Simblet’s submission that I could have heard her submissions under a wider court power. I simply observe that there may well be force in the argument: for example, I note that in *Boyd v Ineos* [2019] 4 WLR 100 at [16] the Court of Appeal felt able to take into account submissions from counsel for two named Defendants in a Persons Unknown case, where there were some concerns about their locus standi, on the simple ground that they were of assistance to the court.

*The nature of Ms Branch’s involvement*

100. As to the nature of Ms Branch’s involvement, Ms Stacey took me to Gee on Commercial Injunctions (Seventh Edition) at paragraphs 24-020-021. This provides that where a defendant who wishes to set aside a Mareva injunction obtained without notice applies to discharge it, they should do so promptly and by application notice; and that what takes place is in the form of a “complete rehearing of the matter, with each party being at liberty to put in evidence”.
101. In my judgment the same should apply to a non-party such as Ms Branch applying under CPR 40.9. That said, I accept Ms Stacey’s submission that “the matter” in this context necessarily includes consideration of the judgments of the previous judges.

**Issue (2): Whether to grant the Claimant in the petrol stations claim permission to amend the description of the Persons Unknown Defendants**

102. The Claimant in the petrol stations claim seeks permission under CPR 19.4(1) and 17.1(3) to amend the description of the Persons Unknown Defendant to remove the word “environmental” from “environmental protest campaigns”.
103. Once a claim form has been served, the court’s permission is required to add a party under CPR 19.4(1). The White Book at paragraph 19.4.4 notes that in *Allergan Inc v Sauflon Pharmaceuticals Ltd* [2000] All ER (D) 106, Ch D, Pumfrey J refused an application to join a party as a second defendant where the claimant failed to plead a good arguable case. Further, in *Pece Beheer BV v Alevere Ltd* [2016] EWHC 434 (IPEC) HH Judge Hacon stated that, in most cases, in order to show a good arguable case for this purpose, the correct test to be applied is that which would be applied in an application to strike out a claim against a defendant pursuant to CPR r.3.4(2)(a) or (b)).

104. Paragraph 1.2 of the PD3A (Striking Out a Statement of Case) gives examples of cases where the court may conclude that the particulars of claim disclose no reasonable grounds for bringing the claim under CPR 3.4(2)(a) as those which set out no facts indicating what the claim is about; those which are incoherent and make no sense; and those which contain a coherent set of facts but those facts, even if true, do not disclose any legally recognisable claim against the defendant. CPR 3.4(2)(b) applies to statements of case that are an abuse of the court's process or are otherwise likely to obstruct the just disposal of the proceedings.
105. Ms Stacey submitted that the purpose of the amendment was to ensure that the description of Persons Unknown is as clear and accurate as possible and properly reflects the most recent evidence which suggests that there is movement between groups and protest campaigns which are not necessarily limited to environmental protests.
106. She referred to Mr Austin's evidence which illustrated the growing trend in recent months of broader interest groups, beyond environmental protest groups, engaging in protest actions against Shell petrol stations. He exhibited a press report to the effect that on 21 January 2023, two dozen members of Fuel Poverty Action and other groups had protested at a petrol station in Cambridge. They were quoted as accusing Shell of "profiteering as people struggle to pay for essentials such as energy and food". The article confirmed the presence of the notice at the petrol station warning protestors of the existence of the injunction. He also described a protest by austerity protestors on 3 February 2023 at a Shell petrol station in the Bristol area. He confirmed that the protestors on both occasions respected the terms of the injunction.
107. Further, Mr Prichard-Gamble's evidence was that there is a "high level of crossover" between "individual protest groups" and that the cost-of-living crisis is likely to increase JSO's animosity towards oil companies including the Claimant.
108. In light of this evidence, I am satisfied that the CPR 3.4(2)(a)/(b) test is met.
109. Accordingly I grant the Claimants permission to amend in the manner sought, such that the Defendants on the claim form and ancillary documents in the petrol stations claim become: "PERSONS UNKNOWN DAMAGING, AND/OR BLOCKING THE USE OF OR ACCESS TO ANY SHELL PETROL STATION IN ENGLAND AND WALES, OR TO ANY EQUIPMENT OR INFRASTRUCTURE UPON IT, BY EXPRESS OR IMPLIED AGREEMENT WITH OTHERS, IN CONNECTION WITH ~~ENVIRONMENTAL~~ PROTEST CAMPAIGNS WITH THE INTENTION OF DISRUPTING THE SALE OR SUPPLY OF FUEL TO OR FROM THE SAID STATION".
110. Whether to grant the Claimant an injunction in relation to this more widely defined group of Persons Unknown is a separate issue which I address at [148] below.

**Issue (3): Whether to extend the three injunctions for up to a further year in the manner sought by the Claimants**

111. I have taken as a framework for my analysis the list of issues identified by Johnson J in his judgment on the petrol stations claim, which had come from the Claimants' submissions. This is appropriate given the rehearing approach I have determined was

necessary in light of Ms Branch's application under CPR 40.9 (see [101] above), rather than the slightly narrower approach appropriate on an uncontested review hearing.

112. As Johnson J explained at [23] these different legal issues arise because the injunctions are sought are on an interim basis before trial against Persons Unknown on a precautionary basis to restrain anticipated future conduct; and because they interfere with the rights to freedom of expression and assembly under Articles 10 and 11.

(1): Is there a serious question to be tried, applying the test set out in *American Cyanamid v Ethicon* [1975] AC 396 per Lord Diplock at 407G?

*The Haven and Tower claims*

113. The Haven and Tower injunctions were sought and obtained on the basis of the Claimant's underlying claim of trespass to their land and private nuisance, in the form of unlawful interference with their right of access to their land via the highway and their exercise of a private right of way (as discussed in *Cuadrilla Bowland Ltd v Persons Unknown* [2020] 4 WLR 29 at [13] and Gale on Easements (21st ed) at paragraph 13-01).
114. Although there do not appear to have been further incidents specifically at the Haven and Tower sites, the evidence of Mr Brown and Mr Garwood to which Bennathan J was taken led him to conclude that the Claimants had a strong claim in trespass or nuisance for events that took place before the injunctions were made. I have read all that evidence. The position remains as it was before Bennathan J and the evidence shows that there is a real and imminent risk of the offending conduct occurring.
115. The *American Cyanamid* test is therefore met in relation to these two claims. To the extent that the relevant test is, in fact, that the Claimants are "likely" to succeed, due to the operation of the HRA, section 12(3) (see further under sub-issue (12) below), that test is met.

*The petrol station claims*

116. The Claimants' claim in relation to the petrol stations is advanced under the tort of conspiracy to injure by unlawful means. Ms Stacey relied heavily on Johnson J's findings on this issue.
117. His first key finding was as follows:

"25. The claimant has a strong case that on 28 April 2022 the defendants committed the activities identified in paragraph 3 of the draft order: those activities are shown in photographs and videos. There are apparent instances of trespass to goods (the damage to the petrol pumps and the application of glue), trespass to land (the general implied licence to enter for the purpose of purchasing petrol does not extend to what the defendants did) and nuisance (preventing access to the petrol stations). None of this gives rise to a right of action by the claimant in respect of those Shell petrol stations where it does not have an interest in the land and does not own the petrol pumps. It is therefore not, itself, able to

maintain a claim in trespass or nuisance in respect of all Shell petrol stations”.

118. As with the Haven and Tower claims I have reviewed the underlying evidence that led to this conclusion and I agree with it. The Claimant has a strong prospect of showing that the various acts said to have taken place on 28 April 2022 did in fact take place. There have also been further incidents at petrol stations on 24 and 26 August 2022 of a similar nature (although no application to amend the Particulars of Claim to refer to these has been made).
119. The next element of Johnson J’s reasoning addressed the legal consequences of his factual finding at [25], thus:

“26. The claim advanced by the claimant is framed in the tort of conspiracy to injure by unlawful means (“conspiracy to injure”). The ingredients of that tort are identified in *Cuadrilla Bowland Ltd v Persons Unknown* [2020] EWCA Civ 9; [2020] 4 WLR 29 *per* Leggatt LJ at [18]: (a) an unlawful act by the defendant, (b) with the intention of injuring the claimant, (c) pursuant to an agreement with others, (d) which injures the claimant.

27. To establish the tort of conspiracy to injure, it is not necessary to show that the underlying unlawful conduct (to satisfy limb (a)) is actionable by the claimant. Criminal conduct which is not actionable in tort can suffice (so long as it is directed at the claimant): *Revenue and Customs Commissioners v Total Network SL* [2008] UKHL 19; [2008] 1 AC 1174 *per* Lord Walker at [94] and Lord Hope at [44]. A breach of contract can also suffice, even though it is not actionable by the claimant: *The Racing Partnership Ltd v Done Bros (Cash Betting) Ltd* [2020] EWCA Civ 1300; [2021] Ch 233 *per* Arnold LJ at [155].

28. The question of whether a tort, or a breach of statutory duty, can suffice was left open by the Supreme Court in *JST BTS Bank v Ablyaszov (No 14)*[2018] UKSC 19; [2020] AC 727. Lord Sumption and Lord Lloyd-Jones observed, at [15], that the issue was complex, not least because it might – in the case of a breach of statutory duty – depend on the purpose and scope of the underlying statute and whether that is consistent “with its deployment as an element in the tort of conspiracy.”

29. For the purposes of the present case, it is not necessary to decide whether a breach of statutory duty can found a claim for conspiracy to injure, or whether every (other) tort can do so. It is only necessary to decide whether the claimant has established a serious issue to be tried as to whether the torts that are here in play may suffice as the unlawful act necessary to found a claim for conspiracy to injure. Those torts involve interference with rights in land and goods where those rights are being exercised for the benefit of the claimant (where the petrol station is being operated under the claimant's brand, selling the claimant's fuel). Recognising the torts as capable of supporting a claim in conspiracy to injure does not undermine or undercut the rationale for those torts. It

would be anomalous if a breach of contract (where the existence of the cause of action is dependent on the choice of the contracting parties) could support a claim for conspiracy to injure, but a claim for trespass could not do so. Likewise, it would be anomalous if trespass to goods did not suffice given that criminal damage does. I am therefore satisfied that the claimant has established a serious issue to be tried in respect of a relevant unlawful act”.

120. Having addressed this legal issue, he continued:

“30. There is no difficulty in establishing a serious issue to be tried in respect of the remaining elements of the tort. The intention of the defendants’ unlawful activities is plain from their conduct and from the published statements on the websites of the protest groups: it is to disrupt the sale of fuel in order to draw attention to the contribution that fossil fuels make to climate change. They are not solitary activities but are protests involving numbers of activists acting in concert. They therefore apparently undertake their protest activities in agreement with one another. Loss is occasioned because the petrol stations are unable to sell the claimant’s fuel”.

121. All of the evidence before me leads me to the same factual conclusion as he reached at [30].

122. Johnson J concluded as follows:

“31. I am therefore satisfied that there is a serious issue to be tried.

32. Further, the evidence advanced by the claimant appears credible and is supported by material that is published by the groups to which the defendants appear to be aligned. That evidence is therefore likely to be accepted at trial. I would (if this had been a trial) wished to have clearer and more detailed evidence (perhaps including expert evidence) as to the risks that arise from the use of mobile phones, glue and spray paint in close proximity to fuel, but it is not necessary precisely to calibrate those risks to determine this application. It is also, I find, likely that the court at trial will adopt the legal analysis set out above in respect of the tort of conspiracy to injure (including, in particular, that the necessary unlawful act could be a tort that is not itself actionable by the claimant). It follows that not only is there a serious issue to be tried, but the claimant is also more likely than not to succeed at trial in establishing its claim”.

123. Mr Simblet submitted that neither the *American Cyanamid* test nor the “likely to succeed” test derived from the HRA, section 12(3) were met on this claim.

124. First, he was critical of the drafting of the Claimants’ statements of case and with some good reason. The claim form asserts that the Claimant seeks an injunction “to restrain the Defendants from obstructing access to or damaging petrol stations using its brand, by unlawful means and in combination with others”. The “unlawful means” are not specified. The claim form does not therefore make clear on its face that the overarching

tort relied on is the tort of conspiracy to injure by unlawful means. Further, the Particulars of Claim (neither the current version nor the draft amended version) specify what the underlying unlawful means are meant to be – Mr Simblet was right to identify that the Particulars do not mention the torts of trespass to land, trespass to goods and nuisance referred to by Johnson J. They simply list the unlawful acts that occurred at the Cobham services on 28 April 2022. It is clear from the nature of the unlawful acts that they are said to constitute the torts of trespass to land, trespass to goods and private nuisance but the Particulars would benefit from greater clarity. Ms Stacey sought to persuade me that avoiding legalese and writing in plain language was appropriate when dealing with Persons Unknown. That is correct as far as the injunctions are concerned but the requirements of the CPR and the need for legal clarity still apply to the statements of case.

125. Mr Simblet submitted that the Claimants have not complied with the mandatory obligation in PD16.7.5 applying to a claim based upon agreement by conduct, where “the particulars of claim must specify the conduct relied on and state by whom, when and where the acts constituting the conduct were done”. The conduct in question has been specified: namely the unlawful acts on 28 April 2022 referred to above. Further, the Claimant has pleaded that they involved “coordinated action by a group of persons” and were also “carried out as part of the wider [JSO] movement”, noting that some of the protestors were carrying or displaying banners which referred to JSO. The requirements of PD16.7.5 have been met, just, by this brief pleading.
126. Second, the Claimant is relying on the tort of conspiracy to injure because it is not in legal possession of all the petrol stations and does not own all the equipment on them. Accordingly, the underlying torts, depending on their precise location, may only be directly actionable in their own right by third parties. Mr Simblet argued that given the complexities of land ownership in multi-retailer commercial environments, it cannot confidently be asserted that the landowner would not tolerate the presence of those protesting against the Claimant in each and every case where this might occur. For present purposes, I am satisfied that there is a serious issue to be tried as to whether the landowners would tolerate unlawful activity of the type restrained by the injunction, noting the observations as to protest on private land in *DPP v Cuciurean* at [45]–[46]. To the extent necessary, I consider it likely that the Claimant would succeed at trial on this issue.
127. Third, Mr Simblet contended that as the Claimant appeared to accept that it does not have sufficient rights of possession to bring a claim in its own name for trespass or private nuisance, it was not clear on what basis claims of trespass and private nuisance could form the underlying unlawful means for this tort. The answer is found in the caselaw summarised by Johnson J at [27], which establish that it is not necessary to show that the underlying unlawful conduct is actionable by the Claimant. As he noted at [28], whether the unlawful means relied upon can be a tort actionable by a third party rather than a breach of contract is a novel point that has yet to be determined. The skeleton argument placed before Johnson J advanced reasons why the answer to that question should be in the affirmative. He has alluded to these in the latter part of [29]. As he did, I consider that the Claimants can show a serious issue to be tried on that point.
128. Fourth, he argued that “instrumentality” - meaning that the conduct must be the means by which the Claimant has suffered loss - is an additional element of the tort of unlawful



means conspiracy. He contended that the poor state of the pleadings meant that this issue had not been addressed and that Johnson J had erred by not addressing the instrumentality issue. I disagree. The Claimant's pleaded case refers to the significant duration of the protests on 28 April 2022 and the loss suffered by the Claimant due to the fact that petrol sales were significantly prevented or impeded while the protest was ongoing. The Claimant's case also refers to different kinds of loss namely damage to equipment for the distribution of highly flammable fuels and consequential health and safety risks. Johnson J specifically referred to the fourth limb of the tort as being the injury to the Claimant and addressed the evidence on loss: see [26] and [30]. Further in *Cuadrilla* at [67]-[69], the Court of Appeal explained that the requirement of the conspiracy tort to show damage can be incorporated into a *quia timet* injunction by reference to the Defendants' intention, which is the approach taken here. The extent of actual damage would need to be proved at a final hearing or on any committal.

129. Fifth, he noted that reliance on wide-ranging economic torts such as conspiracy to injure through unlawful means was discouraged by the Court of Appeal in *Boyd v Ineos* [2019] 4 WLR 100. The Court discharged those parts of an order based on public nuisance and unlawful means conspiracy leaving only those based on trespass and private nuisance. Further, in *Cuadrilla*, the prohibitions were made out on the facts from claims in private nuisance and at [81] the Court described the prohibition corresponding to unlawful means conspiracy as "a different matter" on which *Cuadrilla* did not need to rely. However, as Ms Stacey highlighted, the discharge of the injunction based on conspiracy by the Court of Appeal in *Ineos* involved materially different facts, namely a challenge to an injunction sought before any offending conduct had taken place; and terms which were impermissibly wide. In *Cuadrilla* at [47], the Court of Appeal noted that the injunction had been made before any alleged unlawful interference with the claimant's activities had occurred was "important in understanding the decision" and I agree. In contrast, the injunction granted by Johnson J was based on past conduct having already occurred and was suitably narrow in focus.
130. Sixth, he contended that while the courts will in certain circumstances allow claims to be brought against Persons Unknown, this does not mean that claims can be brought against purely hypothetical Defendants. The courts will strike out claims brought against persons without legal personality, such as occurred in *EDO v Campaign to Smash EDO and others* [2005] EWHC 837, a case seeking injunctive relief against protestors. Here, the Claimants were simply "imagining or conjuring up" the alleged conspirators and a year into the life of the injunctions, there were still no named individuals involved. This was an example of the serious conceptual and practical problems in using "Persons Unknown" injunctions in in protestor cases. This was particularly so where the injunctions are underpinned by an alleged conspiracy (namely a state of mind and agreement). However, *Cuadrilla* shows that the use of Persons Unknown injunctions in cases of this nature is conceptually acceptable.
131. I therefore agree with Johnson J for the reasons he gave at [25]-[31] that there is a serious issue to be tried on this claim.
132. Further, I share his conclusion at [32] that in light of the credible evidence provided and the persuasive nature of the legal arguments on the third party tort issue, the Claimant is more likely than not to succeed at trial in establishing its claim.

(2) Would damages be an inadequate remedy for the Claimants and would a cross-undertaking in damages adequately protect the Defendants?

133. The note of Bennathan J’s judgment indicates that he accepted that (i) the activities at the Haven and Tower sites would cause grave and irreparable harm; (ii) trespassing on the sites could lead to highly dangerous outcomes, especially given the presence on the sites of flammable liquids; and (iii) the blocking of entrances could lead to business interruption and large scale cost to the Claimant’s businesses. He concluded that given the sorts of sums involved and the practicality of obtaining damages, the latter would not be an adequate remedy.
134. Johnson J accepted at [34] that the Defendants’ conduct with respect to the petrol stations gives rise to potential health and safety risks and if those risks materialise they could not adequately be remedied by way of an award of damages. He took into account the fact that there is no evidence that the Defendants have the financial means to satisfy an award of damages, such that it is “very possible that any award of damages would not, practically, be enforceable.”
135. The evidence before me shows that all of these considerations remain valid.
136. There is also an element to which the losses at the Haven and Tower sites may be impossible to quantify, though like Johnson J at [33], I do not find the Claimants’ argument to similar effect with respect to the petrol stations persuasive.
137. However, for the other reasons set out at [133]-[135] above I am satisfied that damages would not be an adequate remedy for the Claimants.
138. As to the issue of a cross-undertaking, as Johnson J noted at [36], while the petrol stations injunction does interfere with the Defendants’ rights of expression and assembly, to the extent that a court finds that there has been any unjustified interference with those rights, that could be remedied by an award of damages under the HRA, section 8.
139. The evidence from Alison Oldfield, the Claimants’ solicitor, made clear that the Claimants have offered a cross-undertaking in damages, in the event that the same becomes necessary. The Claimants have the means to satisfy any such order.
140. Accordingly, a cross-undertaking in damages would be an adequate remedy for the Defendants.

(3) Alternatively, does the balance of convenience otherwise lie in favour of the grant of the order: *American Cyanamid* per Lord Diplock at 408C-F?

141. As damages are not an adequate remedy and the cross-undertaking is adequate protection for the Defendants, it is not necessary separately to consider the balance of convenience: see Johnson J at [38].
142. To the extent necessary, Ms Stacey relied on his further reasoning at [39] to this effect:
- “...the balance of convenience favours the grant of injunctive relief. If an injunction is not granted, then there is a risk of substantial damage to the claimant’s legal rights which might not be capable of remedy.

Conversely, it is open to the defendants (or anybody else that is affected by the injunction) at any point to apply to vary or set aside the order. Further, although the injunction has a wide effect, there are both temporal and geographical restrictions.”

143. She submitted that this analysis, save for the final sentence, applies equally to the Shell Haven and Tower claims, and even more strongly since those orders do not have such wide effect.
144. I agree: for these reasons the balance of convenience is in favour of continuing the relief.

(4) Is there a sufficiently real and imminent risk of damage so as to justify the grant of what is a precautionary injunction?

145. It is only appropriate to grant an interim injunction if there is a sufficiently “real” and “imminent” risk of a tort being committed to justify precautionary relief (see, for example, *Canada Goose UK Retail Limited v Persons Unknown* [2020] EWCA Civ 303; [2020] 1 WLR 2802 at [82(3)], per Sir Terence Etherton MR).
146. All three injunctions were made because of conduct causing harm that had already taken place. Since then, further conduct and harm has occurred at petrol station sites. The risk of repetition is demonstrated by this further action and the various statements made by the protest groups indicating their intention to continue with similar activities, as summarised at [35]-[40] above.
147. I am therefore satisfied that unless restrained by injunctions the Defendants will continue to act in breach of the Claimants’ rights; that there continues to be a real and imminent risk of future harm; and that the harm which might eventuate is sufficiently “grave and irreparable” that damages would not be an adequate remedy: see *Vastint Leeds BV v Persons Unknown* [2018] EWHC 2456 (Ch) ] at [31(4)(d)], per Marcus Smith J at [31(3)((d)].
148. It is appropriate to deal at this juncture with the element of the Claimant’s application for an extension of the petrol stations injunction which deals with the newly defined Defendants. I deal with the issue here because the evidence in relation to non-environmental protestors at petrol stations summarised at [106] above makes clear that they respected the terms of the injunction. This means that the aspect of the extension to the petrol stations injunction sought by the Claimant in relation to this wider group is “purely” precautionary, as it is not based on any past tortious conduct. However, in light of the evidence suggesting movement between groups and protest campaigns which are not necessarily limited to environmental protests, summarised at [107] above, I am satisfied that the *Canada Goose* and *Vastint* tests are met with respect to this more widely defined group of Defendants.
149. Finally, I agree with Johnson J’s reasoning at [421]-[42], illustrating that the injunctions are not premature, due to the fact that warnings of protests are unlikely to be given in sufficient time to obtain an injunction:

“41. If the claimant is given sufficient warning of a protest that would involve a conspiracy to injure, then it can seek injunctive relief in

respect of that specific event. If there were grounds for confidence that such warnings will be given, then the risk now (in advance of any such warning) might not be sufficiently imminent to justify a more general injunction. There is some indication that protest groups sometimes engage with the police and give prior warning of planned activities. But it is unlikely that sufficient warning would be given to enable an injunction to be obtained. That would be self-defeating. Further, it is not always the case that warnings are given. Extinction Rebellion say in terms (on its website) that it will not always give such warnings. Moreover, the claimant did not receive sufficient (or any) warning of the activities on 28 April 2022.

42. Accordingly, I am satisfied that this application is not premature, and that the risk now is sufficiently imminent. The claimant may not have a further opportunity to seek an injunction before a further protest causes actionable harm”.

(5) Do the prohibited acts correspond to the threatened tort and only include lawful conduct if there is no other proportionate means of protecting the Claimant’s rights: *Canada Goose* at [78] and [82(5)]?

150. The acts prohibited in the Haven and Tower injunctions necessarily correspond to the threatened torts of trespass to their land and private nuisance.
151. The acts prohibited in the petrol stations injunction reflect those in the petrol stations injunction necessarily amount to conduct that constitutes the tort of conspiracy to injure, provided that the injunction is read in full in the way described by Johnson J at [26 above]. This means that the concerns raised in Mr Simblet’s submission to the effect that clause 3.4 (“affixing any object or person”) would prohibit placing leaflets or signs on any objects on or in a Shell petrol station and his similar concerns about clauses 3.5 and 3.6 (“erecting any structure in, on or against any part of” or “painting or depositing or writing in any substance on any part of” a Shell petrol station) are to some degree mitigated by the fact that such activities are only prohibited by the injunction if they are (i) such that they damage the petrol station; (ii) done in agreement with others; and (iii) done with the intention of disrupting the sale or supply of fuel. These are similar to the “sweet wrapper” example given by Johnson J at [26] above: the prohibited acts in paragraph 3 need to be read in conjunction with the definition of Defendants. When that is done, it can be seen that they mirror the torts underlying the overarching tort of conspiracy to injure.
152. I do not agree with Mr Simblet that it is necessary to revise the wording to make clear that the conduct must have the “effect” of disrupting the sale or supply of fuel to or from a Shell petrol station as this is an element of the conspiracy to injure tort. The same is not necessary given that this is an anticipatory injunction. The current wording focusses on the Defendants’ intention to cause harm which is consistent with *Cuadrilla* at [67]-[69] (see [128] above). Actual loss or damage can be addressed in due course.
153. Each injunction contains an order making clear that it is not intended to prohibit behaviour which is otherwise lawful. To the extent that it does, the same is a proportionate means of protecting the Claimant’s rights for the reasons given under sub-issue (10) below.

(6) Are the terms of the injunctions sufficiently clear and precise: *Canada Goose* at [82(6)]?

154. In my judgment the wording of all three injunctions is in clear and simple language, save for two caveats with respect to the petrol stations injunction: (i) some wording should be inserted before clauses 3.4-3.6 to reflect that the acts are only prohibited if they cause damage (such wording being clear on the face of the Tower and Haven injunctions but not on the petrol stations one); and (ii) clause 3.7 should be removed as it duplicates paragraph 4.
155. In respect of the petrol stations injunction, as Johnson J noted at [46], it is usually desirable that such terms should, so far as possible, be based on objective conduct rather than subjective intention. However, for the reasons he gives, the element of subjective intention in paragraph 2 (“with the intention of disrupting the sale or supply of fuel to or from a Shell Petrol Station”) is necessary because of the nature of the tort of conspiracy to injure and to avoid the language being wider than is necessary or proportionate (noting the sweet wrapper example he gave at [21]).
156. I do not accept Mr Simblet’s contention that the “encouragement” provisions are unduly vague: they are clearly defined as being linked with the underlying acts and are intended to ensure that the injunctions are effective. To the extent that they capture lawful activity, they are proportionate as explained under sub-issue (10) below.

(7) Do the injunctions have clear geographical and temporal limits: *Canada Goose* at [82(7)] (as refined and explained in *Barking and Dagenham LBC v Persons Unknown* [2022] EWCA Civ 13 per Sir Geoffrey Vos MR at [79] - [92])?

157. As to geographical limits, the extent of the Haven and Tower injunctions is made clear by the plans appended to them. The Haven injunction includes a clear definition of, and plan showing, the boundary of the injunction. This should address Ms Branch’s concern about where she would need to be to risk breaching it if asked to leave by an employee. As to Ms Branch’s concern that she might breach the Haven injunction by placing a poster or flyer on the external walls of the site, the injunction only prohibits the affixing of objects which cause damage, within the geographical boundary as defined (the latter of which should help her identify which “external walls” are covered).
158. The petrol stations injunction applies only to “petrol stations displaying Shell branding (including any retail unit forming part of such a petrol station, whatever the branding of that retail unit)”. I agree with the reasons Johnson J gave at [48] as to why it is necessary and proportionate to protect the Claimant’s interests to include all such petrol stations rather than, for example, those that have already been targeted or certain types of petrol station.
159. However, Ms Branch and Mr Simblet had raised valid concerns about the extent to which the injunction covers land around or approaching the petrol stations. Accordingly in my draft judgment I invited the Claimant to propose some words that would greater delineate where the scope of the injunction ends and the public highway over which the injunction does not apply begins (albeit not using wording such as “short” distance as that would be insufficiently clear: see *Cuadrilla* at [57]). Ms Stacey, having explained why a simple “radius” provision was not practicable, proposed that the injunction would apply to those “directly blocking or impeding access to any pedestrian or vehicular entrance to a Shell Petrol Station forecourt to a building within the Shell petrol station”.

I am satisfied that this revised wording renders the petrol stations order sufficiently geographically specific as it makes it clear that the area of focus is the petrol station forecourts. It also correctly focusses on the nature of the prohibited activity, in the form of direct obstructions.

160. As to temporal limits, the Claimants seek an extension to each injunction until trial or further order, with a backstop of a duration of one year.
161. Ms Stacey referred to the observations of the Court of Appeal in *Barking and Dagenham LBC and others v Persons Unknown* [2022] EWCA Civ 13 at [98] and [108] to the effect that “For as long as the court is concerned with the enforcement of an order, the action is not at end” and “there is no rule that an interim injunction can only be granted for any particular period of time. It is good practice to provide for a periodic review, even when a final order is made”.
162. She made clear that the Claimants intend to await the outcome of the appeal to the Supreme Court in *Barking & Dagenham*, which is expected to clarify the central issue of whether final injunctions are capable of being obtained against persons unknown or whether they can only be obtained against named individuals, before seeking a final hearing on these injunctions. Both interim and final orders must be kept under review in any event. That said, she put on record that the Claimants are mindful of their obligations to progress the litigation and intend to do so by seeking directions to bring the matter to a final hearing as soon as practical once judgment in *Barking & Dagenham* is available. If there is a proper evidential basis to join named Defendants, that may occur, and then they can be permitted to file a Defence.
163. I accept her assurance that the proposed “backstop” period of one year is just that, in light of the matters referred to in the preceding paragraph. I am satisfied that this period strikes the correct balance between the need to keep orders under review and the express indications by JSO and other groups that their campaigns are escalating rather than being brought to an end in the near term. I note that, for example, in *HS2 v Persons Unknown* [2022] EWHC 2360 at [109], Knowles J granted an interim injunction on the basis of yearly review periods to determine whether there was a continued threat which justified the continuation of the order, with the usual provisions allowing for persons affected to vary or discharge it.

(8) The Defendants having not been identified, are they in principle, capable of being identified and served with the orders: *Canada Goose* at [82(1)] and [82(4)]?

164. The note of the hearing before Bennathan J makes clear that a Mr Smith was joined as a Defendant to the Tower claim on an unopposed basis, but he is no longer so joined.
165. Johnson J’s judgment explained at [13] that on 28 April 2022 five people were arrested and charged with offences, including criminal damage, in respect of the Clacket Lane and Cobham petrol station protests. He noted that the Claimant had not sought to join them as individual named Defendants to this claim because (in the case of four of them) it considered that, in light of the bail conditions, there was no significant risk that they will carry out further similar activities, and (in the case of the fifth) it is not sufficiently clear that the conduct of that individual comes within the scope of the injunction.
166. Accordingly, there are currently no named Defendants to any of the claims.

167. However, Ms Oldfield's evidence explains how the Claimants are keeping the issue under review. They are liaising with the relevant police forces in an effort to identify persons falling within Persons Unknown description; and comply with the undertaking to join such persons as named Defendants to the three orders as soon as reasonably practicable following the provision of their names and addresses by the police.
168. Pursuant to the third party disclosure order made by May J (see [218] below), on 29 March 2023 Surrey Police provided the Claimant in the petrol stations claim with the names and addresses of individuals arrested at Clacket Lane and Cobham motorway services on 28 April 2022 and 24 August 2023. The Claimant is liaising with Surrey Police to obtain the further information necessary to enable them to decide whether there is a proper evidential basis for applying to join any of the individuals as named Defendants, following the approach set out by Freedman J in *TfL v Lee* [2022] EWHC 3102 at [71]-[79]. A similar process is no doubt underway in relation to the Commissioner following the third party disclosure order I made on 28 April 2023.
169. Therefore, while no named Defendants have yet been identified, the Claimants are taking active steps to identify such people. On that basis I am satisfied that when people take part in protests at the relevant sites, they are, in principle, capable of being identified and that there is a process in place focussed on achieving that. Such persons can then be personally served with court documents. In the meantime, effective alternative service on the Persons Unknown Defendants can take place in a manner that can reasonably be expected to bring the proceedings to their attention, as explained under Issue (4).

(9) Are the Defendants identified in the claim forms and the injunctions by reference to their conduct: *Canada Goose* at [82(2)]?

170. The descriptions of the Persons Unknown are sufficiently precise to identify the relevant Defendants as the descriptions target their conduct. Ms Oldfield's evidence makes clear that (i) effective service has taken place on Persons Unknown pursuant to the alternative service provisions in the orders; and (ii) the Claimants are taking steps to identify persons falling within the description of the persons unknown and to comply with the undertaking to join such persons as named Defendants.

(10) Are the interferences with the Defendants' rights of free assembly and expression necessary for and proportionate to the need to protect the Claimants' rights: Articles 10(2) and 11(2), read with the HRA, section 6(1)?

171. As Mr Simblet highlighted, Articles 10 and 11 contain important protections on the right to protest, which supplement those at common law. Further, it is the essence of protest that many, including those in power, will regard it as unwelcome (see, for example, the observations of Laws LJ in *R(Tabernacle) v Secretary of State for Defence* [2009] EWCA Civ 23).
172. All three injunctions interfere with the Defendants' rights under Articles 10(1) and 11(1). However, such interferences can be justified where they are necessary and proportionate to the need to protect the Claimants' rights. As Lord Sales JSC explained in *DPP v Ziegler* [2021] UKSC 23; [2022] AC 408 at [125] the test is as follows:

“...the interference must be “necessary in a democratic society” in pursuance of a specified legitimate aim, and this means that it must be proportionate to that aim. The four-stage test of proportionality applies: (i) Is the aim sufficiently important to justify interference with a fundamental right? (ii) Is there a rational connection between the means chosen and the aim in view? (iii) Was there a less intrusive measure which could have been used without compromising the achievement of that aim? (iv) Has a fair balance been struck between the rights of the individual and the general interest of the community, including the rights of others?”.

173. As to element (i), in the petrol stations claim, Johnson J at [57] identified the aim of the interference as the need to protect the Claimant’s right to carry on its business. The same applies to the Haven and Tower claims which also involve the Claimants’ rights over their privately owned land, as protected by Article 1, Protocol 1. Johnson J observed that the Defendants are “motivated by matters of the greatest importance” and “might say that there is an overwhelming global scientific consensus that the business in which the claimant is engaged is contributing to the climate crisis and is thereby putting the world at risk, and that the claimant’s interests pale into insignificance by comparison”. Ms Branch’s statement indicates that these are her firm beliefs. However, as he continued, this is not “a particularly weighty factor: otherwise judges would find themselves according greater protection to views which they think important” (see *City of London v Samede* [2012] EWCA Civ 160; [2012] 2 All ER 1039 at 41, per Lord Neuberger at [41]); and “it is not for the court...to adjudicate on the important underlying political and policy issues raised by these protests. It is for Parliament to determine whether legal restrictions should be imposed on the trade in fossil fuels”.
174. I agree with his analysis that the Claimant in the petrol stations claim is entitled to ask the court to uphold and enforce its legal rights, including its right to engage in a lawful business without tortious interference. The same is even clearer with respect to the Claimants on the Haven and Tower claims, given that the injunctions only cover their private property. The Claimants’ rights in these respects are prescribed by law and their enforcement is necessary in a democratic society. As Johnson J held at [57], the aims of the injunctions are therefore “sufficiently important to justify interferences with the Defendants’ rights of assembly and expression”.
175. As to issues (ii) and (iii) in the test described by Lord Sales JSC, I am satisfied that in each of the three cases there is a rational connection between the terms of the injunction and the aim that it seeks to achieve. The terms of the injunction are drafted so that they only prohibit activity that would amount to the torts of trespass and private nuisance (in the case of the Haven and Tower claims) and conspiracy to injure (in the case of the Petrol station claim). The terms of the injunctions, including their geographical and temporal scope, are no more intrusive than is necessary to achieve the aims of the injunctions.
176. As to issue (iv), as Johnson J said at [36] and [59], the Defendants are not prevented from congregating and expressing their opposition to the Claimants’ conduct, including, “in a loud or disruptive fashion”, in a location close to Shell petrol stations, so long as it is not done in a way which involves the unlawful conduct prohibited by the injunctions. The same applies to the Haven and Tower sites. The injunctions do not



therefore prevent activities that are “at the core” or which form “the essence” of the rights in question (see *DPP v Cuciurean* [2022] EWHC 736 at [31], [36] and [46], per Lord Burnett of Maldon CJ). All that is prohibited on each of the injunctions is specified deliberate tortious conduct.

177. Leggatt LJ observed in *Cuadrilla* at [94]-[95] that intentional disruption of activities of others (as opposed to disruption caused as a side-effect of protest held in a public place) is not “at the core” of the freedom protected by Article 11. As Johnson J noted at [62], the petrol station injunction sought to restrain protests which have as their aim such intentional unlawful interference with the Claimant’s activities; and the same is true of the Haven and Tower injunctions.
178. On the other hand, as Johnson J observed at [60], simply leaving it to the police to enforce the criminal law would not adequately protect the rights of the Claimant in the petrol station claim: such enforcement could only take place after the event, meaning inevitable loss to the Claimant; and some of the activities that the injunction sought to restrain are not breaches of the criminal law and could not be enforced by the exercise of conventional policing functions. The same is true of the Claimants’ rights at the Haven and Tower sites. Indeed the balance is even clearer in those respects given that the sites involve the Claimants’ private property, as to which see *Cuciurean* at [45], [46], [76] and the conclusion at [77] that Articles 10 and 11 “do not bestow any “freedom of forum” to justify trespass on private land or publicly owned land which is not accessible by the public”.
179. The injunctions therefore strike a fair balance between the Defendants’ rights to assembly and expression and the Claimants’ rights: they protect the Claimants’ rights insofar as is necessary to do so but not further.
180. Overall, I am satisfied that the interferences with the Defendants’ rights of free assembly and expression caused by the injunctions are necessary for and proportionate to the need to protect the Claimants’ rights.

(11) Have all practical steps been taken to notify the Defendants: the HRA, section 12(2)?

181. The HRA, section 12(1)-(2) provide as follows:

“(1) This section applies if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression.

(2) If the person against whom the application for relief is made (“the respondent”) is neither present nor represented, no such relief is to be granted unless the court is satisfied— (a) that the applicant has taken all practicable steps to notify the respondent; or (b) that there are compelling reasons why the respondent should not be notified”.

182. Ms Oldfield’s evidence sets out the steps the Claimants have taken to effect service of the orders and thus explains how the Claimants have complied with the section 12(2) requirement in respect of the Persons Unknown Defendants.

(12) If the order restrains “publication”, is the Claimant likely to establish at trial that publication should not be allowed: the HRA, section 12(3)?

183. The HRA, section 12(3) provides as follows:

“No such relief [ie. that defined by section 12(1) at [181] above] is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed”.

184. Johnson J addressed this issue in detail in his judgment. He found that section 12(3) is not applicable in this context as the injunction sought did not restrain publication. His reasons were as follows:

“67. Nothing in the injunction explicitly restrains publication of anything. Nor does it have that effect. The defendants can publish anything they wish without breaching the injunction. The activities that the injunction restrains do not include publication. It does not, for example, restrain the publication of photographs and videos of the protests that have already taken place. Nor does it prevent anyone from, for example, chanting anything, or from displaying any message on any placard or from placing any material on any website or social media site. 68. Lord Nicholls explained the origin of section 12(3) in *Cream Holdings Limited v Banerjee* [2004] UKHL 44 [2005] 1 AC 253 (at [15]). There was concern that the incorporation of article 8 ECHR into domestic law might result in the courts readily granting interim applications to restrain the publication by newspapers (or others) of material that interferes with privacy rights. Parliament enacted section 12(3) to address that concern, by setting a high threshold for the grant of an interim injunction in such a case. It codifies the prior restraint principle that previously operated at common law. The policy motivation that gave rise to section 12(3) has no application here.

69. The word “publication” does not have an unduly narrow meaning so as to apply only to commercial publications: “publication does not mean commercial publication, but communication to a reader or hearer other than the claimant” – *Lachaux v Independent Print Limited* [2019] UKSC 27; [2020] AC 612 *per* Lord Sumption at [18]. Lord Sumption's observation was made in the context of defamation, but Parliament legislated against this well-established backdrop. Section 12(3) should be applied accordingly so that “publication” covers “any form of communication”: *Birmingham City Council v Asfar* [2019] EWHC 1560 (QB) *per* Warby J at [60].

70. The meaning set out by Lord Sumption in *Lachaux* is sufficient to achieve the underlying policy intention. There is therefore no good reason for giving the word “publication” an artificially broad meaning so as to cover (for example) demonstrative acts of trespass in the course of a protest. Such acts are intended to publicise the protestor’s views, but they do not amount to a publication.

71. Further, the wording of section 12 itself indicates that the word “publication” has a narrower reach than the term “freedom of expression”. That is because the term “freedom of expression” is expressly used in the side-heading to section 12, and in section 12(1), and is used (by reference (“no such relief”)) in section 12(2) and section

12(3). The term “publication” is then used in section 12(3) to signify one form of expression. If Parliament had intended section 12(3) to apply to all forms of expression, then there would have been no need to introduce the word “publication”.

185. He went on to consider the fact that in *Ineos Upstream v Persons Unknown* [2017] EWHC 2945, at first instance, Morgan J held (i) that section 12(3) applied (at [86]) and (ii) the statutory test was satisfied because if the court accepted the evidence put forward by the claimants, then it would be likely, at trial, to grant a final injunction (at [98] and [105]). He noted that Morgan J found the injunction that he was considering might affect the exercise of the right to freedom of expression, continuing:

“73.... That was plainly correct, because the injunction restrained activities that were intended to express support for a particular cause. It does not, however, necessarily follow that section 12(3) is engaged (because, as above, “publication” is not the same as “expression”). There does not appear to have been any argument on that point – rather the focus was on the question of whether there was an interference with the right to freedom of expression. To the extent that Morgan J in *Ineos* and Lavender J in [*National Highways Limited v Persons Unknown* [2021] EWHC 3081 (QB) at [41]] reached different conclusions about the applicability of section 12(3) in this context, I respectfully adopt the latter's approach for the reasons I have given”.

186. At [74]-[76], he observed that on appeal ([2019] EWCA Civ 515 [2019] 4 WLR 100), there was no challenge to the holding of Morgan J that section 12(3) applied, such that the Court of Appeal did not consider the issue. On that basis he found that while the Court of Appeal decision in *Ineos* is authority for the approach that should be taken where section 12(3) applies, it is not authority for the proposition that section 12(3) applies in the circumstances where “there is no question of restraining the defendants from publishing anything”.
187. If he was wrong with respect to section 12(3) not being applicable, he found that the Claimant was likely to succeed at a final trial: [76] and [32].
188. It appears from the solicitor’s note of the judgment on the Haven and Tower claims that Bennathan J took a different view and considered that section 12(3) applied, apparently on the basis that he considered himself bound by the Court of Appeal decision in *Ineos*. That is consistent with the approach he took in *Esso Petroleum v Persons Unknown* [2022] EWHC 1477 (QB) at [7]). The note is unclear, though, and can be properly understood by looking at the *Esso Petroleum* judgment to which Mr Simblet referred. This sort of issue underscores why having an approved transcript of Bennathan J’s judgment was important.
189. Ms Stacey contended that Johnson J’s reasoning was correct and should be adopted in respect of all three injunctions.
190. Mr Simblet took issue with this analysis. He contended that a number of High Court judges including Bennathan J have accepted that section 12(3) does apply in cases concerning protest. Further, contrary to Johnson J’s findings, the Court of Appeal judgment in *Ineos* is clear authority for the proposition that section 12(3) applies to

cases such as the present, permission to appeal having been explicitly granted on the question of whether the trial judge “failed adequately or at all to apply section 12(3) of the Human Rights Act 1998”. *Ineos* was binding on Johnson J who erred in failing to follow it; and it was binding on me.

191. He referred to the broad definition of “publication” applied by Warby J in *Birmingham City Council v Afsar* [2019] EWHC 1560 (QB) at [60] thus:

“But I would go further. I am satisfied that it would be quite wrong to treat the word “publication” in s 12(3) as having a limited meaning, restricted for example (as Mr Manning’s submission seemed to imply) to commercial publication. It is hard to see how that such an approach could be rationally defended. It would give commercial publishers preferential treatment compared to other defendants, such as individuals communicating for private purposes, on social media. As everybody knows, some social media accounts have larger readerships than some paid-for newspapers. But there is a more fundamental point. In the law of defamation, “publication does not mean commercial publication, but communication to a reader or hearer other than the claimant”: *Lachaux v Independent Print Ltd* [2019] UKSC 27 [18] (Lord Sumption). This is generally true of the torts associated with the communication of information, sometimes known as “publication torts”, and the related law (see the discussion in *Aitken v DPP* [2015] EWHC 1079 (Admin) [2016] 1 WLR 297 [41-62]). Parliament must be taken to have legislated against this well-established background. Section 12(3) applies to any application for prior restraint of any form of communication that falls within Article 10 of the Convention. This is appropriately reflected in the language of the Practice Guidance, quoted above.” [emphasis added].

192. He submitted that the proper test for the application of section 12(3) is therefore whether an order restrains: “any form of communication that falls within Article 10 of the Convention”. Whilst Johnson J was correct that this is narrower than simply acts which fall within the scope of Article 10, this is only to the extent that the act must additionally be a “form of communication”. Therefore, whilst an act of expression that was not intended to be communicated to any audience would not be included, the application of section 12(3) is not otherwise restricted. He cited *Murat Vural v Turkey* (App. No. 9540/07) at [54] where the Strasbourg Court held that “an assessment must be made of the nature of the act or conduct in question, in particular of its expressive character seen from an objective point of view, as well as of the purpose or the intention of the person performing the act or carrying out the conduct in question.” That case involved pouring paint on a statute and the Court observed that “from an objective point of view”, this “may be seen as an expressive act”.
193. Mr Simblet argued that once an act is categorised as “expressive”, it is only if it is violent, incites violence or has violent intentions that the conduct will be considered to fall outside the protection of Article 10; and that this was recently confirmed in *AG Reference on a Point of Law (No 1 of 2022)* [2022] EWCA Crim 1259 (at [96]), citing the Strasbourg principle that “an assessment of whether an impugned conduct falls within the scope of Article 10 of the Convention, should not be restrictive, but inclusive”.

194. He submitted that while there could be arguments about whether any form of visible or performative protest amounted to “publication”, it was clear that the petrol stations injunction involved publication as it prohibited “writing in any substance on any part of a Shell Petrol station”. It was absurd to suggest that this was not a publication, not least as it could make out the necessary component of a libel claim (see Clerk and Lindsell on Torts, Chapter 21, section 5, referring, for example, to proof of posting a postcard amounting to “publication” for the purposes of a libel claim).
195. I do not consider that *Ineos* is binding authority for the proposition that section 12(3) applies. Johnson J was correct to point out that it proceeded on the assumption that section 12(3) applied and did not hear argument to the contrary, whatever the basis on which permission was originally granted.
196. However, I agree with Mr Simblet that the injunctions in this case do involve some elements of element of publication for these purposes, at the very least the prohibition on “writing”. I make this finding applying the broad approach taken to the definition of “publication” by Warby J in *Birmingham City Council* and the expansive approach of the Strasbourg court to this issue as evidenced by *Murat Vural* and *AG Reference on a Point of Law (No 1 of 2022)*. I therefore take the same approach as Bennathan J in the Haven and Tower claims and *Esso Petroleum*.
197. It must be remembered that Johnson J did not have the benefit of submissions from anyone other than the Claimants. Further, the focus of his reasoning was the general concept of “demonstrative acts of trespass in the course of a protest”: see [184] above. It does not appear that he was asked to give specific consideration to the narrower question of whether the prohibition on “writing” within the petrol stations injunction might engage section 12(3).
198. On that basis, the test is whether the Claimants are “likely” to succeed at a final trial, at least in relation to the “writing” aspects of the injunctions. However, I am satisfied that that test is met for the reasons given under Issue (1).

Overall conclusion on Issue (3)

199. For all these reasons I consider it appropriate to extend the injunctions in the manner sought by the Claimants with the modifications referred to at [154] and [159] above.

**Issue (4): Whether to grant the Claimants permission to serve any order and ancillary documents by alternative means**

200. Under CPR 6.15(1), in order to authorise service of proceedings by a method or at a place not otherwise permitted by that Part of the CPR, the court requires “good reason”. That reason is made out here because the Defendants are Persons Unknown, such that it is not possible to serve them personally.
201. The alternative means of service proposed for the order in the Tower claim are (i) affixing warning notices to and around the Tower which (a) warn of the existence and general nature of the order, and of the consequences of breaching it; (b) indicate when it was last reviewed and when it will be reviewed in the future; (c) indicate that any person affected by it may apply for it to be varied or discharged; (d) identify a point of contact and contact details from which copies of the order may be requested; and (e)

identify <http://www.noticespublic.com/> as the website address at which copies of the order may be viewed and downloaded; (ii) uploading a copy of the notice to <http://www.noticespublic.com/>; (iii) emailing a copy of the notice to a series of emails relating to the main protest groups listed in the schedule of the order; and (iv) sending a copy of the notice to any person who has previously requested a copy of documents in the proceedings.

202. The alternative means of service proposed for the order in the Haven claim are (i)-(iii) above.
203. The alternative means of service proposed for the order in the petrol stations claim are (i)-(iv) above. The interim orders which I made on 28 April 2023 mirrored the terms of Johnson J's order and provided for the notices to be affixed by use of conspicuous notices in prescribed locations in the petrol stations, in alternative locations in the stations, depending on the physical layout and configuration of the stations.
204. The alternative means of service proposed for the amended claim form and any ancillary documents in the petrol stations claim are (ii)-(iv) above.
205. Alternative service by means of this kind has been found to be appropriate in respect of Persons Unknown in similar proceedings involving coordinated campaigns by protest groups. In *TfL v Lee* [2023] EWHC 402 (KB) at [32], Cavanagh J said:

“Alternative service is necessary for the relief to be effective. Moreover... the Defendants already have a great deal of constructive knowledge that the [injunctions] may well be extended: the extent and disruptive nature of the JSO protests since March 2022 (and the Insulate Britain protests which began in September 2021); the multiple civil and committal proceedings brought in response to those protests by National Highways Limited, TfL, local authorities and energy companies and the frequent service of documents on defendants within those proceedings including multiple interim injunctions; the extensive media and social media coverage of the protests, their impact, and of the legal proceedings brought in response; the large extent to which, in order to organise protests and support each other, JSO protesters are in communication with each other both horizontally between members and vertically by JSO through statements, videos etc. shared through its website and social media. These are not activities that single individuals undertake of their own volition. In my judgment, in the perhaps unusual circumstances of this case, it is very unlikely, perhaps vanishingly unlikely, that anyone who is minded to take part in the JSO protests... is unaware that injunctive relief has been granted by the courts.”

206. Bennathan and Johnson JJ also approved service of the orders in these proceedings in materially identical terms. The note of Bennathan J's judgment indicates that he observed that in Persons Unknown cases, it is sensible to adopt a variety of methods of service and considered that the proposals for alternative service in the Tower and Haven claims were “sensible” and “broad”. The note of the hearing before Johnson J makes clear that counsel for the Claimant in the petrol stations claim explained why other

methods of alternative service such as the use of newspapers and social media had been considered but discounted.

207. Ms Oldfield's evidence sets out the efforts that have been made to identify individuals who ought properly to be named as Defendants and the steps that had been taken to serve the previous three orders and the draft amended claim form and related documents in the petrol stations claim.
208. I am satisfied that the proposed methods of alternative service are appropriate and sufficient. I accept Ms Oldfield's evidence as to why these methods of service remain an appropriate means by which the documents may be brought to the attention of potential Defendants. I am satisfied that the proposed methods of alternative service should apply to the further sealed injunctions orders I make and to the amended claim form and ancillary documents in the petrol stations claim. For the purposes of the injunctions, I dispense with personal service for the purposes of CPR 81.4(2)(c)-(d).
209. Ms Stacey rightly highlighted that even once alternative service is approved, it remains open to any Defendant on a committal application to argue that they have operated unfairly against them: *Secretary of State for Transport v Cuciurean* [2020] EWHC 2614 (Ch) at [63(9)].

**Issue (5): Whether to grant the Claimant in the petrol stations claim its application for a third party disclosure order against the Commissioner**

210. The Claimant in the petrol stations claim is currently unable to name any individual Defendants. The third party disclosure application under CPR 31.17 sought documents from the Commissioner relating to the arrests of a number of people, some falling within the category of Persons Unknown as defined in the petrol stations injunction, who were arrested on 26 August 2022 in protests at the Shell Acton Park and Acton Vale petrol stations, both sites covered by injunction. It has been reported that 43 people were so arrested. The application was supported by the third witness statement from Ms Oldfield.
211. The draft order sought the names and addresses of those arrested. The purpose of this disclosure was to help the Claimant identify and name, so far as possible, Defendants to the claim, so that the Claimant can consider whether to join them as Defendants and so that they can be served with the proceedings in the usual way.
212. The draft order also provided for the Claimant to revert to the Commissioner on provision of the names and addresses and seek (i) arrest notes, incident logs or similar written records relating to the activity and/or conduct in question and those involved; (ii) other still photographic material; and/or (iii) body-worn or vehicle camera footage; and for the Commissioner to provide the same insofar as it discloses any conduct and/or activity which may constitute a breach of the injunctions granted in these proceedings and/or may assist in identifying any person who might have undertaken such conduct and/or activity. This information was sought to support potential contempt proceedings.
213. The Commissioner did not object to providing the disclosure sought, provided a court order was made.

214. In the first hearing in *TfL v Lee* [2022] EWHC 3102 at [94], Freedman J reiterated that CPR 31.17 provides a general power for the court to order a non-party to disclose information into the proceedings; and that although it is established that such orders are the exception and not the rule (see *Frankson & Ors v SSHD* [2003] EWCA Civ 655 at 25), the court retains a wide discretion to make such an order in appropriate cases.
215. In *Esso Petroleum Co Ltd v Persons Unknown* [2022] EWHC 1477 at [32], Bennathan J accepted that ordering the similar disclosure sought from various police forces as “evidence of breaches of the injunctions” was “the most sensible and efficient way to identify any breaches of the injunction” and that it was “best that any evidence that could be used by the claimants to pursue breaches is gathered by the legally regulated and democratically accountable police forces of the United Kingdom.”
216. Further, In *TfL v Lee* at [96] Freedman J made a materially similar order to the one sought in this case in respect of the name and address of the relevant individuals on the basis that:
- “(1) The name and address of the people concerned are likely to support the case of the claimant or adversely affect the case of one of the other parties to the proceedings. Being able to identify who the people are who have been acting in the way complained of is a central facet of the interim relief that the court has already granted. Evidence of breach will go to upholding the [...] injunction.
- (2) Disclosure is necessary in order to dispose fairly of the claim or to save costs, because (a) without the names and addresses the claimant cannot enforce the [...] injunction without significant impediments; and (b) the claimant needs the names and addresses in order to make good an undertaking it has given to the court to add defendants as named defendants wherever possible.
- (3) Identifying the protesters will allow them to defend their position in the proceedings and it increases the fairness of the proceedings to have named defendants as far as possible.
- (4) The Metropolitan Police have stated to the claimant that it will only disclose the requested information pursuant to a court order and they do not oppose the grant of the making of that order.
- (5) The disruption to the public and the risks involved mean that it is proportionate to order third party disclosure.
- (6) It is much more desirable for the evidence gathering to be undertaken by the police, rather than for third parties such as inquiry agents to interfere during the demonstrations in order to obtain such evidence.”
217. It appears that the order Freedman J made was in materially identical terms to the one sought in this case. I therefore assume it covered not only the names and addresses but also the material described at [212] above.
218. On 13 March 2023 May J made a materially identical third party order against Surrey Police in these proceedings in relation to arrests at the Shell petrol station at Cobham Motorway Services and Clacket Lane services on 28 April 2022 and/or 24 August 2022, having received submissions from the Equality and Human Rights Commission and



having permitted the Attorney-General and the Press Association the opportunity to do so.

219. In my judgment the same general considerations as were set out by Bennathan and Freedman JJ above and found to apply by May J in the specific context of the petrol stations injunction, applied here. I was satisfied that the names and addresses and further information referred to should be the subject of a third party disclosure order because the requirements of CPR 31.17 were met, in that (i) the documents are relevant to an issue arising out of the claim; (ii) they are likely to support the Claimant's case (or adversely affect the case of one of the other parties); and (iii) disclosure is necessary to dispose fairly of the claim or to save costs.

### **Conclusion**

220. For all these reasons I:

(i) Grant Ms Branch permission to apply to set aside or vary the existing injunctions under CPR 40.9 and have taken her submissions into account;

(ii) Grant the Claimant in the petrol stations claim permission to amend the description of the Persons Unknown Defendant:

(iii) Extend the three injunctions for up to a further year in the manner sought by the Claimants, subject to the modifications identified at [154] and [159] above; and

(iv) Grant the Claimants permission to serve the three orders as well as the amended claim form and ancillary documents in the petrol stations claim by alternative means.

221. This judgment also explains why I made the third party disclosure order sought against the Commissioner.

### **Post-script**

222. After circulation of my draft judgment, the Claimants provided revised draft orders. These addressed the geographical scope issue referred to at [159] above. They also correctly removed the duplicative provisions relating to "encouragement" referred to at [154] above, albeit preserving the word "assisting" which only appeared in one of the original "encouragement" clauses. I am content to approve that revision.

223. I indicated that I was prepared to extend all three orders to 12 May 2024. Accordingly any hearing to review them will need to take place in April 2024 (not May 2024 as the Claimants proposed). Any application to extend them should be made by 28 February 2024 (not by 29 March 2024 as was proposed). I consider a time estimate of 1.5 days realistic (not the 5 hours proposed). That may need to be revised if any applications to vary or set aside the orders are made.

224. As to the notice required for any applications to vary or set aside the orders, the original draft orders provided with these applications sought a notice provision of 48 hours, not the 24 hours originally approved by Bennathan and Johnson JJ. For the reasons alluded to at [83] I consider a 48 hours' notice provision appropriate.

225. The draft orders, which were provided very shortly before the hand down was due to take place, sought to increase this period to 3 clear days (excluding weekends and Bank Holidays). As Mr Simblet highlighted in his response, this issue had not been the subject of argument. It also raises issues as to how the Claimants, and the court, deal with unrepresented Defendants. If the Claimants seek a further variation of the orders to this effect, they should apply by way of an application notice, on notice to Ms Branch.

# Petrol filling stations

Guidance on managing the risks of fire  
and explosion

(The Red Guide)



PETROL FILLING STATIONS  
GUIDANCE ON MANAGING THE RISKS OF FIRE AND EXPLOSION  
(THE RED GUIDE)

October 2018

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## **FOREWORD**

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, to enable them to comply with the relevant health & safety legislation; in particular their statutory duties under the Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR). The guidance is not meant to be prescriptive and alternative methods of controlling the risks of fire and explosion may be followed where these provide an equivalent level of safety. However, if this guidance is followed, site operators will normally be able to demonstrate their compliance with the law.

## 1 INTRODUCTION

The purpose of this guidance is to assist site operators (employers) in complying with their obligations under the Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR)<sup>[1]</sup> to take appropriate measures to control the risks of fire and explosion arising from the storage and dispensing of petrol.

- 1) This guidance covers:
  - a) The most common fire and explosion hazards associated with the unloading of road tankers, the storage and dispensing of petrol, the commissioning of new and redeveloped filling stations and taking storage tanks and equipment out of use (decommissioning).
  - b) How to carry out an assessment to identify and deal with the risks that these activities present; and provides information, advice and examples of good practices on how to manage and control the risks of fires and explosions occurring.
- 2) This guidance does not cover:
  - a) Liquefied petroleum gas (LPG) (autogas)\*, liquefied natural gas (LNG) and hydrogen. These re-fuelling installations are also covered by DSEAR and you will need to carry out a risk assessment in order to determine the extent of the control measures necessary. The methodology given in this guidance can be followed but will need to be adapted to take account of the hazardous characteristics of the gases concerned and the different technical and engineering aspects of the activities of unloading, storage and dispensing.

*\*Other than for dispensing control measures.*

- b) The technical/engineering aspects in any detail as this information is adequately covered by the Energy Institute (EI)/APEA joint publication '*Design, construction, modification, maintenance and decommissioning of filling stations*' (the Blue Book<sup>[2]</sup>). Site operators will, therefore, need to refer to the Blue Book when following this guidance.
- c) The health risks associated with coming into contact with petrol/petrol vapour.
- d) Environmental issues such as contamination of groundwater, water courses and land.
- e) General fire precautions (means of escape and fire alarms/detection etc.) in buildings associated with the filling station.



## 2 APPLICABLE LEGISLATION

### THE DANGEROUS SUBSTANCES AND EXPLOSIVE ATMOSPHERES REGULATIONS 2002

Main Requirements of DSEAR<sup>[1]</sup>.

- 1) DSEAR is a set of regulations concerned with protection against the risks from fire, explosion and similar events arising from dangerous substances used or present in the workplace. The regulations apply to employers and the self-employed.
- 2) The regulations give a detailed definition of a 'dangerous substance'. The definition includes any substance or preparation, which because of its properties or the way it is used could cause harm to people from fires and explosions. Petroleum-spirit and other automotive fuels such as LPG, LNG and hydrogen fall within the definition of a 'dangerous substance'.
- 3) DSEAR imposes a requirement on the operators of petrol filling stations to:
  - a) carry out a risk assessment of any work activities involving 'dangerous substances';
  - b) provide measures to eliminate or reduce risks so far as is reasonably practicable;
  - c) provide equipment and procedures to deal with accidents and emergencies;
  - d) provide information and training to employees, and
  - e) classify places where explosive atmospheres may occur into zones and mark the zones where necessary with a specified 'EX' sign at their points of entry.

Note: With respect to the dispensing areas of retail petrol filling stations, it should not be necessary to display the 'EX' sign as the customers should be familiar with the precautions to prevent the ignition of petrol vapour from the traditional warning signs on display.

- 4) DSEAR clarifies the existing requirements to manage fire and explosion risks, which are set out in the Management of Health and Safety at Work Regulations 1999 (MHSWR)<sup>[3]</sup>; commonly referred to as the Management Regulations.
- 5) DSEAR is supported by two Approved Codes of Practice (ACoP), which are referred to in this guidance document. You should be aware of the special legal status of ACoPs. See Appendix 5 Glossary of terms.
- 6) Enforcement of DSEAR is by:
  - a) Petroleum Enforcement Authorities (PEA) at retail petrol filling stations ('dispensing premises') but only in respect of the storage and dispensing of automotive fuels; e.g. petrol, LPG, LNG and hydrogen.
  - b) Petroleum Enforcement Authorities (PEA) at non-retail petrol filling stations ('dispensing premises') but only in respect of the storage and dispensing of petrol. At these premises the storage and dispensing of other automotive fuels such as LPG, LNG and hydrogen will be enforced by the authority responsible for enforcing the Health & Safety at Work Act 1974.
  - c) Health & Safety Executive (HSE) or local authorities depending on the allocation of premises under the Health and Safety (Enforcing Authority) Regulations 1998. In the main, HSE will enforce at industrial premises and local authorities (Environmental Health Officers) elsewhere e.g. in retail premises including petrol filling stations.
  - d) Fire and rescue authorities at all premises subject to DSEAR in relation to general fire precautions such as means of escape etc.

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## THE PETROLEUM (CONSOLIDATION) REGULATIONS 2014

- 7) Under the provisions of the Petroleum (Consolidation) Regulations 2014 (PCR 2014)<sup>[4]</sup>, it is an offence to keep petrol at a 'workplace dispensing premises' without a valid petroleum storage certificate. Petroleum storage certificates (PSC) are granted by the local petroleum enforcement authority (PEA). The PEA can be a county council, a (local) district council or in the metropolitan areas of England, the fire and rescue authority (See section 3 paragraph 1).
- The site operator (referred to as 'the keeper' in PCR 2014) is required to notify the PEA of any proposed prescribed material changes (PMC) to the dispensing premises. PCA 2014 also imposes prohibitions on the dispensing and supply of petrol.
- 8) Prescribed material changes
- The PMCs listed in Schedule 1 of PCR 2014 are the:
- Cessation of use of one or more of the petrol storage tanks;
  - Removal or permanent decommissioning of one or more of the petrol storage tanks;
  - Installation of any tank, pipework or vapour pipework associated with the storage and dispensing of petrol, and
  - Installation of any petrol pump, any other automotive pump, or dispenser in a new location.
- 9) Dispensing prohibitions
- The dispensing prohibitions imposed on site operators and members of the public by regulation 12 of PCR 2014 are:
- Petrol can only be dispensed for use in a motor vehicle or motor boat, or to fill a suitable portable container, or for the purpose of maintenance or calibration of a dispenser;
  - Children <16 are not allowed to operate a dispenser, and
  - Petrol must not be supplied to children <16.
- 10) Guidance on PCR 2014 can be found in the PELG-PETEL No.16\* *Guidelines on administration and enforcement*<sup>[5]</sup> and the PELG-PETEL No.18\* *Guidance on prescribed material changes and the validity of a petroleum storage certificate*<sup>[6]</sup>
- \* *To be published*
- Note: PCR 2014 applies to England, Scotland and Wales; the current applicable legislation in Northern Ireland is the Petroleum (Consolidation) Act (Northern Ireland) 1929

## Regulatory Enforcement and Sanctions Act 2008

### Primary Authority Partnerships

- 11) An individual or company that operates more than one petrol filling station within areas where different PEA's carry out the enforcement, or is linked to other petrol filling stations through a trade association or buying group etc. may wish to enter into a Primary Authority Partnership to help them both to comply to their duties under PCR and to ensure that PCR is enforced consistently across all of the premises that are covered by the partnership. Details may be found on the Regulatory Delivery website: <https://www.gov.uk/government/organisations/regulatory-delivery>.

### **THE HEALTH AND SAFETY AT WORK ETC ACT 1974 (HSWA)<sup>[7]</sup>**

- 12) This Act places general duty on employers to ensure, so far as is reasonably practicable, the health and safety and welfare at work of their employees. Employers and the self-employed must likewise ensure that their work activities do not put third parties at risk.

### **THE MANAGEMENT OF HEALTH AND SAFETY AT WORK REGULATIONS 1999<sup>[3]</sup>**

- 13) These regulations apply to all workplaces and place a number of duties on employers. These include:
- a) assessing health and safety risks (taking particular account of risks to young employees under the age of 18);
  - b) deciding what measures need to be taken and making arrangements to implement them;
  - c) appointing somebody competent to help comply with legal obligations; this could be an employee or someone from another organisation;
  - d) providing health and safety information for employees and other workers, such as contractors, who may work on the site, for example to carry out maintenance;
  - e) providing health and safety training for employees;
  - f) having arrangements to deal with serious and imminent danger, and
  - g) co-operating in health and safety matters with other employers who may share the premises.

### **THE REPORTING OF INJURIES, DISEASES AND DANGEROUS OCCURRENCES REGULATIONS 1995 (RIDDOR)<sup>[8]</sup>**

- 14) RIDDOR requires the reporting of the following kinds of work-related accidents, diseases and dangerous occurrences:
- An employee or self-employed person working on your premises suffers a major injury or is killed, or a member of the public is seriously injured or killed.
  - An employee or self-employed person working on your site suffers an injury, which results in them being away from work or unable to do their normal work for more than three days.
  - Certain dangerous occurrences must also be reported to the enforcing authority, the most relevant to a petrol filling station would be the sudden, unintentional and uncontrolled release of more than 500 litres of petrol.
  - Fire or explosion, which results in the stoppage or suspension of normal work activities for more than 24 hours.

Note: Where the incident involves petrol at a 'dispensing premises', there is no requirement to notify the PEA; however, it would be courteous on the part of the site operator to do so.

### **THE ELECTRICITY AT WORK REGULATIONS 1989<sup>[9]</sup>**

- 15) These place duties on employers and employees in respect of the operation, use and maintenance of electrical equipment. They also require electrical equipment, which

is exposed to any flammable or explosive substance, including flammable liquids or vapour such as petrol, to be constructed or protected so as to prevent danger. The Regulations prohibit electrical work from being carried out other than by competent persons. HSE's Memorandum of guidance on the Electricity at Work Regulations 1989 gives guidance on the practical application of the regulations.

### **THE CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2015 (CDM)<sub>[10]</sub>**

- 16) These regulations update the earlier CDM Regulations 1994 and CDM 2007 the former replacing the Construction (Health, Safety and Welfare) Regulations 1996. The regulations aim to ensure that the risks to workers and others who may be affected by construction work are minimised by requiring that health, safety and welfare is taken into account and managed through all stages of a construction project. They place legal duties on virtually everyone involved in construction work and define a number of key duty-holders with specific responsibilities. These duty-holders include clients, designers and contractors and for large notifiable projects, involving more than 30 days or 500 person-days of construction work, the client has to appoint the specific roles of principal contractor and CDM coordinator. For all construction work the regulations detail the general management duties that apply to the project and specify the requirements for a range of individual activities or issues. These include site access, security, stability of structures, demolition, excavations, vehicle movements, prevention of fire, fire-fighting, emergency procedures, lighting and weather protection. Additional requirements and duties apply to notifiable projects. Practical advice and guidance on the provisions of these regulations is contained in an Approved Code of Practice L153<sub>[11]</sub>. Further advice on identifying hazards and controlling risks during construction activities and how to work safely at heights is contained in the HSE guidance document HSG150.

### **THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005 (RRO)<sub>[12]</sub>, THE FIRE (SCOTLAND) ACT 2005 (FSA)<sub>[13]</sub> AND THE FIRE AND RESCUE SERVICES (NORTHERN IRELAND) ORDER 2006**

- 17) The Regulatory Reform Order (RRO)<sub>[12]</sub> applies in England and Wales and equivalent duties are implemented in Scotland by the Fire (Scotland) Act (FSA)<sub>[13]</sub> and in Northern Ireland by the Fire and Rescue Services (Northern Ireland) Order 2006 (NIFRSO)<sub>[14]</sub>. They cover general fire precautions and other fire safety duties that are needed to protect 'relevant persons' in case of fire in and around most types of 'premises'. The RRO requires general fire precautions to be put in place 'where necessary' and to the extent that it is reasonable and practicable in the circumstances of the case.
- 18) The duty for complying with RRO/FSA/NIFRSO rests with the 'responsible person'. In a workplace, this is the employer and any other person who may have control of any part of the premises, e.g. the occupier or owner. In all other premises the person or people in control of the premises will be responsible. If there is more than one responsible person in any type of premises (e.g. a multi-occupied complex), all must take all reasonable steps to co-operate and coordinate with each other.
- 19) If you are the responsible person you must carry out a fire risk assessment that must focus on the safety in case of fire of all 'relevant persons'. It should pay particular

attention to those at special risk, such as disabled people, those who you know have special needs and young persons, and must include consideration of any dangerous substance liable to be on the premises.

- 20) Your fire risk assessment will help you identify risks that can be removed or reduced and to decide the nature and extent of the general fire precautions you need to take. The following is a list of some other fire safety duties you will need to comply with:
- a) You must appoint one or more competent persons, depending on the size and use of your premises, to carry out any of the preventive and protective measures required by RRO/FSA/NIFRSO (you can nominate yourself for this purpose). A competent person is someone with enough training and experience or knowledge and other qualities to be able to implement these measures properly.
  - b) You must provide your employees with clear and relevant information on the risks to them identified by the fire risk assessment, about the measures you have taken to prevent fires, and how these measures will protect them if a fire breaks out.
  - c) You must consult your employees (or their elected representatives) about nominating people to carry out particular roles in connection with fire safety and about proposals for improving the fire precautions.
  - d) You must, before you employ a child (under 16), provide a parent with clear and relevant information on the risks to that child identified by the risk assessment, the measures you have put in place to prevent/protect them from fire and inform any other responsible person of any risks to that child arising from their undertaking. See paragraph 29 of section 8.5 regarding the age restriction requirements imposed by PCR 2014.
  - e) You must, before you employ a young person, carry out a risk assessment which takes certain matters into account regarding their inexperience and immaturity, layout of the premises, exposure to chemical agents, use of work equipment, risks from process activities, the extent of safety training.
  - f) You must inform non-employees, such as temporary or contract workers, of the relevant risks to them, and provide them with information about who are the nominated competent persons, and about the fire safety procedures for the premises. You must co-operate and co-ordinate with other responsible persons who also have premises in the building, inform them of any significant risks you find and how you will seek to reduce/control those risks that might affect the safety of their employees.
  - g) You must provide the employer of any person from an outside organisation who is working in your premises (e.g. an agency providing temporary staff) with clear and relevant information on the risks to those employees and the preventive and protective measures taken. You must also provide those employees with appropriate instructions and relevant information about the risks to them.
  - h) If you are not the employer but have any control of premises which contain more than one workplace, you are also responsible for ensuring that the requirements of RRO/FSA/NIFRSO are complied with in those parts over which you have control.
  - i) You must consider the presence of any dangerous substances and the risk this presents to relevant persons from fire.
  - j) You must establish a suitable means of contacting the emergency services and provide them with any relevant information about dangerous substances.
  - k) You must provide appropriate information, instruction and training to your employees, during their normal working hours, about the fire precautions in your workplace, when they start working for you, and from time to time throughout the period they work for you.
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- l) You must ensure that the premises and any equipment provided in connection with fire-fighting, fire detection and warning, or emergency routes and exits are covered by a suitable system of maintenance and are maintained by a competent person in an efficient state, in efficient working order and in good repair.
  - m) Your employees must co-operate with you to ensure the workplace is safe from fire and its effects, and must not do anything that will place themselves or other people at risk.
- 21) The above examples outline some of the main requirements of RRO/FSA/NIFRSO. There is a suite of industry related guides, published by the Department for Communities and Local Government, which provide more detailed information on how you might meet these requirements. The guides can be downloaded from the DCLG website: <http://www.firesafetyguides.co.uk/>
- 22) The enforcing authority for the RRO/FSA/NIFRSO at industrial, retail and commercial premises (including petrol filling stations) is the local fire and rescue authority in England and Wales, in Scotland it is the Scottish Fire and Rescue Service and in Northern Ireland it is the Northern Ireland Fire and Rescue Service.

## GROUNDWATER PROTECTION

### The Water Resources Act 1991 (Amendment) (England and Wales) Regulations 2009

- 23) Under the provisions of this environmental protection legislation, it is an offence to cause or permit any poisonous, noxious or polluting substances to enter any 'controlled waters'. Groundwater, for example, is a controlled water that is held within the rocks and soils in underground strata. It is an important source of water that supplies millions of homes and businesses and is often of a greater purity than water from rivers.

Note: This Act is not applicable to Scotland.

### Environmental Permitting (England and Wales) Regulations 2010

- 24) On 6 April 2010 the controls to protect groundwater quality formerly dealt with under the transitory Groundwater Regulations 2009 (which superseded the Groundwater Regulations 1998) came within phase 2 of environmental permitting regime via the Environmental Permitting England and Wales Regulations 2010 (EPR2010). EPR2010 implements the requirements for controls on discharges to groundwater imposed by the Water Framework Directive.
- 25) These regulations aim to protect groundwater from pollution by a range of substances including petrol and diesel. Pollution of groundwater is an offence under the Water Resources Act, (see 19).
- 26) The Department for Environment, Food and Rural Affairs (DEFRA) have produced statutory guidance on the storage of hydrocarbons *Groundwater protection code: Petrol stations and other fuel dispensing facilities involving underground storage tanks*<sup>[15]</sup>. <http://archive.defra.gov.uk/environment/quality/water/waterquality/ground/documents/groundwater-petrol.pdf>.
- 27) EPR2010 replaces the offences under previous Regulations and the Water Resources Act 1991 for the discharge of pollutants without a permit. Anything defined as a groundwater activity now requires either an environmental permit or must be an exempt groundwater activity.
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- 28) In England staff from the Environment Agency (EA) can visit operators and help them with pollution prevention advice; the EA can be contacted on 03708 506 506. Natural Resources Wales (NRW) provide the same service in Wales; NRW can be contacted on 0300 065 3000.
- More advice on groundwater protection is available in the Environment Agency's *Groundwater protection principles and practice GP3*<sup>[16]</sup>.
- 29) The directive takes a holistic approach to management and protection of the water environment. It will progressively change the way water including groundwater is protected from hazardous substances such as petrol and diesel. More information is available at: [http://ec.europa.eu/environment/water/water-framework/index\\_en.html](http://ec.europa.eu/environment/water/water-framework/index_en.html).
- 30) Pollution is defined in WFD as 'the direct or indirect introduction, as a result of human activity, of substances or heat into the air water or land which may be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems, which result in damage to material property, or which impair or interfere with amenities and other legitimate uses of the environment'.
- 31) The Water Framework Directive (WFD) establishes an integrated approach to the protection, improvement and sustainable use of Europe's surface waters and groundwater. It provides a framework in the form of a river basin planning system with the aim of:
- preventing further deterioration of and protecting and enhancing aquatic ecosystems and other water dependent ecosystems;
  - promoting sustainable water use based on long term protection of water resources;
  - progressively reducing the releases to the aquatic environment of priority substances and the phasing out of releases of priority hazardous substances;
  - ensuring the progressive reduction of pollution of groundwater and prevent its further pollution, and
  - contributing to mitigating the effects of floods and droughts.
- The Environment Agency is the competent authority for implementing the WFD in England. In Wales the competent authority for implementing the WFD is Natural Resources Wales.
- 32) The Water Environment (Controlled Activities)(Scotland) Regulations 2011 require that controlled activities be subject to authorisation. This includes surface water drainage systems which should be designed in accordance with the relevant general being rules. The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) *A practical guide*<sup>[17]</sup> provides more details.
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### 3 PEA INSPECTORS AND THE LAW

#### WHO ENFORCES THE PETROLEUM (CONSOLIDATION) REGULATIONS 2014 (PCR 2014) AT 'DISPENSING PREMISES' (PETROL FILLING STATIONS)?

- 1) The local PEA appoints inspectors to enforce the PCR 2014<sup>[4]</sup> and the DSEAR<sup>[1]</sup> at premises falling within the definition of a 'workplace dispensing premises'. The PEAs are:

In England:

- Fire and rescue authorities in Greater London and the metropolitan counties;
- county councils in non-metropolitan counties, and may include district borough, city or unitary councils, and
- the council for the Isles of Scilly.

In Wales: County council or county borough council.

In Scotland: the council constituted under section 2 of the Local Government etc (Scotland) Act 1994.

Note: All other health and safety legislation, e.g. the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1999 and the Electricity at Work Regulations 1989, are enforced by the district council Environmental Health Officer and in some cases Inspectors from the HSE.

#### WHAT WILL PEA INSPECTORS DO?

- 2) Their responsibility is to ensure that you are doing what the law (DSEAR and PCR 2014) requires. They will check to see how you manage fire and explosion risks. They will provide advice, may require improvements to be made, and will enforce the law when needed. They will also investigate incidents and complaints in connection with the petrol installation.
- 3) For new petrol stations or those subject to PMCs, inspectors will decide whether the PEA should grant or issue a new PSC, and discuss any further action you may need to take to ensure safety. Inspectors may also liaise with the local planning department and where the PEA is not the authority responsible for enforcing HSWA, liaise with the local authority environmental health department.
- 4) Once a petrol station is operational (i.e. storing and dispensing petrol), inspectors may visit unannounced. You are entitled to see their identification before letting them look around. Remember they are also there to give help and advice. You may want to talk to an inspector before carrying out any planned changes to your site.
- 5) If inspectors find problems, they will deal with you in a reasonable and fair way. Inspectors will explain to you or your representative anything you need to do to address the problems.

#### WHAT POWERS DO INSPECTORS HAVE?

- 6) Inspectors have extensive powers, which include the right to enter your premises, talk to employees and safety representatives and take photographs and samples. If they consider there is a problem at a petrol station, they can:
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- a) Give advice or guidance on how to address the problem, this will always be confirmed by the Inspector in writing.
  - b) Issue a notice, which requires improvements to be made where the law has been breached.
  - c) Issue a prohibition notice which stops a process or the use of dangerous equipment where a risk of serious personal injury exists.
  - d) Recommend to the PEA that an application for PSC is refused.
- 7) Before an inspector issues an improvement or prohibition notice, he/she will explain and discuss the item(s) of non-compliance with yourself or your representative. If you receive an improvement or prohibition notice you have the right to appeal to an industrial tribunal.
- 8) Inspectors can prosecute a business or, under certain circumstances, an individual for breaking health and safety law, but they will take your attitude, management and safety record into account before taking such action.

### **WHAT RIGHTS DO I HAVE?**

- 9) If your application for the grant of a PSC is refused, you can appeal to the Secretary of State at the Department of Work & Pensions at: Health and Safety Sponsorship Team, 2<sup>nd</sup> Floor Caxton House, Tothill Street, London, SW1H 9NA.
- 10) If an inspector tells you to do something, he/she will always confirm in writing what needs to be done and give a time period for the work to be completed.
- 11) When an inspector issues an improvement notice or a prohibition notice, you will be told in writing about your right of appeal to an industrial tribunal and be given an appeal form. You will also be given a leaflet explaining:
- e) how to appeal;
  - f) where and within what time period an appeal may be brought;
  - g) that an appeal may be brought on any grounds, and
  - h) that any action required by an improvement notice is suspended while the appeal is pending.

### **PEA Enforcement policies and procedures**

- 12) The Regulators' Code is a statutory code of practice intended to encourage regulators to achieve their objectives in a way that minimises the burdens on business. The purpose of the code is to embed a risk-based, proportionate, targeted and flexible approach to regulatory inspection and enforcement among the regulators to which it applies. This approach will ensure that regulators are efficient and effective in their work, without imposing unnecessary burdens on those they regulate.
- 13) PEAs must have regard to the Regulators' Code when developing policies and procedures that guide their enforcement activities.
- 14) In complying with the Code, PEAs should publish a set of clear service standards, setting out what those they regulate should expect from them.
- The PEA's published service standards should include clear information on:
- a) how they communicate with those they regulate and how they can be contacted;
  - b) their approach to providing information, guidance and advice;
  - c) their approach to checks on compliance including details of the risk assessment framework used to target those checks as well as protocols for their conduct, clearly setting out what those they regulate should expect;

- d) their enforcement policy, explaining how they respond to non-compliance;
  - e) their fees and charges, if any. This information should clearly explain the basis on which these are calculated, and should include an explanation of whether compliance will affect fees and charges, and
  - f) how to comment or complain about the service provided and routes to appeal.
- 15) The statutory National Local Authority Enforcement Code<sup>[18]</sup> came into force on May 2013, the Code introduces a 'risk based approach' to health and safety interventions (inspections). The Code concentrates on the following objectives:
- clarifying the roles and responsibilities of business, regulators and professional bodies;
  - outlining a risk based regulatory approach for Local Authorities (LAs) to follow;
  - detailing the need for training and competence of regulators, and
  - explaining the arrangements for the collection and publication of LA data.
- 16) The Code does not apply to premises/sites that are subject to a permissioning regime such as retail filling stations where a petrol storage certificate is in force. However, it is expected that PEAs will follow the spirit of the Code in the enforcement of DSEAR and PCR.
- 17) Enforcing authorities are required to take a proportionate and consistent approach to intervention and enforcement. Low risk businesses who feel that they are being targeted unreasonably, or have received unreasonable or disproportionate advice are able to complain to the Independent Regulatory Challenge Panel. The Panel will consider the matter; however, its role is only advisory. If businesses are not satisfied with the outcome, depending on who is the enforcement authority, their complaint can be forwarded to the chief executive of the HSE or the relevant LA, PEA or other local government figures.
- 18) Further details can be found in the Health and Safety Commission's free publication: *What to expect when a health and safety inspector calls*<sup>[19]</sup>.

### COMPETENCE OF INSPECTORS

- 19) PEA's have a statutory duty to enforce the PCR 2014 and DSEAR. To discharge this duty they may appoint suitably qualified inspectors under Section 19 of the Health and Safety at Work etc. 1974, empowering them to carry out their duties under Section 20 of the Act. The Regulatory Delivery (formerly known as The Better Regulation Delivery Office) in conjunction with PELG has produced a module covering 'petroleum' within their *Regulators development needs analysis* tool, <http://rdna-tool.bis.gov.uk/> The system can be used by both employers and employees to ascertain the level of knowledge, expertise and hence competence attained in this field of enforcement.

## 4 TRAINING

### WHO IS RESPONSIBLE FOR TRAINING?

- 1) If you are an employer, the Management of Health and Safety at Work Regulations 1999<sup>[3]</sup> and the DSEAR<sup>[1]</sup> say that you must provide training when employees are recruited, repeat it periodically, and provide further training when changes occur.
- 2) Employees must use all work items provided by their employer in a safe way and in accordance with the training and instructions they receive.

### WHY IS TRAINING IMPORTANT?

- 3) Training is vital in helping to prevent incidents and minimising the consequences if they do happen. Never presume that employees know and understand what to do; positive instruction and training are needed.
- 4) Employees need to know exactly what their duties are in both normal and emergency situations. They need to learn how to identify potentially dangerous situations and know what to do to prevent incidents developing.

### DO ALL EMPLOYEES NEED THE SAME TRAINING?

- 5) No. Employees need the right amount of training to enable them to perform their work safely. Take account of their capabilities, their existing level of training and experience, and provide additional training where it is needed. Involve and consult your employees and a safety representative if there is one. They will know about hazards and risks occurring in everyday situations. Cater also for unusual occurrences, such as a vehicle breakdown on the forecourt, which causes an obstruction.
  - 6) Think about when you should provide training and what it should cover. You must provide training when:
    - a) you recruit a new employee; previous experience or formal qualifications do not mean that new employees do not need any training;
    - b) you introduce new ways of working, new equipment or new technology;
    - c) an employee moves to a new job or takes on different responsibilities, and
    - d) performance is unsatisfactory and refresher training is needed.
  - 7) Decide what the training should cover. Table 8 in Appendix 2 gives examples of the type of training that may be needed. Use your risk assessment to help identify what is appropriate for each person because employees with particular responsibilities will need specific training.
  - 8) For example, the training of two forecourt controllers prevented serious injury to a customer when the dispenser hose suddenly burst and drenched her in petrol. The controllers immediately operated the emergency 'petrol pump switch' to stop the flow of petrol from the burst hose, closed the site and then provided the customer with a change of clothing (disposable cover-all suit) and changing/washing facilities.
  - 9) People responsible for receiving petrol deliveries need to know how to prepare for a delivery and what to do during and after offloading. Employees who manage or
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check wetstock should be trained in the proper procedures and what to do if there are any unexplained losses. Staff at retail petrol stations need to know how to isolate the flow of petrol in the event of an emergency, give special attention to employees who cover or deputise for others and ensure they receive sufficient training to carry out different or additional duties.

#### **HOW SHOULD I CARRY OUT THE TRAINING?**

- 10) Health and safety training must take place during working hours. You should not expect or ask people to use their own time. However, you are free to decide how it should be carried out.
- 11) Ensure that all information, instruction and training is understood by those who receive it. You will have to decide whether you are competent to give the training or whether you need help. This could be from one of your own staff who has the necessary experience, or someone from an outside organisation, for example, a training or industry organisation. Whoever you chose to carry out the training, remember you are responsible for ensuring your employees receive appropriate training related to their duties and the risks at the petrol station.
- 12) Carry out refresher training or practice exercises periodically. This is particularly important where skills are not regularly used, such as emergency procedures.

#### **WHAT TRAINING RECORDS SHOULD I KEEP?**

- 13) It is good practice to ask for feedback from staff on the training they have received and to keep a record of the training, qualifications and any results or assessments from supervisory staff.
- 14) This will help you to decide what duties you can expect each of your employees to perform safely and what additional training they may need. The quality of training and the associated records are useful in assessing the competence of your supervisory staff.

## 5 HAZARDS FROM PETROL

### TYPICAL PROPERTIES

- 1) Petrol is a mixture of many organic substances and presents fire, explosion, health and environmental hazards. Its precise physical properties can vary depending on source, product specification and additives.

### FIRE AND EXPLOSION HAZARDS

- 2) Petrol is a volatile liquid, which gives off flammable vapour at very low temperature, down to about minus 40 °C. This vapour, when mixed with air in certain proportions, forms a highly flammable atmosphere, which can burn or explode if ignited. A mixture containing about 1 % – 8 % of petrol vapour in air is flammable.
- 3) Petrol vapour is heavier than air. It does not disperse easily in still air conditions and tends to sink to the lowest level within its surroundings. It may accumulate in tanks, cavities, drains, pits or other depressions. Accumulations of vapour in enclosed spaces or other poorly ventilated areas can persist for a long time, even where there is no longer any visible sign of the liquid itself.
- 4) Flammable vapours will be released when petrol is handled, or transferred between storage tanks and containers [without the provision of vapour emission control equipment], and whenever petrol is spilt or exposed to the air. A flammable atmosphere may exist above the liquid in tanks containing petrol and in those where petrol has been removed. A flammable atmosphere may also occur near clothing or other absorbent materials or substances, which have been contaminated with petrol.
- 5) Petrol floats on water and, if it is spilt or leaks into the ground, can be carried long distances by watercourses, ducts, drains or groundwater. This can lead to a fire or explosion hazard some distance from where the petrol was actually released.

### HEALTH HAZARDS

- 6) Excessive exposure to petrol vapour can be harmful. Swallowing petrol, or getting it on skin, may pose other health hazards. Exposure should be minimised and this should be taken account of when petrol stations are designed as well as during normal operations. The health risks from petrol should be considered under the Control of Substances Hazardous to Health Regulations 2002<sup>[20]</sup>.

### ENVIRONMENTAL CONCERNS

- 7) Petrol is poisonous to many living things.
- 8) Environmental protection requirements, such as that covering drinking water contamination, are increasingly influencing equipment standards, petrol station design and operation. The risk your site presents to the environment should also be assessed; you should contact the relevant environment agency for advice. It makes sense to think about safety and environmental risks at the same time.

- 9) Safety measures to prevent leaks and spills of petrol will also reduce contamination of the air, land and waterways. Where different standards apply for safety and environmental matters, you will need to apply the higher standard. Take care, however, that environmental protection measures do not compromise safety and vice versa.
- 10) Advice on how to protect groundwater when storing hydrocarbons (petrol and diesel) in underground tanks can be found in the Department for Environment, Food and Rural Affairs publication *Groundwater protection code: Petrol stations and other fuel dispensing facilities involving underground storage tanks*<sup>[15]</sup>.

## 6 MANAGING THE RISK

### WHAT IS RISK?

- 1) The words 'risk' and 'hazard' are given a precise meaning in law and in this guidance.
- 2) It is impossible to explain what the term 'risk' means without first understanding what a 'hazard' is. A 'hazard' is anything that can cause harm. Risk is the likelihood, great or small, that a person or persons may be harmed by the hazard. Activities involving petrol are potentially hazardous because the vapours given off by the substance are highly flammable and, therefore, easily ignited. In the case of petrol filling stations, the risks arising from petrol and who may be harmed are linked to the activity that is being carried on at the time.
- 3) The main factors to control are the presence or leaks of petrol and its vapour, and ignition sources. The control of ignition sources can be more difficult, and the potential for an incident greater, at petrol stations which the public use, or where there are other activities on the site. The level of risk can be affected by factors such as:
  - a) the frequency and method of delivery of petrol to the site;
  - b) the capacity and method of storage;
  - c) the number of vehicles passing through the site and dispensing operations taking place;
  - d) the number of employees and members of the public regularly on or around the site;
  - e) the age and type of the equipment and whether the site is operated on an attendant, attendant self-service or unattended self-service basis;
  - f) the siting of the petrol equipment (dispensers, fill points, tanks, pipework etc.) in relation to other activities and fixtures on the site such as a car wash, shop, fast food restaurant, vehicle repair garage or radio-frequency (r.f.) transmitting equipment/mast;
  - g) the location of petrol equipment with respect to off-site features, such as proximity to other occupied buildings, underground tunnels, public thoroughfares, basements;
  - h) the layout of the site in relation to the manoeuvring of vehicles and the supervision of dispensers;
  - i) site-specific factors such as ground conditions and watercourses, and
  - j) vandalism.
- 4) These factors are considered in the key elements of the activities in section 8 of this guidance.

### WHAT IS RISK ASSESSMENT?

- 5) For the purposes of this document, risk assessment means a careful examination of how petrol could cause a fire and explosion. It enables you to decide whether you have already enough precautions in place (control measures) to ensure people's safety or whether you need to do more. You do not have to remove the risk, in fact it is not possible to have 'zero' risk, but you must make sure it is as low as is reasonably practicable.

**DO I HAVE TO CARRY OUT A RISK ASSESSMENT?**

- 6) Under DSEAR, employers (including self-employed) must assess the risks from activities involving a dangerous substance (petrol) to employees and anyone else, such as members of the public. The significant findings of the assessment must be recorded if five or more persons are employed. Apart from contributing to the overall safety of the petrol station, this makes good sense and business. DSEAR also requires risk assessments to be reviewed as circumstances change.

Note: You should not overlook your legal obligations to also carry out other risk assessment as required by the Management of Health and Safety at Work Regulations 1999, the Regulatory Reform (Fire Safety) Order 2005 in England and Wales, in Scotland the Fire (Scotland) Act 2005 and in Northern Ireland the Fire and Rescue Services (Northern Ireland) Order 2006.

**DO ALL PETROL STATIONS HAVE TO TAKE THE SAME SAFETY PRECAUTIONS?**

- 7) No. The chance of an incident and its consequences varies between sites. Similarly, the action needed to prevent incidents will vary. Fire and explosion risks at petrol stations can be managed by:
- a) **engineering controls/physical safeguards** (also known as hardware), such as the installation of an overfill prevention device;
  - b) **management controls**, which minimise risk by using systems of work – for example at a site where a tanker has to manoeuvre on site, a system of supervision will reduce the risk of collision and possible spill, or
  - c) commonly, **a combination of both engineering and management controls**.
- 8) Reduction of risk by engineering controls or physical safeguards is a particularly effective way of ensuring people's safety because these measures are always present and less likely to go wrong. However the time, trouble, financial cost and physical difficulty of installing engineering controls may mean that it is only reasonably practicable to introduce them when a new site is being built or an existing site is being materially changed.
- 9) Bear in mind that future technological change may result in cheaper engineering controls. Such controls, although previously not reasonably practicable on financial grounds, may then become an option at your existing site.

**NEW SITES**

- 10) The employer's obligations under DSEAR (Regulation 6(8) (Schedule 1 (1))) include ensuring that the workplace is designed, constructed and maintained so as to reduce risk.
- 11) When a site is being designed and constructed, it should be possible to build in engineering controls so that less reliance is placed on management controls and systems of work. For example, installing double skin tanks with interstitial leak monitoring, and locating the fill points so that a delivery tanker will be able to enter the site, unload, and leave without having to reverse.



## EXISTING SITES

- 12) If you have assessed the risks and decided that your current controls adequately ensure people's safety, then you might not need to introduce any further measures. However, if you conclude that current controls are inadequate, you must introduce further measures. If the risk is low, the overall costs of introducing engineering controls might be grossly disproportionate, and effective management controls might be enough. However, if the risk is high, you may need to consider engineering controls, regardless of the overall cost. Remember that your ability to pay for additional measures is not a deciding factor as to whether they should be introduced.
- 13) For example, if a tanker has to reverse or manoeuvre onto or within a site to correctly position itself at the fill points, one or more measures may be necessary to reduce the risk of collision, which could lead to a spill of petrol. You would need to look at the relative costs and the degree of control each option provides. The options could include:
  - a) relocating the fill points or obstructions and obstacles (engineering control);
  - b) creating new entry points to the site to provide better access (engineering control);
  - c) closing the site whilst the tanker is on the site (management control – system of work);
  - d) arranging for deliveries to be made during quiet periods when fewer people are on or around the site (management control), or
  - e) arranging for a competent member of staff to help the driver manoeuvre the tanker safely (management control – system of work).

## HOW DO I CARRY OUT A RISK ASSESSMENT?

- 14) Identifying hazards is an essential first step. This book helps you to identify the most significant hazards and gives you guidance on how to deal with them. It does not set out specific or prescriptive ways of achieving safety but suggests a general approach, which can be followed at any petrol station.
- 15) The leaflets produced by the HSE, *Managing health and safety: Five steps to success*<sup>[21]</sup> and 'five steps to risk assessment'<sup>[22]</sup> give further practical guidance. Based on these, the following five steps provide a systematic approach to identifying hazards and managing risks at petrol stations:

**STEP 1 – IDENTIFY** – take a fresh look at your site and identify where fire and explosion hazards may exist.

**STEP 2 – CONSIDER** – think about what could go wrong and who could be affected.

**STEP 3 – EVALUATE** – look at your findings and decide if the precautions you have already taken are enough to prevent anything going wrong or to reduce the consequences if something does happen, or if you need to do more.

**STEP 4 – RECORD** – make a note of your findings.

**STEP 5 – REVIEW** – consider when you will next need to review the assessment.

**STEP 1** – Look for the areas where a fire or explosion hazard may occur.

- 16) To identify hazards you need to know about your site, how it operates, its surroundings, and the age, make and type of equipment installed. Employees or safety representatives may be able to help fill in any gaps in your knowledge. The site plan, used when applying for a licence, may also prove useful when carrying out the risk assessment. Looking for areas where petrol vapour may accumulate is a way of determining where vapours may occur and is a legal requirement. The guidance in the following sections of this document will help you to assess the risks associated with key activities and gives examples of how to deal with them.

**STEP 2** - Think about what could go wrong and who might be harmed.

- 17) For each activity, decide whether and how petrol could escape. Think about how much could spill or leak, what route it might take and where it would collect. Look for possible sources of ignition. Take account of human error and the fact that people do not always follow instructions or behave in a responsible way. For example, customers may park badly and obstruct delivery tankers or emergency escape routes. They may also attempt to fill unsuitable containers with petrol, or smoke when filling their cars. Consider all activities including cleaning, maintenance etc, and those, which only take place infrequently. Think about the greatest number of people who could be affected by a fire or explosion. Include those who:
- work at the petrol station;
  - come to the site to buy petrol;
  - visit the site for other reasons, such as contractors or customers using a forecourt shop or car wash;
  - occupy adjacent property, and
  - share and/or operate another business on your site.
- 18) In each case, think about what could happen or what could go wrong and include the most and least likely events to occur. Include the worst events that could happen and those where you may have no visible sign or warning. Make a written note of your findings and the measures you already have in place to deal with the hazard. This will help you later in the assessment.

**STEP 3** – Evaluate your findings and decide whether further precautions are necessary.

- 19) Have you done all that the law requires to ensure people's safety? Look at the precautions you already have in place. Although the probability of a particular occurrence may be small, you will need to consider the consequences, if something does go wrong. If the risks are already low enough you should not have to introduce any further measures. But if you conclude that you should do more, you must explore other options for controlling or minimising the risk.
- 20) No two sites are the same, so it is not possible to provide a straightforward list of what you should do. Seek advice if necessary, and remember that you are responsible for seeing that the risk assessment is adequately done. Some changes, such as relocating vent pipes, may take time to achieve and require interim steps to be taken to minimise the risk.
- 21) When you have decided what to do and taken the appropriate action, you need to check that the measures work. How you do this will vary according to the nature of the changes you have made.

**STEP 4** – Recording the findings.

- 22) You must keep a record of the significant findings of the risk assessment. The type of information recorded should include:
-

- a) the significant hazards, i.e. those which pose a serious risk to workers or the public whose safety might be affected if something goes wrong;
- b) the people who may be affected; and
- c) existing control measures and the extent to which they control the risk – this need not replicate details more fully described in documents such as manufacturers' instructions, health and safety policy statement or procedures, company rules etc. but you should refer to them if you intend to rely on them.

Note: Although it is only a requirement to record a risk assessment where five or more persons are employed and there are 'significant findings', it is recommended that a record of the date and result of the risk assessment is made irrespective of the number of persons employed. In this way evidence can be provided to a PEA Inspector that a risk assessment has been carried out. It will also serve as a recorded date on which to programme a periodic review of the assessment.

**STEP 5** – Review your assessment.

- 23) Risk assessment is not a once and for all activity. You need to review your assessment if you suspect that it may no longer be valid or needs to be improved. Any change to the site or the operating procedures could affect the level of risk, so the effect should be assessed and understood. Although individual or small changes may not in themselves affect the assessment, a number of changes together may have a cumulative and significant effect. It is good management practice to plan to review risk assessments at regular intervals – the time between reviews will depend on the nature of the risks, the control measures put in place, and plans for future change.

## 7 GENERAL OPERATIONAL MANAGEMENT

### 7.1 PETROL LEAKS AND SPILLS

- 1) Leaks and spills can be caused in a variety of ways. These include failure of tanks or pipework, accidents during offloading, damage to or misuse of dispensers, and dispensing petrol into unsuitable containers. You need to take steps to prevent incidents like these and to identify the source of any or suspected leaks so that corrective action can be taken in good time. Evidence of leaks can come from, for example, monitoring of fuel stocks or excessive petrol odours at or near the petrol station.
- 2) Petrol is more likely to leak from tanks and pipework if equipment is poorly installed, inadequately maintained, or old. Where the integrity of the storage system cannot be ensured, for example by the provision of secondary containment, it can be augmented in a number of ways such as: wetstock measurement and reconciliation (manual or automatic) or by fitting a leak detection system. Additionally, periodic testing for the presence of water in underground tanks may indicate (through water ingress) a failure in the tank shell, gaskets sealing the tank lid or pipework connections. The method(s) you use will depend on the level of risk at the petrol station. Further information can be found in the Blue Book<sub>[2]</sub> and PELG-PETEL/09 *Leak detection, tanks and pipework testing, storage of petrol*<sub>[23]</sub>.
- 3) Spillages should be cleared up quickly. You can deal with small leaks and spills by applying dry sand or other absorbent materials. Remember that materials used in this way will be contaminated with petrol so make sure they are disposed of safely, if necessary by a hazardous waste disposal specialist. If you intend to store contaminated material prior to disposal, use a safe place like a closed bin or other container, which has been suitably labelled. Treat any other materials contaminated with petrol, such as clothing, rags or soil, in a similar way.
- 4) Accidents involving employees and customers becoming splashed with petrol are foreseeable events. Incidents where employees are splashed with petrol during road tanker deliveries and customers being sprayed with petrol when dispenser hose couplings suddenly fail can and do occur. The provision of disposable coveralls and a changing room with washing facilities is a control measure that can be taken to reduce both the health and safety risks arising from wearing clothing that is contaminated with petrol.
- 5) Further guidance on dealing with spillages when petrol is being unloaded and dispensed is given in sections 8.2 (paragraph 39-42) and 8.5 (paragraphs 20 and 21).

### 7.2 CONTROL OF IGNITION SOURCES

#### HAZARDOUS AREA CLASSIFICATION

- 1) Three ingredients are needed for a fire: a fuel (in this case petrol); oxygen; and a source of ignition. If you control or eliminate any or all of these factors, fire can be prevented. To run a site safely you should know where flammable or explosive concentrations of petrol vapour might occur and keep sources of ignition out of these areas.

## SPECIFIC REQUIREMENTS OF DSEAR (REGULATION 7)

- 2) DSEAR imposes a requirement to classify areas where explosive atmospheres may occur into zones based on their likelihood and persistence. Areas classified into zones must be protected from sources of ignition by selecting equipment and protective systems meeting the requirements of the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996 (EPS)<sup>[24]</sup>.

Note: Equipment in use before July 2003 can continue to be used indefinitely provided the risk assessment shows it is safe to do so.

- 3) Where necessary, areas classified into zones should be marked with a specified 'EX' sign at all entry points. This sign should not be confused with the Ex sign in a hexagon which is marked on equipment built to the requirements of EPS<sup>[24]</sup>. See paragraph 13.



- 4) Where employees work in zoned areas, they should be provided with appropriate work clothing that does not create a risk of an electrostatic discharge igniting the explosive atmosphere. In order to comply with this statutory duty, the work (on the forecourt) that staff are employed to undertake in the course of the day-to-day operation of the site or in accordance with the site's emergency procedure will have to be evaluated. For instance, if the site receives 'driver assisted deliveries' and the member of staff assisting the tanker driver is expected to dip the tanks, remove covers to access chambers or remove/replace fill pipe caps, then (like the tanker driver) they should be provided with anti-static footwear. Anti-static weatherproof or outer clothing will not normally be necessary for work activities carried out by forecourt staff provided they do not remove such (ordinary) clothing in any high risk areas.

## VERIFICATION

- 5) Regulation 7.4 of DSEAR requires that before a petrol station is used for the first time, the employer shall ensure that a competent person verifies its overall explosion safely.
- 6) What parts of the site require verification? Parts of the site that need to be considered during verification are those parts of the site where explosive atmospheres may occur and which have been designated as hazardous areas. It will also be necessary to take into account any equipment or facilities that may give rise to hazardous areas or are needed to limit the extent of any hazardous areas.
- 7) When should verification be carried out? The main requirement is to carry out verification procedures before a site is put into use, i.e. during commissioning, but as there is an on-going requirement to review the facilities it will also be necessary to verify that any significant changes on the site or any new equipment will not give rise to an unacceptable explosion risk. A like-for-like replacement or repair, however, should not require further verification.
- 8) What is the purpose of verification? Verification is an assessment of the measures that are needed to ensure that the fire and explosion risks will be properly controlled. It will include consideration of the measures to:
- prevent explosive atmospheres forming;
  - control the fire and explosion risks from explosive atmospheres, and

- c) mitigate the effects of a fire or explosion.
- 9) What does verification include? Verification includes an assessment of the design of the petrol station to prevent fire or explosions and checks and tests to show that the completed facility is in accordance with the design standards and specifications. Checks will include:
- inspection of records to show that the storage tanks and all associated product and vapour pipework are leak tight;
  - ensuring that a hazardous area classification drawing has been prepared and a visual inspection that equipment is of the correct type and category for the zone where it has been installed, see *note* below;
  - confirmation that the equipment in the hazardous areas has been installed correctly and has been tested;
  - all warning and information notices are in place;
  - all electrical and other ducts from hazardous areas are properly sealed;
  - vapour emission control systems have been tested for integrity and operate correctly;
  - gauging and leak detection/leak monitoring systems operate correctly;
  - drainage systems, including oil separators and/or constructed wetlands, are complete and tested;
  - all emergency equipment installed and in working order, and
  - some parts of the verification checks can be carried out at an early stage, for example during the design, but other parts can only be carried out during commissioning or even after the first petrol delivery.
- 10) Who is competent to carry out the verification? The site operator has the duty to ensure that a competent person carries out the verification. The site operator may be the competent person but he may need to enlist the help of others such as the site designer, the installer of the equipment, test companies or an independent person or organisation. The person or persons involved must have practical and theoretical knowledge of the fire and explosion hazards arising at petrol filling stations, which may have been obtained from experience and/or professional training.

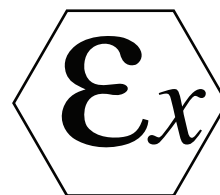
#### ELECTRICAL EQUIPMENT IN HAZARDOUS ZONES

- 11) BS EN 60079-10: 2003 *Electrical apparatus for explosive gas atmospheres*<sup>[25]</sup> sets out the concept of hazardous area classification and zoning for the purpose of selecting appropriately protected electrical equipment. You should also exclude other ignition sources from hazardous areas. BS EN 60079-10<sup>[25]</sup> defines the following hazard zones:

Zone 0	In which an explosive air-gas mixture is continuously present, or present for long periods
Zone 1	In which an explosive air-gas mixture is likely to occur in normal operation
Zone 2	In which an explosive air-gas mixture is not likely to occur in normal operation and, if it occurs, it will exist only for a short time
Areas outside these zones are defined as non-hazardous.	

- 12) Examples of typical sizes and locations of hazardous areas at petrol stations can be found in section 3 of the Blue Book<sup>[2]</sup>. The guidance in this section (of the Blue Book) together with information obtained<sup>[2]</sup> from equipment suppliers will help you to determine the hazardous areas on your petrol station.

- 13) Where possible, electrical equipment should be excluded from hazardous areas. Where this is not possible, for example electrical components in petrol dispensers, they must be constructed or protected so as to prevent danger arising from exposure to petrol vapour. Dispenser components like the pump and junction boxes will be marked with the sign (shown right).
- 14) Other ignition sources, which may be introduced into hazardous areas by customers, employees or contractors, should also be controlled or, preferably, excluded; these include:
- people smoking/using smoking materials such as lighters;
  - tools or equipment which may cause sparks if rubbed or knocked against metal, concrete or brick;
  - vehicle engines still running while petrol is being dispensed; equipment transmitting radio- frequencies (r.f.) (such as radios fitted to the emergency services vehicles);
  - fixed electrical equipment (such as car vacuum cleaners);
  - portable electrical equipment (such as mobile phones and power drills); hot surfaces (such as turbo-chargers and catalytic converters fitted to vehicle engines);
  - naked flames;
  - static electricity, and
  - thermite reaction (friction sparks from aluminium/rusty steel impact).



#### ON-SITE STORAGE AND SALE OF OTHER FLAMMABLE SUBSTANCES

- 15) Most petrol stations sell commodities other than petrol. If your shop sells flammable liquids such as cigarette lighter fuel, barbecue lighter fuel, anti-freeze or other similar goods, be aware of the safety precautions to follow. These may be found on the packaging or labelling of the products. Any goods on display on the forecourt should be stored safely and should not cause an obstruction to traffic or emergency escape routes.
- 16) If you sell other fuels such as diesel, paraffin, LPG or compressed natural gas, look at the way these fuels are delivered, stored and dispensed. As far as possible make sure they do not present a fire or explosion risk to your petrol facilities. Similarly, your petrol facilities should not present a risk to these other fuels. Guidance on the storage of flammable liquids can be found in HSG 51 *The Storage of flammable liquids in containers*<sup>[26]</sup>. The UKLPG has produced a series of codes of practice covering all aspects of the bulk storage of LPG including motor vehicle refuelling at petrol filling stations.
- 17) In addition, the Approved Code of Practice L138 *Dangerous substances and explosive atmospheres regulations 2002*<sup>[27]</sup> gives practical advice on the requirements of Regulations 5 and 6 of DSEAR to assess the risks from, and the control and mitigation measures for places where dangerous substances are stored. It includes advice on the safe disposal of waste materials.

Note: Highly flammable substances such as cigarette lighter fuel and LPG in cylinders are 'dangerous substances' as defined by DSEAR and as such you have a duty to carry out a risk assessment (regardless of the quantity on the premises) so as to determine what, if any control measures are necessary; including consideration being given to hazardous area classification. At retail filling stations, the environmental health officer from the local council enforces DSEAR in respect of these substances.

## **OTHER ON-SITE ACTIVITIES**

- 18) When looking for potential sources of ignition remember other on-site activities such as shops, workshops, fast-food restaurants and car washes. Even if these facilities are not in a hazard zone, people may need to cross such a zone to get to and from them, possibly bringing ignition sources into the area. Good site design can help to eliminate this. Where changes to a site are planned, they may represent a prescribed material change to the 'dispensing premises' requiring a 28 day (pre-works) notification the PEA.

## **7.3 OPERATING AND EMERGENCY PROCEDURE**

### **OPERATING PROCEDURES**

#### **WHY HAVE OPERATING PROCEDURES?**

- 1) People are an essential part of the operating life of a petrol filling station, so good systems of work and procedures are important ways of preventing incidents and minimising the consequences of any that happen.
- 2) Make sure that procedures are easily understood and that everyone working on the site knows about and uses them. Regularly check to see that procedures are being followed and that they work. Revise them if circumstances change.

#### **WHAT ACTIVITIES SHOULD BE COVERED?**

- 3) Your risk assessment will help you to identify where operating procedures are necessary. These may include:
  - a) offloading petrol (before, during and after the offloading process);
  - b) wetstock reconciliation, including loss investigation and reporting;
  - c) dispensing activities;
  - d) cleaning up petrol spills;
  - e) general site maintenance and housekeeping;
  - f) dealing with contractors;
  - g) dealing with customers, and
  - h) maintenance of site records.

### **EMERGENCY PROCEDURES**

- 4) You must have procedures for emergency situations and train any employees who will need to take action in an emergency (an action plan). They must be in no doubt about their responsibilities. Emergency or shutdown procedures, like any other kinds of operating instructions, should be reviewed regularly and updated to reflect any changes. You will need to ensure that your emergency procedures work when called upon. As well as testing and maintaining equipment, make sure people know and understand the procedures; practice helps to do this. If the response to an incident involves the use of equipment, such as a fire extinguisher, employees expected to use it must be properly trained.



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- 5) In the event of a serious petrol spillage the following are obvious precautionary steps to take:
    - a) Switch off the electricity supply to forecourt equipment (note that the public address system and, at night, the canopy lights may need to be kept operational).
    - b) Raise the alarm and ensure all customers and non-essential employees leave the site.
    - c) Contact the fire and rescue service (by telephoning 999) to report the spillage. Depending on the circumstances you may also need to contact other emergency services, such as the police. If the situation is potentially highly dangerous offsite, you should also alert the police.
    - d) Check for sources of ignition.
    - e) Do not allow any vehicles parked near the spillage to be started.
    - f) Prevent anyone from driving onto the site.
    - g) Take all practical steps to prevent fuel flowing off the forecourt into buildings, public drains, sewers or other water courses and try to direct the spillage into the forecourt interceptor system, for example by using temporary bunding and absorbent materials.
    - h) Place all fire extinguishers in a readily available position upwind of the incident area.
    - i) Alert occupiers of properties on the boundary of the site.
  - 6) In the event of a dispenser or other electrical apparatus being damaged, for example by being hit by a vehicle, switch off the electrical supply to the equipment and take the relevant steps from the above list. It should be remembered that the safety features built into modern petrol pumps and dispensers (fed from submersible or remote pumps) should prevent any significant releases of petrol if the pump/dispenser is damaged or knocked-over by a vehicle.
  - 7) Once an incident is under control, you will need to determine the cleaning-up procedures necessary to ensure the safety of employees and the public on and off the site. Remember that where petrol has entered a site interceptor, you will have to make arrangements to remove the petrol and refill the interceptor with fresh water. In the case of a constructed wetland, the treatment system will need to be examined by the designer/installer, or some competent person, to determine if any remediation work is necessary. Any retaining vault associated with the constructed wetland will need to be emptied of petrol.
  - 8) You will also need to have emergency procedures in place to deal with:
    - a) any serious leakages that may occur in the storage tanks and/or pipework, and
    - b) vehicle, petrol and other fires.
  - 9) More detailed information on the production of an emergency action plan can be found in the EI's publication *Guidelines for an emergency action plan for fire and explosion risks at filling stations*<sup>[28]</sup>.

Notes:

It is recommended that the PEA is notified of any emergency incidents that occur on the site.

In the event of a major spill, the relevant environment agency should be contacted. The incident line for the EA is 0800 80 70 60

## RECORD KEEPING

- 10) Maintaining up-to-date written procedures is good management practice. It will also help employees to understand what is required of them and will be useful when staff need to be trained.

- 11) You may find it helpful to keep this type of information in a site register. This could also be used as a central point to keep other information, such as:
  - a) details of the equipment on site (type, age, location);
  - b) the results of commissioning and installation work;
  - c) testing, maintenance and repair records;
  - d) petrol inventory/stock records (including ullage and delivery records);
  - e) training records;
  - f) company safety policies and practices;
  - g) the results of the risk assessment;
  - h) a schematic diagram of the storage tanks, pipework and pump layout;
  - i) a schematic diagram of the surface water drainage system, including all gullies, and the position of the oil separator or any other spillage retention/treatment system; e.g. a constructed wetland, and
  - j) a diagram(s) of the hazardous zones.

Note: Wetstock monitoring/reconciliation can be a 'centralised function' carried out remotely at a company's head office or by a specialist contractor. Where this is the case, records will be made quickly available to PEA Inspectors by fax or e-mail should this be necessary.

## 7.4 MAINTENANCE

### WHAT SHOULD I DO?

- 1) DSEAR (Regulation 6(8) Schedule 1) requires that equipment related to the offloading, storage and dispensing of petrol is maintained in efficient working order and in good repair. The person responsible for this is the owner of the equipment or, where the equipment is leased or hired to another, that other person.
- 2) A maintenance programme should be in place to ensure the integrity of the plant and equipment on site. This should include: tanks; pipework; vapour emission control equipment; manhole chambers; dispensers; interceptors; cable ducts and drains; gauges and other product monitoring equipment; electrical equipment (see below); and emergency equipment.
- 3) Maintenance includes examination, servicing, cleaning, repair, or testing. The periods between these activities will depend on several things like the recommendations of manufacturers, suppliers or installers, conditions at the site, and the advice of the person who last carried out an examination. Accepted industry practice and the results of your risk assessment should also be taken into account. Only contractors that are competent to do what is necessary should carry out maintenance work at the site. Further information on maintenance is given in the Blue Book<sup>[21]</sup>. In addition, the Approved Code of Practice L138 *Dangerous substances and explosive atmospheres regulations 2002*<sup>[27]</sup> gives practical advice on identifying hazards and implementing appropriate control measures and systems of work during maintenance and other similar non-routine activities. It includes advice on hot work and on permit-to-work systems for those activities identified as high risk.

### ELECTRICAL EQUIPMENT

- 4) The Electricity at Work Regulations 1989<sup>[9]</sup> require that electrical equipment must be maintained in a safe condition, so far as is reasonably practicable. This means that
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inspection and testing of electrical equipment should be carried out, with particular attention to equipment and wiring installed in hazardous areas. Electrical work should be carried out by someone competent to work on electrical equipment in hazardous areas and who is aware of the required standards for such equipment.

- 5) The electrical contractor will need to switch off supply to part of the site to carry out testing, maintenance or repair work. You may therefore need to agree times when the site or part of it may be closed to allow the work to proceed safely.

### **VISUAL EXAMINATIONS**

- 6) Periodic visual examinations of your site, for example to check access chambers, fill points and dispensers, can help ensure that it is in a satisfactory operating condition.
- 7) Certain equipment that is more vulnerable to abrasive, impact or malicious damage needs to be inspected on a more frequent basis. For example, dispenser hoses can suddenly fail due to:
  - a) the gradual weakening of the section of the hose where it chafes against the ground;
  - b) impact damage if the hose is crushed against the pump island by the wheel of a vehicle, or
  - c) malicious damage by vandals. This type of damage is more likely to occur when the site is closed.
- 8) A daily inspection of the hoses should reduce the risk of spillages resulting from bursts or cuts etc.
- 9) A suggested visual inspection programme is given in Appendix 3.

### **MAINTENANCE RECORDS**

- 10) Written records of maintenance history, faults detected and repairs or modifications carried out at your site will help you monitor your maintenance programme effectively, and also provide good evidence that you have a programme in place.

## **7.5 WORKING WITH CONTRACTORS**

### **CONTRACTORS**

- 1) A contractor is anyone you employ to do work for you who is not a member of your own staff. At petrol stations, contractors are routinely engaged to carry out construction work, maintenance, modification or installation of equipment.

### **WHAT THE LAW SAYS**

- 2) The Health and Safety at Work etc Act 1974<sup>[7]</sup> requires that you and your contractor do not endanger yourselves, employees or anyone else such as the public, as a result of your work. These duties cannot be delegated by contract. However, a contract can play a useful role in defining the rights and responsibilities of each party.
- 3) The Management of Health and Safety at Work Regulations 1999<sup>[3]</sup> also require you to assess the risks, which might affect people, including contractors and the public, and provide them with appropriate information and instruction about risks to their health and safety from your operation.

- 4) The Construction (Design and Management) Regulations 2015 (CDM)<sup>[10]</sup> may also apply where contractors are carrying out construction work to your site.
- 5) DSEAR (Regulation 11) applies where two or more employers share the same workplace (i.e. the site operator and a maintenance contractor at a petrol filling station) and makes the site operator responsible for co-ordinating the implementation of all the safety measures required by DSEAR.

### SELECTING A CONTRACTOR

- 6) Your approach is crucial when influencing how much attention is given to safety by contractors.
- 7) Contractors invited to submit tenders should be made aware of the standards of health and safety you expect of them. The EI's *Code of safe practice for contractors and retailers managing contractors working on petrol filling stations*<sup>[29]</sup> is intended to assist site operators in managing contractors so that works are carried out in a safe and legal manner so as to prevent incidents and accidents of any kind during the work activities.

### 7.6 PLANNING THE WORK

- 8) Before any contractors start work you will need to satisfy yourself that they are capable of undertaking the work and can carry it out in a safe manner. Speak to them before work begins and make sure they are aware of the rules and requirements at your site. Depending on the work to be carried out a contractor may need to know about:
    - a) the hazardous nature of petrol, the need to control ignition sources, and the location of hazardous areas;
    - b) your own operating procedures, so they can comply with them as necessary;
    - c) the location of underground tanks and pipework;
    - d) any other work that may be taking place whilst they are on site;
    - e) the location of underground services, i.e. conduits for electrical supplies to dispensers and car washes etc. and the site's main electrical supply cable, gas and water supplies, and
    - f) items, equipment or information necessary for health and safety.
  - 9) You and your contractor should be clear about:
    - g) how your operations will affect each other's work.
    - h) who is responsible for managing the work on site and controlling sub-contractors, and
    - i) timing and segregation of work to ensure that the activities of one person do not create risks for another.
  - 10) In some circumstances it may be necessary to stop a particular activity, such as petrol offloading or dispensing in the area where contractors are working. This might also be necessary where the layout of your petrol station means that contractors working adjacent to the site could present a risk. Finalise arrangements with the contractors when they arrive on site. Make sure that there is no doubt about how health and safety will be managed during their work.
  - 11) Failure to take account of a contractor's work can have serious consequences. For example, at one site in Leeds, contractors were carrying out alterations to offloading pipework. A road tanker delivered 5 000 litres of petrol into the off-set fill pipe of a tank on the site. The contractors had disconnected this pipe and hundreds of
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litres of petrol escaped into the ground before the competent person and the driver realised the mistake. As a result the public were put at high risk and the environment was affected, resulting in adverse publicity and a high-cost clean-up operation. This incident could have been avoided by preparing a work plan describing the procedure for deliveries to be carried out safely or, alternatively, postponing deliveries until the alterations were complete.

### SAFETY METHOD STATEMENTS

- 12) One way of ensuring safe working at petrol stations during construction or maintenance is to use a detailed safety method statement (SMS) for each particular task. This should identify the problems and solutions concerning the tasks. It is a useful tool for ensuring that work is carried out safely. An SMS can range from a simple statement to a detailed technical document depending on the scale of the task(s) involved. The purpose of the SMS is to identify the hazards associated with each task and specify the necessary precautions to control them.
- 13) Responsibility for drawing up the SMS lies with the contractor, who should, if necessary, act in conjunction with you regarding site details, specific precautions or specialist information. The SMS should clearly show that all of the hazards have been identified and will be correctly dealt with.

### PERMIT-TO-WORK SYSTEMS

- 14) Some maintenance or repair work will be high risk because it has the potential to cause a serious accident, such as the removal of a storage tank lid. These tasks need to be carefully controlled and planned. A permit-to-work system is a structured way to make sure these activities are done safely.
- 15) A permit-to-work is a formal written means of making sure that potentially dangerous tasks are approached and carried out using only the correct safety procedures. It is not merely permission to carry out work, but can also help to ensure that these activities are done safely. It should cover all foreseeable events.
- 16) You and your contractor can get further information on permit-to-work systems in the following Health and Safety Executive's publications:
  - a) *Guidance on permit-to-work systems: A Guide for the petroleum, chemical and allied industries*<sup>[30]</sup>\*
  - b) *Approved Code of Practice and Guidance L138 Dangerous substances and explosive atmospheres regulations 2002*<sup>[27]</sup>\*

## 8 KEY ACTIVITIES

The following sub-sections of this guidance document identify six key activities that take place at petrol stations. These are:

1. commissioning;
2. unloading and venting;
3. storage;
4. pipework;
5. dispensing, and
6. decommissioning.

For each activity, practical advice is given to help you comply with the law. For unloading and venting, storage, pipework and dispensing a simple guide is provided to help you to identify the risks and, where necessary, introduce appropriate control(s).

### 8.1 COMMISSIONING

#### INTRODUCTION

- 1) Commissioning is the process of bringing plant and equipment into use.
- 2) This sub-section contains guidance to help you ensure that new sites, those which are subject to a material change and any new equipment installed and refurbished are safe to use. It also includes guidance on physical checks of the site to ensure that emergency equipment and information notices are adequate and effective. You will also need to consider what operational, management and emergency procedures are necessary and make arrangements for initial staff training.
- 3) Technical information on how to commission the site and its equipment, and the selection and use of various testing methods are given in the Blue Book<sub>[2]</sub>.

#### COMMISSIONING HARDWARE

- 4) For new petrol stations, testing and checking of equipment may have been carried out before you take over the site. People competent to do the job should carry out this work. Satisfy yourself that these tests and checks have been completed satisfactorily. If new hardware is being installed at your existing petrol station, ask for evidence that the necessary tests and checks have been properly carried out before bringing the equipment into use.
- 5) Some procedures, such as initial testing of electrical circuits, are carried out more effectively before petrol is delivered and introduced into the system. Others, such as checking the operation of a dispenser, cannot be tested until petrol has been introduced into the system.

#### VAPOUR RECOVERY (STAGE 1B AND STAGE 2 SYSTEMS)

- 6) Systems for vapour recovery during the delivery and dispensing of petrol should be tested in accordance with the manufacturer's instructions before petrol is introduced into the system and for a stage 1b system, during the first delivery to confirm its integrity.

## STORAGE TANKS

- 7) The integrity of each tank or compartment, its internal fittings (e.g. drop pipe and overflow prevention device etc.) including the manhole and any connections to it should be determined, where possible, before petrol is offloaded. This can include checking that monitoring systems are operating and testing tanks without monitoring systems. The tank manufacturer should provide a certificate of examination and testing carried out before the tank left the factory.

Note: The leak testing of the drop tube and associated fittings may need to be carried out after petrol has been introduced into the tanks.

## PIPEWORK

- 8) New pipework and joints should be tested before petrol is offloaded. Obtain information about the type of tests that have been carried out and the results. Where double-skin pipework has been installed, check that tests on the monitoring system have been carried out according to the manufacturer's instructions. The contractors installing the pipework should provide you with a certificate detailing the test method used and the result. All the pipework, including the ventilation/vapour recovery system, that forms an integral part of the petrol installation, should be leak tested and certified in the commissioning procedure.

Note: There are some (final) joints in pipework that can only be tested after petrol has been delivered into the storage tanks. These joints should be 'wet tested' by the contractor when the pipework is primed with petrol.

## DISPENSERS AND RELATED EQUIPMENT

- 9) All dispensing equipment, including pumps, valves, hoses and nozzles should be checked for leaks and correct operation after installation.

## ELECTRICAL INSTALLATION

- 10) Any new, extended or modified installation should have valid certificate of electrical inspection and testing.

## VERIFICATION

- 11) See paragraphs 5 – 10 of Section 7.2 CONTROL OF IGNITION SOURCES on Page 27.

## OTHER COMMISSIONING PROCEDURES

Before petrol is delivered to the site it will be necessary to check that:

- a) safety signs or notices are in place;
- b) all means of escape are clear of obstructions;
- c) emergency equipment has been installed and is in working order;
- d) any combustible material is removed;
- e) fill points, tanks and pipework (where visible), and dispensing equipment have been clearly marked;
- f) where drainage systems have been installed, they are connected, leak tested and free from the debris and the interceptor has been charged with its water seal.

- Leak testing and debris clearance will also apply to the drainage channels and pipes connected to a constructed wetland, and
- g) cable ducting has been properly sealed to prevent petrol/vapours migrating into buildings and non-hazardous areas.

#### **RECEIVING THE FIRST DELIVERY OF PETROL**

- 12) In order for a manifolded vapour recovery system to operate correctly and safely, there has to be a liquid (petrol) seal between the bottom of the drop tube and the ullage space of all the (manifolded) tanks. Clearly this situation is not possible with a new installation or where tanks have been temporarily decommissioned for maintenance purposes etc. It is, therefore, important that the first delivery of product is carried out with great care so as to avoid the release of large volumes of vapour through the fill pipe openings of the tanks. A safe method of introducing petrol into the tanks is to (individually) unload a quantity of 1 000 litres of petrol into one tank at a time until all the tanks are charged with sufficient petrol to provide a liquid seal at the drop tube. The vapour recovery hose must, of course, be connected at this initial commissioning stage of the delivery and the fill pipes caps of the tanks not being filled must be in the closed position. After this stage of the commissioning procedure has been completed, the remainder of the product on the tanker can then be unloaded in the normal manner.

#### **RECORD KEEPING**

- 13) It is an essential practice to maintain records of the result of initial tests and commissioning procedures for future reference. These records should be kept in a site register, together with other relevant documents, for the petrol installation. By comparing these with future test results or other information for example, from maintenance work, you will be able to identify any changes in the performance of the equipment, which may indicate a potential risk to safety. A PEA Inspector may ask to examine the site register for details of the work that has been carried out.
- 14) Table 1 lists the documents that the architect or the principal contractor (overseeing the development) should provide you with, when all the work is completed. For partial redevelopment work (e.g. re-pumping), the individual contractors carrying out various elements of the works should provide you with the documents.



**Table 1: Commissioning – Certificates/records**

<b>Equipment/installation</b>	<b>Certificates/records</b>	<b>Provided by</b>
The whole site	<ul style="list-style-type: none"> <li>– 'As built' plans/drawings detailing the whole development</li> <li>– Drawings identifying hazardous areas and types of zones</li> </ul>	Architect
Petrol installation	<ul style="list-style-type: none"> <li>– Diagrams of the layout of tanks, pipework and dispensers. This may include a schematic diagram for on-site display as general information to staff, contractors and the emergency services</li> </ul>	Architect or pipework installer
Petrol tanks	<ul style="list-style-type: none"> <li>– Details of construction of tank and method of installation</li> <li>– Certificate for testing of tank and/or leak monitoring system</li> </ul>	Architect Principal contractor
Pipework (including vapour recovery systems)	<ul style="list-style-type: none"> <li>– Details of construction of pipework and method of installation</li> <li>– Certificate for testing of pipework and/or leak detection system</li> </ul>	Architect Pipework installer
Leak detection system	<ul style="list-style-type: none"> <li>– Details of class of system installed</li> <li>– Commissioning certificate</li> </ul>	Leak detection installer
Surface water drainage system	<ul style="list-style-type: none"> <li>– Diagram of the layout of the drainage system. This may include a schematic diagram for on-site display as general information to staff, contractors and the emergency services</li> <li>– Certificate for testing of the drain pipes</li> </ul>	Architect Principal contractor
Electrical installation	<ul style="list-style-type: none"> <li>– Pre-commissioning test record</li> <li>– Inventory check list</li> <li>– Initial assessment</li> <li>– Inspection and test report</li> <li>– Certificate of test and inspection</li> </ul>	Electrical contractor

## 8.2 UNLOADING AND VENTING

### INTRODUCTION

- 1) The bulk unloading of petrol is inherently hazardous. Petrol may escape from the tanker, for example if it collides with another vehicle, or because of a leak during unloading. The volume of petrol that could be spilt is potentially very large, with a consequent serious threat to the safety of people on and near the site. The guidance in this section will help you ensure that petrol is unloaded safely.
- 2) The engineering and management controls at your site will determine the method of unloading you are able to use and the precautions you and the tanker driver need

to take to ensure people's safety. Make sure you are familiar with the requirements of the Approved Code of Practice *Unloading petrol from road tankers* (L133)<sup>[31]</sup> and that your operating procedures reflect what is necessary to ensure people's safety.

Note: Different equipment and procedures will be required for unassisted deliveries.

- 3) The risks can be reduced if a dedicated tanker unloading stand is provided or if petrol is delivered at quiet times when fewer people are on or around the site. This is not always possible and your operational procedures will need to ensure that petrol can be delivered safely, whenever it is done. In some cases, this may require closing part of, or the whole all of the site if this is the only way to control the risks sufficiently.
- 4) You should establish procedures for the unloading of petrol; ensure that everyone involved is familiar with them and that they are followed. Failure to do so can have serious consequences. In one incident, a filling station had to be evacuated after petrol overflowed into a fill point access chamber during the course of a delivery. The outflow of petrol from a storage tank fill pipe that had not had its cap replaced went unnoticed at the time the delivery was taking place. It was only later in the same evening when the shop started smelling of petrol that the Fire and Rescue Service discovered that the spillage had occurred. An investigation by FRS inspectors found that both the competent person taking the delivery and the tanker driver were at fault. The fault on the part of the competent person was not replacing the fill pipe cap after petrol had been received into the tank, whilst the driver was at fault for failing to connect-up the vapour recovery hose after re-positioning the tanker. The site was closed for 48 hours whilst the clean-up work was carried out resulting in a significant loss of trade for the operator.

### TANKER ACCESS

- 5) It is important that the driver can manoeuvre a tanker onto and around the site as easily as possible. The likelihood of an incident increases if the driver has to make difficult manoeuvres, or drive close to obstacles or other vehicles.
- 6) Try to provide and maintain a clear, unobstructed entry and exit route at all times. If this is not possible, ensure that the route is clear when a tanker enters or leaves the site. On some sites this may involve cordoning off the route or closing down some or all dispensers or other equipment, such as a car wash.
- 7) In the event of a fire a tanker needs to be able to leave the site quickly and safely. This is achieved most easily if it can drive off the site in a forward direction. Where it is not possible to drive onto and off the site without reversing, you should arrange for the tanker to reverse into position to access the fill points and then drive away in a forward direction if this is possible. If this cannot be achieved, it is important to have good arrangements in place to ensure that the tanker can manoeuvre safely. These could include positioning mirrors to aid visibility, or clearly marking the route to be taken by the tanker, other vehicles and pedestrians. Where necessary, provide supervision or assistance for the driver using pre-arranged signals, and make sure that whoever you select is competent to carry out this role.

### TANKER STANDING AREAS

- 8) The Blue Book<sup>[2]</sup> gives guidance on good locations for tanker standing areas in relation to other equipment and activities on and off the site. Wherever it is located, the standing area should be maintained in a good condition.

- 9) If the area is not well located you may need additional control measures to ensure that petrol can be unloaded safely. These could include hardware changes, where reasonably practicable, such as the construction of a firewall to act as physical barrier between the unloading area and adjacent buildings or public areas. Alternatively you may look to introduce management procedures. For example, if a tanker cannot be accommodated wholly on the site during unloading, you may need to provide some form of cordon between the tanker and off-site traffic to avoid a collision. Warning notices can be used to good effect to advise members of the public and others that unloading is taking place and of any precautions they may need to take.

### **DRIVER/OPERATOR TRAINING**

- 10) The competence of the tanker driver will also determine how safely a vehicle moves around the site. Drivers and their employers must ensure that tanker operations are carried out safely. But you should always satisfy yourself that whoever drives the tanker onto your site can do so competently and safely. Ask to see the driver's ADR training certificate; if you have any doubts ask your petrol supplier to provide you with evidence of driver competence.

### **LIGHTING**

- 11) Routes to and from the tanker standing area, and the area itself, must be adequately and safely lit to enable people engaged in the unloading operation to carry out their tasks properly and safely. Drivers need a clear view of their way onto and around the site and the fill points. Illumination of the road tanker's valves and the site's control panel (if there is one) at the fill point may also be necessary. Lighting must be maintained to ensure that it is kept in working order.

Note: For sites that receive 'driver unassisted deliveries' when the filling station is closed, the road tanker's headlights can be considered as adequate illumination for vehicular ingress/egress.

### **FILL POINTS**

- 12) The Blue Book<sup>[2]</sup> contains guidance on standards for the location of fill points for storage tanks. The exclusion of potential ignition sources from the hazard zone is easier if fill points are at least 4 metres from site boundaries, as this is generally the extent of the hazard area associated with them. At existing sites this may not be the case but moving the fill points will not normally be a reasonably practicable option. In these circumstances your operating procedures should ensure that unloading is not carried out while there are potential sources of ignition in the hazardous area.
- 13) Vapours can accumulate near the fill point during unloading. The chance of an incident increases if ignition sources are not controlled, putting members of the public or employees near the area at risk. You can mitigate the consequences of vapour emission, spills or leaks by:
- a) controlling ignition sources in and around the unloading area;
  - b) excluding non-essential people from the unloading area; this should be done whenever unloading is taking place, regardless of the location of the fill point; separating people from the unloading area by a safe distance or by erecting a fire wall;

Note: A fire wall is an option where a safety distance cannot be achieved.

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- c) providing adequate spillage control i.e. drainage and interceptor;
  - d) ensuring warning and information notices are in place and legible;
  - e) providing properly maintained fire extinguishers, and
  - f) providing an adequate supply of dry sand or other absorbent material.
- 14) If a fill point is inside a building or a partially enclosed area, you will need to decide whether you can move it to a safer location outdoors. If this is neither possible nor reasonably practicable, you will need to explore alternative measures in addition to those listed above, such as improving ventilation to disperse vapours from any leak, or removing or isolating sources of ignition such as electrical equipment and fittings which are not suitable for use in hazard zones.
- 15) Special controls and procedures may be needed if the fill point is in or near a building or public thoroughfare. It may be necessary to restrict deliveries to when the building is unoccupied or at quiet times. Warning signs or arrangements for someone to monitor the area for ignition sources during unloading may be needed.
- 16) All fill point connections, including those for vapour balancing, should be designed and installed for easy use. Some may need protection against impact and vandalism. They must be well maintained and the unique identification markings must be kept clear and legible.

#### **VENT PIPES**

- 17) The primary function of vent pipes is to allow the tanks to breathe by providing an inlet for air to enter the tanks when petrol is being dispensed and to enable petrol vapour displaced from storage tanks during unloading to be either returned to the road tanker or dispersed into the atmosphere. They should be positioned to minimise the build-up of vapour around the pipes and be remote from sources of ignition. For example, the location should take account of nearby buildings and their effect on airflow, and areas where vapour could accumulate.
- 18) The Blue Book<sup>[2]</sup> gives guidance on the height and location of vent pipes and vapour control systems. Advice is also available from the relevant environment agency.
- 19) Vent pipes, which are above ground should be included in the site's inspection and maintenance programme and examined for corrosion or damage, particularly at or around ground level, and for stability.
- 20) A flame arrester should be fitted to the outlet of vent pipes and vapour return connections for a Stage 1b vapour recovery system so that, if vented vapours are ignited, the arrester will prevent the fire spreading from the atmosphere to the inside of the tank. Flame arresters should be included in the site's maintenance programme to ensure that they continue to be effective. Pressure/vacuum valves fitted to the outlets of vent pipes at sites provided with vapour recovery systems have in-built flame arresters. The HSE publication *Flame arresters: Preventing the spread of fires and explosions in equipment that contains flammable gases and vapours*<sup>[32]</sup> gives further details.

#### **VAPOUR EMISSION CONTROLS (VAPOUR RECOVERY)**

- 21) Since the introduction of stage 1b vapour recovery onto UK filling stations there have been a number of incidents, during and after road tanker deliveries, where:
- a) Large quantities of petrol have flowed out from the fill pipes of storage tanks.

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- b) Fill pipes have become pressurised resulting in vapour and/or petrol being released to atmosphere when the cap is removed. Such situations are potentially dangerous, as the person removing the cap is at risk of being engulfed in vapour or wetted with petrol. In addition there is the risk of serious physical injury being sustained where quick-release caps are in use, as these devices can be displaced with considerable force when released.
- 22) There have also been other operational problems attributed to vapour recovery systems, namely:
- a) Pressures inside the storage tanks have affected simple contents measuring systems (dipsticks and hydrostatic gauges) leading to inaccurate wetstock control.
- b) Excessive backpressures or vapour locks have caused deliveries to slow down or even stop.
- 23) If a vapour recovery system is properly designed, installed and maintained it should not adversely affect the safety/efficiency of the unloading process and instances of over-pressurisation, vapour lock or vapour release should not occur. It is, therefore, important that an effective maintenance regime is in place and adhered to. Staff training also has an important role to play in the safety/efficiency aspects of the vapour recovery system as they can recognise and report any problems that would indicate a fault on the system. For instance, reporting unusually slow deliveries and instances of vapour locks, pressurisation and vapour release through the pressure/vacuum valve.
- 24) At sites where a Stage 2 vapour recovery system returns the vapours displaced during the dispensing operation to one of the storage tanks, problems have arisen from the pressure build-up in the tank which has been the cause of petrol vapour spluttering from the vent pipe, rattling pressure/volume (p/v) valve and petrol vapours escaping from tank lid fittings. The cause of this problem has been attributed to a combination of natural vapour pressure, the volume of vapour returned being slightly in excess of that removed and the temperature of the returned vapour and air being significantly lower than the temperature in the storage tank. As the temperature in a storage tank remains at a fairly constant 12 °C, this problem is particularly acute in the winter months when the temperature of the displaced vapour can be at or around 0 °C. The result of cold vapour and air entering a tank with an ullage space at a significantly higher temperature is the expansion of the vapour and air causing an increase in pressure.
- 25) A solution to this problem, which is now acceptable to DEFRA, is the fitting of an orifice plate at the outlet of the vent pipe. The orifice plate (a disc with a central 10 mm hole) will allow air into the tank when petrol is being dispensed and will release any excess pressure as it slowly rises, thereby maintaining the tank at atmospheric pressure. Where an orifice plate is fitted, it should be supplemented with a pressure release valve to facilitate emergency venting should there be blockage or serious restriction to the vapour flow during a Stage 1b delivery.
- Note: Under the terms of Regulations made under the Environmental Protection Act 1990, road tanker unloading at petrol filling stations becomes a prescribed process which must be registered with, and authorised by the local district council in England and Wales. In Scotland, it is the Scottish Environment Protection Agency<sup>[31]</sup>. In Northern Ireland it is the local council.
- 26) There will be occasions at operating sites where one or more tanks are low in product or even empty of product. In the latter case typical examples will be where a tank has been cleaned or where there is to be a grade change. For the purposes of this guidance, the term 'low in product' refers to a condition where all the product has been drawn-off by the dispensing pump but a liquid seal remains at the drop tube.
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- 27) In order to reduce the risk of petrol or vapours being released from the fill pipe of the tank with a low product level or an empty tank, it is important to ensure that this is the first to receive product when the next delivery takes place.
- 28) If, for operational reasons, it is necessary for any tank to remain empty of product on a short term basis, it should be isolated from the manifolded vapour recovery system if the other tanks on site are to continue receiving deliveries.
- 29) If for any reason a situation arises where all the tanks on site are low in product or empty, the procedure detailed in paragraph 12 of section 8.1 should be followed when a road tanker delivery takes place.

### **OVERFILL PREVENTION**

- 30) As well as marking fill point connections, further controls are needed to prevent tanks or compartments being overfilled. These include marking measuring devices, dip sticks and gauges with the same unique identifier as the tank they serve.
- 31) Many tanks have overfill prevention devices (OPD) which automatically stop the flow of petrol when a predetermined level is reached. Where these devices are installed, they must be maintained in a safe working condition. They should be set so that, when triggered, any petrol remaining in delivery hoses can safely drain into the storage tank. Storage tanks can also be fitted with high-level alarms to warn when petrol has reached certain levels.
- 32) Alarms and OPDs are meant to be used as a backup to accurate stock control to ensure that tanks receive the correct amount of petrol. You need to be able to accurately determine the ullage in your tanks and only order the quantity of petrol the tanks can accept.
- 33) More detailed guidance on establishing safe operating limits for storage tanks fitted with OPDs or high level alarms can be found in the EI's publication Design and operating limits for fuel storage tanks at retail filling stations<sup>[34]</sup>.

### **SPLIT DELIVERIES**

- 34) The risk of an overfill situation occurring is increased when the contents of the compartment on the road tanker exceed the ullage space of the storage tank to be filled. Unloading a road tanker in this event is referred to as a 'split delivery'. Split deliveries should, therefore, be avoided whenever possible. It is, however, not always possible to avoid split deliveries at some small and rurally located sites. Where it is necessary to unload the road tanker by splitting a compartment between two storage tanks, procedures must be in place to reduce the risks of overfills occurring.

### **STATIC ELECTRICITY**

- 35) Conditions that cause static electricity to be generated are present on petrol filling stations from:
  - a) the road tanker, which can become electrically 'charged' during the journey to the filling station;
  - b) the flow of petrol through the delivery hose to the storage tanks, and
  - c) personnel involved in the delivery process becoming charged with static electricity.
- 36) The inadvertent ignition of flammable vapours by a spark from a static discharge can be avoided by ensuring that:

- a) The forecourt surface on and around the road tanker stand does not have a high electrical resistance and allows the static charge to go to earth via the road tanker's tyres or the footwear of personnel. High resistance surfaces such as asphalt and certain impervious sealants should be avoided.
- b) The storage tanks and delivery pipework are adequately earthed. This is particularly important at sites provided with non-metallic off-set fill pipework.
- c) The driver and the person assisting with the delivery are provided with anti-static footwear.
- d) More detailed information is available in the EI publication *Model code of Safe practice Part 21: Guidelines for the control of hazards arising from static electricity*<sup>[35]</sup>.

### THERMITE REACTION

- 37) The widespread use of aluminium couplings on road tanker delivery and vapour recovery hoses together with the prevalence of fittings/equipment made from steel in the immediate fill point area of a filling station, access chamber covers and frames etc, creates the conditions for an incendive spark to be generated if a coupling makes a sharp impact with rusty steel.
- 38) In order to reduce the likelihood of a coupling being dropped or coming in contact with rusty steel, the following precautions need to be taken:
  - a) Safety platforms, made from non-ferrous materials, should be fitted in direct fill chambers where the chambers are deep.
  - b) A capture device should be fitted to attach the fill pipe cap to the fill pipe.
  - c) Any steel drainage channels in close proximity to where the delivery/vapour recovery hoses are handled should be replaced with non-metallic gratings when any redevelopment works take place.
  - d) Any fixed steel items, e.g. above ground fill pipe protection posts, should be treated so as to prevent/remove rust.
- 39) The EI guidance on *Quantified risk assessment of the ignition of flammable vapour on petrol filling station forecourts during road tanker offloading due to thermite sparking*<sup>[36]</sup> provides further information.

### DEALING WITH SPILLAGE

- 40) The number of road tanker compartments unloaded simultaneously into tanks should not be more than:
  - a) the number that can be safely managed at any one time, or
  - b) the maximum number allowable to achieve correct vapour balancing.
- 41) Even if you have taken reasonable steps to prevent an incident, a spillage can still occur, for example, if a delivery hose connection catastrophically fails. You must have procedures to follow and equipment available if something goes wrong. The procedures should be in writing and available at all times to staff on site, including the delivery driver.
- 42) Tanker standing areas should have design features to deal with spillages, such as diversionary kerbs, slope to a safe area, drainage grids/channels and interceptor or constructed wetland systems. Where such features are provided it is important that they have the capacity to collect/retain a sudden release of a minimum of 3 000 litres of petrol or diesel. It is also important that they are properly maintained; for example, make sure drainage channels are regularly cleared of debris like leaves or mud.

- 43) If you do not have permanent physical features of this type you may have to rely on temporary equipment, such as moveable bunds, supported by operational procedures and management controls. You must always provide suitable absorbent material for mopping up small spills during unloading.

### **ASSESSING THE RISKS**

- 44) For each stage of the unloading process, identify what could lead to a spillage and where possible sources of ignition could occur. Think about the ways to prevent each event, and minimise the consequences if they occur. Decide whether the precautions you have in place are enough, seek advice if necessary from the road tanker company or the local PEA Inspector, and write down the outcome.
- 45) Table 2 shows one way to complete this process. The control measures column gives some examples of the precautions that could be taken; there may well be alternatives. Also, some measures are most appropriate to new sites and those being refurbished than older, existing sites, where the cost of installing them could be disproportionate to the risk. Remember that you must provide sufficient control measures to keep the risk as low as is reasonably practicable.



**Table 2: Controlling the risks from unloading and venting**

Activity	Risk	Control measure
Tanker access	Collision whilst moving on site or during unloading	<ul style="list-style-type: none"> <li>– Provide and maintain a dedicated clear route</li> <li>– Where possible, arrange that the tanker can be driven off the site in a forward direction</li> <li>– Locate tanker-standing area away from other traffic</li> <li>– Cordon off the tanker standing area</li> <li>– Where necessary, provide supervision or assistance to the driver whilst the tanker is manoeuvring</li> <li>– Provide the delivery firm with advance information on site layout and systems, etc</li> <li>– Ensure adequate lighting when necessary</li> <li>– Take deliveries when the site is closed or at quiet periods e.g. at night</li> </ul>
Unloading process	Leak from connection or rupture of hose	<ul style="list-style-type: none"> <li>– Ensure staff are trained and the driver follows the correct procedures</li> <li>– Have emergency procedures in place</li> </ul>
	Overfilling storage tank or compartment	<ul style="list-style-type: none"> <li>– Establish safe operating limit for the storage tank</li> <li>– Make sure fill points are clearly marked, suitable and maintained</li> <li>– Follow laid down procedure for checking tank ullage</li> <li>– Ensure siphon pipes are closed down during the delivery</li> <li>– Provide and maintain an overfill prevention device</li> <li>– Make sure that any dispensers close to the unloading area are switched off during deliveries</li> <li>– Ensure site operative is trained and tanker driver follows the correct procedures</li> <li>– Make provision for containing and controlling any spillage e.g. sloping ground, drains/interceptors</li> <li>– Make provision for retaining spillages that occur in the tank fill point chamber (brick built chambers can be unreliable in retaining spillages)</li> <li>– Draw up emergency procedures and ensure staff are trained in how to deal with a fire, a spillage and an over-fill situation</li> </ul>
Venting and vapour emission controls	Accumulation of vapour	<ul style="list-style-type: none"> <li>– Consider location of vent pipes if changes to the layout of the site are made</li> <li>– Check height of pipes and extend if necessary</li> <li>– Repair or replace corroded or damaged pipes</li> </ul>
	Over pressurisation of the tanks	<ul style="list-style-type: none"> <li>– Train staff in the operating principles of the vapour recovery system so that they can recognise and report problems that would indicate a fault in the system; e.g. 'vapour lock', slow deliveries, pressure in the fill pipe(s), or vapour release from the p/v valve</li> </ul>
	Ignition of vapour	<ul style="list-style-type: none"> <li>– Fit and maintain flame arresters</li> </ul>

**Table 2: Controlling the risks from unloading and venting**

Activity	Risk	Control measure
Static electricity	Ignition of vapour	<ul style="list-style-type: none"> <li>– Make sure that the resistance of the road tanker standing area surface does not have a resistance exceeding <math>10^8 \Omega</math></li> <li>– Make sure that the storage tanks and associated pipework are properly earthed and bonded to the delivery pipework</li> <li>– Where the vapour recovery hose is kept at the site, ensure that it is checked by a competent person for electrical continuity</li> <li>– Provide employees with anti-static footwear (for driver assisted deliveries)</li> </ul>
Thermite reaction	Ignition of vapour	<ul style="list-style-type: none"> <li>– Make sure that non-ferrous safety platforms are fitted in deep fill point access chambers</li> <li>– Make sure that fill pipe caps are fitted with captive devices</li> <li>– Make sure that any fixed steel items in close proximity to the fill points are treated to prevent corrosion; e.g. drainage channels</li> </ul>
General		<ul style="list-style-type: none"> <li>– Control ignition sources in hazardous areas</li> <li>– Provide suitable fire extinguishers and keep them ready for use</li> <li>– Draw up emergency procedures and train staff</li> </ul>

### 8.3 STORAGE

#### INTRODUCTION

- 1) Site operators are responsible under DSEAR<sub>(1)</sub> for ensuring that petrol is stored safely. A range of control measures, from the initial suitability and integrity of storage tanks, to ongoing management and maintenance, can all help to ensure that the risk of a leak of petrol, and therefore the safety of people on and around the site, is as low as possible.

#### SELECTION OF TANKS

- 2) Where new tanks are being installed, your risk assessment should identify the level of control required for your site and hence the type and standard of tank that is appropriate. Some sites require higher standards than others because of the risks from a leak. For example, a high standard of containment might be needed for a tank at a new or re-developed site in a residential or urban area where the filling station is surrounded by domestic and commercial properties, or where there are nearby cellars or basements into which petrol could leak. You should also take account of environmental requirements and may need to consult the relevant environment agency before deciding what type of tank to install.

- 3) The Blue Book<sub>[2]</sub> gives guidance on design, construction and installation standards for above and below ground petrol storage tanks. You should always take steps to ensure that a suitable type of tank is selected and installed.

#### **UNDERGROUND TANKS**

- 4) Underground tanks should be selected, sited and installed so that the risk of leakage is reduced to the lowest level that is reasonably practicable.
- 5) Tanks should be suitable for the prevailing ground conditions and suitably protected from corrosion and premature degradation by chemical attack.

#### **ABOVE GROUND TANKS**

- 6) The immediate risk of fire and explosion from a leak from an above ground tank is greater than from an underground tank. Where tanks are installed, or are planned to be installed, above ground, an assessment should be carried out to determine the risks from the unloading process, a leak of petrol from the tank, a fire or explosion, site traffic arrangements which could lead to a vehicle colliding with the tank, other types of impact, and vandalism.

#### **MARKING OF TANKS/COMPARTMENTS**

- 7) Tanks and fill points, which are connected, must be uniquely marked. Markings on tanks/compartments and associated equipment, including dipsticks and contents gauges, should be clear and legible at all times to help avoid confusion or errors. Incorrect marking could result in petrol being transferred into a tank that has insufficient ullage or contamination of product leading to expensive and hazardous procedures to remove the contaminated product from the tank.

#### **DETECTING LEAKS**

- 8) Leaks from underground tanks cannot usually be observed directly and are, therefore, more difficult to detect than leaks from tanks installed above ground. At one petrol station in an urban area, 50 year old tanks were found to have leaked petrol into the basement of nearby flats. Fortunately, the petrol was discovered before the vapour had built up to a dangerous level. Sources of ignition were removed and the flats evacuated. An evaluation of the risks of the tanks leaking should have been made which, together with a suitable inventory or leak detection system, could have found the leak before it became a risk to the public.
- 9) The results of a risk assessment will enable you to decide the level of control needed to identify and deal with petrol leaks. A number of leak prevention and leak detection methods exist. To be effective, the method you select needs to either prevent a release of petrol or provide early warning of a leak to enable remedial actions to be taken quickly so that people are not put at risk. You will also have to consider risks to the environment from a petrol leak and may need to consult the relevant environment agency. If your site is located in an area where a leak of petrol would be a serious risk to public safety or a serious contamination risk to groundwater, you will need to install leak prevention controls instead of leak detection as the latter will only give warning after petrol has escaped from the containment system.

**CONTINUOUS INVENTORY MONITORING**

- 10) Whilst it is good business to control wetstock, continuous (daily) inventory monitoring is also the most basic and simple form of leak detection. Consistent and accurate monitoring of the amount of petrol unloaded, stored and dispensed can allow leaks from tanks and pipework systems to be identified. Manual inventory checking is usually only suitable as the sole method of leak detection at sites which have a low throughput of petrol where information about gains and losses is likely to be more reliable.
- 11) The simplest way to manually carry out inventory checking is to use dipsticks. Automatic stock reconciliation systems can provide an instant display of any discrepancy and might be a more reliable control method at sites having more than a very low throughput. Whatever method is selected, the record should show all gains and losses for each tank or compartment and connected pipeline system. This will allow you to detect unusual trends of stock variation, which could indicate a leak.
- 12) The effectiveness of inventory monitoring as a method for detecting leaks depends on a number of factors:
  - a) the reliability of the measurement i.e. the accuracy of the contents gauge or dip;
  - b) accurate recording of sales and deliveries, and
  - c) a competent assessment of trends indicated by the results.
- 13) Competent assessment means comparing results over a period of time, taking into account the possible effects of significant temperature variations on volumetric measurement, the loss of petrol through vapour release, for example during tank or compartment filling, and examining the results of checks for the presence of water. Assessments should be carried out by someone who is competent to analyse the figures and produce results and trends (this could be the site operator or someone contracted to assess the information or the use of specialist computer software). Small daily discrepancies, which over a period tend to vary around a norm, are likely to arise from factors other than leakage. Significant leaks are soon apparent; it should be possible to identify smaller leaks from trends established over a period of days rather than months.

**STATISTICAL INVENTORY RECONCILIATION (SIR)**

- 14) SIR systems establish acceptable stock reconciliation profiles by statistical analysis of the daily losses and gains for each tank. As well as considering daily stock variances, SIR systems also consider the cumulative variances as a percentage of the cumulative sales in order to identify trends and anomalies. They can be operated by independent third parties or by in house personnel.
- 15) Appendix 1 details a recognised methodology for carrying out statistical inventory reconciliation.

**CHECKS FOR WATER**

- 16) If a tank fails, variations in the water table may mean that petrol could escape or, conversely, that water could enter the tank. Where practical, inventory checking should be supported by periodic checks for water in each tank or compartment, which might be affecting inventory results. Water can be detected with water detecting paste on the dipstick. Automatic water detection is included in some tank gauge systems. A certain amount of water will be present in the bottom of a storage tank

due to condensation. However, the amount should be negligible and any increase in water levels would indicate that the tank has developed a leak.

### LEAK DETECTION SYSTEMS

- 17) Proprietary leak detection systems constantly monitor for petrol in locations that would indicate a leak from the tank. Such systems remove the need for inventory checking as the primary means of detecting leaks.
- 18) Leak detection systems are appropriate at sites with a larger throughput of petrol where frequent changes in the volume of petrol stored make inventory checking more difficult and less reliable, thus presenting a greater risk to the safety of people on or around the site if a leak is undetected.
- 19) Leak detection systems work in different ways and have different levels of sophistication. The Blue Book<sup>[2]</sup> gives guidance in selecting an appropriate class of detection system.

### TANK TESTING

- 20) When a leak is suspected, for whatever reason, it should be thoroughly investigated. This may involve taking a tank out of service and inspecting it or carrying out a precision tank test. A variety of testing methods exist: volumetric, vacuum and low pressure. The investigation should take into consideration reasons other than leaks, which may cause wetstock discrepancies **before** tank testing is carried out. A recommended investigation sequence is:
    - check the reconciliation figures to ensure the arithmetic is correct and that all deliveries and other stock movements have been accounted for;
    - check the wetstock control procedures are carried out correctly and whether forecourt staff require additional training;
    - check for any obvious leaks from pipe joints in manhole chambers, electrical ducts, drainage systems and around the dispenser base;
    - check for any increases in petrol smells. Take into account any reports or complaints from neighbours;
    - have the dispensers checked for accuracy;
    - check the tank contents measuring system. Check the dip stick for damage or the gauging system for correct operation. Check whether tank gauges need to be recalibrated or serviced;
    - check the tanks for water ingress;
    - have the pipework tested for leaks, and
    - consider fraudulent activities or short deliveries.
  - 21) Testing may also be appropriate when someone takes over the operation of an existing site. You may also want to consider periodic testing where there are nearby structures, such as underground railways or basements, in which people could be at risk in the event of a leak.
  - 22) The most appropriate test method will depend on the type of installation at your site. Before selecting a particular test find out whether:
    - a) the test has third party accreditation, if so for what fill levels, tank sizes and ullage volumes;
    - b) the test takes account of the water table;
    - c) the ullage space is tested;
    - d) there are any safety features, and
    - e) the operators have been properly trained.
-

- 23) Tank tests should be supported by documented procedures and you should ensure that the test is carried out by people who are competent in the operation of the particular test used. Depending on ground water levels it is possible for tests to give false assurances, i.e. a tank may leak but pass the test. You may want to seek advice on testing from a PEA Inspector.
- Note: It should, however, be borne in mind that periodic leak testing is not an alternative to having a recognised and appropriate method of leak detection in operation.*
- 24) PELG-PETEL/09 *Leak detection, tank and pipework testing, storage of petrol*<sup>[23]</sup> provides further information on this subject.

## MAINTENANCE, REPAIRS AND MODIFICATIONS

- 25) Tanks and their associated equipment, including leak detection and overfill prevention systems, fill pipes including the drop tube, access chambers and their covers, are key areas where maintenance is vital. This will help to ensure the effectiveness of the tanks and safety and emergency devices.
- NOTE: PELG-PETEL/10 *Leaking drop tubes: Petrol filling stations – Safety implications of leaking drop tubes and vapour retention devices*<sup>[37]</sup> provides more detailed information on the problems associated with leaking drop tubes.
- 26) Work on petrol tanks is inherently dangerous and precautions should take account of the flammable contents, particularly when the tank or compartment is nominally empty. Maintenance, modifications and repairs should be carried out only by people who are competent to carry out this type of work.
- 27) Repairs involving hot work should not be considered on underground tanks. Explosion hazards exist from petrol that has leaked out of a tank and which returns either as liquid or vapour while hot work is in progress.
- 28) Tank repair companies should provide well-documented procedures covering safety, the standard to which the work is to be completed, and the means of monitoring. All tanks should be leak tested following repairs and before being brought back into use.

## CLEANING OF TANKS

- 29) Cleaning may be needed from time to time, for example to prepare a tank for re-lining, or to remove build-up of solid and liquid residues. This should only be carried out by competent persons under controlled conditions using a planned system, such as a permit-to-work. The HSE guidance note CS15 *Cleaning and gas freeing of tanks containing flammable residues*<sup>[38]</sup> provides further information. You will need to consider precautions such as clearing the surrounding area of ignition sources and isolating all pipe connections, including off set fill points. It may be necessary to close the site during the cleansing operation. The Approved Codes of Practice *Safe work in confined spaces*<sup>[39]</sup> and L138 *Dangerous substances and explosive atmospheres regulations 2002*<sup>[27]</sup> provide more detailed guidance.

## ASSESSING THE RISKS

- 30) Firstly, consider the age and design of the storage tanks and then look at the leak detection methods you currently use. You will need to decide whether these precautions are enough to detect leaks, or if you need to do more.
-

- 31) Table 3 shows one way you could go through this process. The control measures column gives some example precautions that could be taken; there may well be alternatives. Some measures are most appropriate to new sites or those being refurbished. For older sites the cost could be disproportionate to the risk. Remember that you must provide sufficient control measures to keep the risk to people's safety as low as is reasonably practicable.

**Table 3: Controlling the risks from storage**

Activity	Risk	Control measure
Petrol stored in underground tank	Leak through tank wall	<ul style="list-style-type: none"> <li>– Install a continuous inventory checking system</li> <li>– Install a suitable leak prevention or leak detection system and regularly maintain it</li> <li>– Install a tank liner</li> <li>– Install cathodic protection</li> <li>– Install a monitoring/retrieval well</li> <li>– Remove the dipstick from the (internal) fill pipe of tanks with off-set fill arrangements</li> <li>– Instruct staff not to drop the dipstick in the fill pipe after removing to measure contents</li> </ul>
Petrol stored in above ground tank	Leak through tank wall.	<ul style="list-style-type: none"> <li>– Provide spill containment</li> <li>– Install a monitoring or leak detection system</li> <li>– Carry out regular visual inspections of the tank and its fittings for signs of corrosion or damage</li> <li>– Regularly check for signs of leaks such as staining on outer surfaces or contaminated soil</li> <li>– Apply a suitable surface coating</li> </ul>
	Impact damage, such as collision or vandalism	<ul style="list-style-type: none"> <li>– Locate or re-locate tank away from normal site traffic route</li> <li>– Provide road marking or other signs to direct traffic</li> <li>– Provide physical protection such as bollards or fencing</li> </ul>
	Fire involving tanks and fire from an external source	<ul style="list-style-type: none"> <li>– Protect tank with an insulating material</li> <li>– Provide additional fire protection measures such as automatic fire detection equipment or suppression systems</li> <li>– Ensure that there is adequate separation between (unprotected) tanks and other features that pose a threat from fire or could be threatened by a fire involving the tank</li> </ul>
Repair to tank	Ignition of vapour due to repair work	<ul style="list-style-type: none"> <li>– Use competent contractors</li> <li>– Agree safety method statement or permit-to-work system</li> <li>– Cordon off and control ignition sources in area around tank as agreed with contractor</li> </ul>
	Leak due to faulty repair	<ul style="list-style-type: none"> <li>– Ensure repairs are carried out by competent staff according to written procedures</li> <li>– Draw up standards for repair work</li> <li>– Carry out a test tank before bringing equipment back into use</li> </ul>

## 8.4 PIPEWORK

### INTRODUCTION

- 1) Pipework includes:
  - a) direct and off-set fill pipes between the unloading point and the storage tank;
  - b) pipes to transfer fuel from the tank to the pump or dispenser by means of suction or pressure;
  - c) siphon pipes linking storage tanks;
  - d) vapour recovery system and ventilation (vent) pipes, and
  - e) fittings and valves associated with pipework.
- 2) Pipework needs maintaining to ensure its integrity, that it is safe to use, and is in a good state of repair. Leaks from pressurised systems have the potential to be particularly severe because of the way petrol can be forced out of the pipe under pressure. The Blue Book<sup>[2]</sup> gives technical guidance on the selection, construction, installation and testing of all pipework.

### UNDERGROUND PIPEWORK

- 3) Pipework, with the exception of part of the filling and vent systems, is generally installed underground. This gives greater flexibility over forecourt design and removes the need to protect the pipework from fire or impact damage.
- 4) However, underground pipework is the source of the majority of petrol leaks in petrol installations. Ground conditions and differential movement between the pipework and the tank, can cause corrosive and mechanical damage that result in leaks. Some leaks can find migration paths, which allow the petrol or vapours to escape from the site and affect neighbouring properties (especially those with basements) and other below ground features like tunnels and drains/sewers.
- 5) The possibility of off-site migration increases the possibility of an undetected build-up of petrol, and more importantly its vapour, with the potential for significant risks to people's safety.
- 6) The surface of the ground above pipework should be adequately reinforced to protect it from the weight of traffic. Where possible, pipework should not be located under buildings or other obstructions, which could hinder or prevent access for repairs or modifications.

### ABOVE GROUND PIPEWORK

- 7) Pipework installed above ground needs to be firmly supported and adequately protected against fire and corrosion, and from impact where it is adjacent to traffic areas. Above ground pipework should be constructed of materials resistant to light degradation.

### TYPES OF PIPEWORK

- 8) Pipework must be compatible with petrol or petrol vapour, have sufficient structural integrity to withstand operating conditions and be suitable for prevailing environmental conditions. It is commonly made of steel, glass reinforced plastic or other non-metallic material (e.g. polyethylene).



### SELECTION OF PIPEWORK

- 9) When pipework is installed at a new site or during changes to an existing one, select whichever type will best suit the circumstances of the site and therefore effectively keep the risks to people's safety as low as reasonably practicable. If you operate an existing site, find out what type of pipework has been installed and how old it is so that you can take account of it in your risk assessment. Use the results of the assessment to check whether you need to take any further precautions. Where safety and environmental factors require different standards, the higher standard will generally be needed.

### MARKING OF PIPEWORK

- 10) All pipework, valves and fittings should be clearly and permanently marked to make identification easy and to reduce the risk of error or confusion, which might create a risk. For example, direct or off set fill pipes and valves should indicate to which tank or compartment they are connected and working capacity of the tank or compartment. You may also want to show the type and grade of fuel. The EI's *Code of practice for a product identification system for petroleum products*<sub>[40]</sub> and the Blue Book<sub>[2]</sub> give further advice on the marking of pipework.

### LEAK DETECTION

- 11) All sites should have some method for detecting leaks from pipework. The methods are similar to those for detecting leaks from storage tanks. Guidelines on classes of leak detection for all types of pipework are described in the Blue Book<sub>[2]</sub>.

### CONTINUOUS INVENTORY MONITORING

- 12) The previous section, 8.3, under the sub heading Continuous Inventory Monitoring, explains when inventory monitoring may be an appropriate method of leak detection. Discrepancies which cannot be accounted for elsewhere, may indicate a leak from pipework. However, it is unlikely that simple dipstick methods would detect leaks from pipes unless there was major damage to the pipework.

### MONITORING AND LEAK DETECTION SYSTEMS

- 13) The previous section, 8.3, under Monitoring and Leak Detection Systems explains the types of leak detection and leak alarm systems which are available for storage tanks, and the criteria which should be applied in selecting and using one. The same principles apply to pipework. Use the results of the risk assessment to ensure that your system protects people's safety, so far as is reasonably practicable.
- 14) Some systems are suitable only for double skin pipework, such as those which constantly monitor the vacuum or pressure of the interstice or secondary containment area. Others, including those which detect petrol or vapour in the surrounding soil or water, or changes in the conditions of a pressurised line, are suitable for double or single skin pipework. Seek advice from the manufacturer, a competent contractor or a PEA Inspector if necessary. Whichever system you select should be installed and used in accordance with the manufacturer's instructions and be adequately maintained.

- 15) Additional safety controls are necessary for pipework which is part of a pressurised system. Pressurised pipework should have secondary containment and should be fitted with a continuous leak monitoring system, which will isolate the pump if a leak is detected. Additionally impact check valves positioned at the base of each dispenser will prevent the flow of petrol if the dispenser is struck or subject to intense heat. If it is not reasonably practicable to install this equipment, the system should be converted to suction operation.

### PIPEWORK TESTING

- 16) Pipework testing has an important role to play in the operation of petrol filling stations and leak testing will be necessary when:
- prior to the commissioning of new or repaired pipework;
  - when developing an in-house reconciliation system in order to confirm the integrity of the petrol containment system;
  - prior to bringing back into use any sections of pipework that have been out of operation for more than 12 months;
  - for the periodic testing of pipework where there is no recognised or suitable leak detection system available. For example, vapour pipework and where applicable off-set fill pipework, and
  - where a risk assessment identifies a specific need for periodic testing.
- Note: It should, however, be borne in mind that periodic leak testing is not an alternative to having a recognised and appropriate method of leak detection in operation.*
- 17) Where testing is necessary, appropriate test methods include:
- nitrogen gas pressure testing of non-pressure lines;
  - hydrostatic pressure testing on suction lines;
  - hydraulic pressure testing for pressure lines;
  - vacuum testing;
  - gas low pressure testing using a helium/nitrogen mix in association with a helium sensing device, and
  - any other suitable pipework testing system with an acceptable performance capability.
- 18) Valves and other associated equipment should be tested in accordance with the manufacturer's instructions.
- 19) PELG-PETEL/09 *Leak detection, tank and pipework testing storage of petrol*<sup>[23]</sup> provides further information on leak detection in tanks and pipework.

### MAINTENANCE, REPAIRS AND MODIFICATIONS

- 20) Maintenance, repairs and modifications work should be undertaken by people competent to carry out this type of work.
- 21) Pipework, including fittings, valves and any associated monitoring equipment, should be included in the site maintenance scheme. As most pipework is below ground there is little that can be visually inspected. However access chambers will allow the conditions of valves and joints to be checked for signs of corrosion, damage or leaks.
- 22) Any defective pipework should be taken out of use pending repair or replacement. Pipework to be extended or modified should be tested to ensure its integrity before any work is carried out. Similarly, it should be tested after work has been completed

and before it is brought back into operation. The previous section (8.3) under 'maintenance, repairs and modifications' draws attention to the safety precautions which need to be taken when working on storage tanks; the same measures apply to work on pipework.

- 23) Keep a record of any work carried out on pipework. Amend the site plan to reflect any extensions or modifications to the pipework system. This information will be useful when you carry out your risk assessment and will help you to decide when pipework, fittings and valves should next be examined or tested.

### ASSESSING THE RISKS

- 24) Consider the age and design of your pipework. Then look at the leak detection methods you currently use. You will need to decide whether these precautions are enough to detect leaks or if you need to do more.
- 25) Table 4 shows one way you could go through this process. The control measures column gives some example precautions that could be taken; there may well be alternatives. Also some measures are more appropriate to new sites or those being refurbished than older, existing sites, where the cost of them could be disproportionate to the risk. Remember that you must provide sufficient control measures to keep the risk to people's safety as low as is reasonably practicable.

**Table 4: Controlling the risks from pipework**

Activity	Risk	Control measures
Petrol/vapour in pipework	Leak through pipe wall	<ul style="list-style-type: none"> <li>– Carry out a visual examination of accessible parts</li> <li>– Carry out regular inventory checking</li> <li>– Install a constant monitoring device</li> <li>– Install a leak prevention system</li> <li>– Install a leak detection system</li> <li>– Install a check valve under the dispenser (for suction systems)</li> <li>– Carry out periodic leak testing of any sections of pipework not covered by a leak prevention/detection system according to the age and type of pipework; e.g. vent pipes</li> <li>– Regularly maintain and test monitoring/leak detection systems</li> <li>– Use non-corrodible or double skin pipework</li> </ul>
	Leak from pipework fittings	<ul style="list-style-type: none"> <li>– Carry out a visual examination of accessible parts</li> <li>– Maintain, and where necessary replace, fittings, valves, pumps, connectors and other equipment</li> <li>– Keep, on site, an up to date schematic diagram of tank to pump pipework layout</li> </ul>

## 8.5 DISPENSING CONTROL MEASURES<sup>1</sup>

### INTRODUCTION

The purpose of this section is to advise on the measures necessary to control the fire and explosion risks when petrol is being dispensed into vehicle fuel tanks or portable containers

<sup>1</sup> This section (8.5) updates and replaces the guidance given in the LACs [PETELs] 65/51, 65/59 and 65/59a.

at petrol filling stations with the aim of achieving a consistent application throughout the UK. The measures detailed do not preclude the use of alternative controls where that use provides equal or higher standards of safety.

This section also advises on the control measures for dispensing LPG where such facilities are provided at petrol filling stations. As the generally accepted trade term for automotive LPG is 'autogas', for ease of reference this term is used, where there are specific control measures needed. Where relevant, the control measures advocated for the dispensing of petrol may be taken to apply to the dispensing of autogas.

## BACKGROUND

The dispensing arrangements can operate in a variety of ways, from attended service, where site staff refuel customers' vehicles, through to sites that are unmanned and where customers refuel their own vehicles and containers without any on-site supervision or immediate assistance from the site operator. Some filling stations also function on an alternating system where the site is operated as attended self-service at busy periods (i.e. day time and evening) and as unattended self-service during quiet periods when throughput is low (i.e. late evening and through the night).

For the purposes of this document, the following terms are used as descriptors of the various methods of operation:

Attended service (AS):

A petrol filling station that is designed and constructed to function so that a trained attendant operates the dispensing equipment.

Attended self-service (ASS):

A petrol filling station that is designed and constructed to function with the customers operating the dispensing equipment under the supervision of a trained attendant; ASS may include pay@pump facilities with pre-authorisation. When under ASS operation, the attendant will be available to intervene where any unsafe activities are about to or are taking place and to assist any customer with physical disabilities or a customer who is encountering difficulties in operating the dispenser.

Unmanned site (UMS):

A petrol filling station where the outcome of the risk assessments concludes that subject to suitable and sufficient control measures, they may operate without the presence of staff, and customers operate dispensing equipment without onsite supervision.

There are four categories of 'UMS':

- 1) UMS1 – Unmanned petrol filling stations that serve a community, where local appointed person(s) take responsibility for the operation.
- 2) UMS2 – Petrol filling stations that normally operate as 'Attended' or 'Attended Self-Service' but change to 'Unmanned' at times of low volume of fuel sales.

Note: This will normally operate during late evening and overnight when the forecourt shop is closed. Typically, a limited number of dispensing positions are made available and staff are not immediately available; they may be monitored remotely by CCTV or direct vision from adjacent premises.

- 3) UMS3 – Unmanned petrol filling stations that serve a community but are operated on a commercial basis.  
Note: Typically, these sites would not be viable should they incur the cost of regular staff due to the low volume of fuel sales. As a guide their fuel sales will be below 1.25 million litres of fuel per annum of which petrol sales do not exceed 650,000 litres per year. \*These figures are as of January 2018 and may be subject to change due to future market trends.
- 4) UMS4 – Continuously unmanned commercially operated petrol filling stations with high volume of fuel sales.

### CONTROL MEASURES – AIMS AND OBJECTIVES

- 1) In respect of dispensing petrol and autogas, site operators have statutory obligations to comply with the requirements of DSEAR, section 3 of HSWA<sup>2</sup> and PCR 2014.
- 2) Section 36 of HSWA (offences due to fault of other person) has the effect of making a customer or some other person, not being an employee of the site operator, liable to prosecution if an act or default on the part of that customer/person results in the site operator not complying with their duties under HSWA or any of its relevant statutory provisions, i.e. DSEAR.
- 3) A typical example of a customer being at risk of being charged with a S36 offence would be ignoring the forecourt attendant's instructions and continuing to smoke or use a mobile telephone when dispensing petrol or autogas. The likelihood of the PEA instigating legal proceedings is increased if the act of the customer/other person results in the ignition of petrol vapour.

#### DSEAR

- 4) DSEAR places a legal obligation on the site operator to:
  - a) carry out a risk assessment of any work activities involving dangerous substances, i.e., the dispensing of petrol (and autogas where applicable);
  - b) provide measures to eliminate or reduce the risks of fire or explosion as far as is reasonably practicable;
  - c) provide equipment and procedures to deal with accidents and emergencies;
  - d) provide information and training to employees, and
  - e) classify places where explosive atmospheres may occur into zones and mark the zones with a specified EX sign where necessary, see the note below regarding the display of the EX sign.

This section covers the duties listed at a, b, c and d above.

Note to 4(e): As non-employees (customers) have access to the hazardous areas of retail filling stations, the provision of the standard signage 'Petroleum-Spirit – Highly Flammable' (together with the stated prohibitions on ignition sources) will serve as one of the control measures to comply with the employer's duties under section 3 of HSWA and avoid the need to display the EX sign; the relevance of the latter being meaningless to most members of the public.

#### HSWA (Section 3)

- 5) Section 3 (general duties) places a duty on the site operator (whether an employer or self-employed) to ensure, so far as is reasonably practicable, that persons not in his employment (i.e. customers and contractors) are not exposed to risks to their health

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<sup>2</sup> General duties of employers and self-employed to persons other than their employees.

and safety when petrol and/or autogas is being dispensed.

#### PCR 2014

- 6) Under regulation 12 petrol can only be dispensed:
  - For use in motor vehicles or motor boats.
  - To fill a suitable container or a demountable fuel tank.
  - For the purpose of maintenance or the calibration of a dispenser.
  - Persons under 16 are prohibited from operating a dispenser.
  - It is prohibited to supply (sell) petrol to any person under 16.

Note: The first bullet point can be taken to mean dispensing petrol directly into the fuel tank of a motor vehicle/boat.

### **RISK ASSESSMENT (DSEAR REGULATION 5)**

For petrol filling stations designed, constructed and maintained in accordance with industry standards, the likelihood of petrol vapour being ignited is minimal provided dispensing operations are carried out correctly and emergency procedures are in place.

- 7) It is a legal requirement under DSEAR that a suitable and sufficient site-specific risk assessment must be carried out to determine appropriate control measures.
- 8) In addition to any assessment required by paragraph 7, it will be necessary to carry out an additional site-specific assessment when deciding on the suitability of a filling station to operate in UMS modes. In this case the risk assessment should be undertaken in two phases. See paragraphs 31-49.

### **REDUCING THE RISK OF IGNITIONG PETROL VAPOURS – GENERAL CONTROL MEASURES (DSEAR REGULATION 6(4))**

The following are the general control measures that should be in place at all filling stations.

- 9) People should not be allowed to smoke or use smoking materials when dispensing petrol or autogas, or when in the hazardous area associated with the dispensers. This prohibition should extend to the use of electronic cigarettes (e-cigarettes). A more detailed explanation as to why the use of e-cigarettes should be banned on the forecourt can be found in the PELG-PETEL No.15 *Petrol filling stations – Safety implications with electronic cigarettes*.

Note: The decision as to whether the use of e-cigarettes by staff or customers in other areas of the site should be prohibited, as a health and welfare related issue, is for the employer to take.

- 10) Petrol should be dispensed only by means of dispensing equipment of an appropriate standard into the fuel tanks of internal combustion engines (i.e. on motor vehicles, motorbikes, boats, etc.) or into suitable portable containers. Exceptions to the latter are the calibrated vessels used for metrology purposes.

#### Suitable portable containers

- 11) Where portable containers are to be filled with petrol they should be removed from inside vehicles and be placed directly on the ground and filled with the nozzle-operating lever held open manually. Containers should be securely closed as soon as dispensing finishes. Pedestrian customers should not be allowed to take filled or used containers into the shop when paying for petrol.

Filling of more than two suitable portable containers

- 12) In considering the numbers of suitable containers that can be filled at one time you need to take into account the risks to the person filling the container and also to other people who may be using or working on the forecourt at the time.
- 13) A limit of two suitable portable containers is generally accepted as providing a reasonable level of safety on the forecourt and also allows for compliance with the non-workplace storage requirements imposed by regulation 13 (Schedule 2) of PCR 2014. This does not mean that greater numbers of containers cannot be legally filled but it will be for you to decide on the appropriate numbers based on a risk assessment and a review of your hazardous area classification; as is required of you by DSEAR.
- 14) The assessment must take into account the forecourt layout, the filling procedures and how you can ensure adherence with the filling procedures. Where a customer is 'at work' they will have duties under DSEAR and the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 to ensure that any dispensing and loading of the vehicle is carried out safely, and that person will also have duties to ensure compliance with the subsequent transport and storage legislation.
- 15) The risks from vapour release, spills and accidental ignition increase with the number of containers being filled; as do the consequences of any ignition. Where for example >10 containers are to be filled at any one time, it is important that in addition to the normal dispensing control measures, the following controls are incorporated into a 'written' filling procedure:
  - Electrostatic ignition risks must be effectively controlled by ensuring that all containers are placed on the ground when being filled and that the person or persons filling the containers are provided with anti-static footwear.  
Note: Regulation 7.5 of DSEAR requires an employer 'to ensure that appropriate work clothing which does not give rise to electrostatic discharges is provided for use in places classified as hazardous'.
  - The build-up of dangerous concentrations of vapours in vans or on high-sided vehicles must be avoided. Removing the containers from the vehicle prior to filling together with a procedure to ensure that container caps are only removed when the container is actually being filled should provide an effective measure to prevent vapour accumulation in/on the carrying vehicle. (Consideration should also be given by the customer to the method of securing the containers in place in/on the vehicle).
  - All containers should have their caps securely replaced immediately after filling.
  - After filling, containers should remain on the ground for a short period to allow for the safe dispersal of vapours from any wetting caused by petrol splashes or outflows.
  - Containers should be filled one at a time. The caps of the other containers, both empty and full, should remain securely closed. This control measure will prevent the escalation of a fire should an ignition occur.
  - The place used for the multiple filling of containers will need to be provided with some form of barrier to prevent members of the public entering the hazardous area when filling is in progress.
- 16) In order to implement effective control measures where the multiple filling of containers is to take place, you must enter into an agreement with the contractor or person requiring the petrol so as to ensure that the procedure is understood and followed by the person or persons filling the containers. This agreement should also

include the number of persons required to safely fill the containers and a time of day when the containers are to be filled.

Note: Regulation 11 of DSEAR imposes a duty on the employer responsible for the workplace to co-ordinate with any other employer sharing the workplace the implementation of fire and explosion control measures.

#### Controlling ignition sources continued

- 17) Engines of vehicles should be switched off before dispensing starts. Dispensing equipment should be operated in accordance with the manufacturer's instructions (e.g. equipment designed to be operated by an attendant should be operated only by an attendant). Delivery hoses should not be kinked or stretched.
- 18) Precautions to be taken when dispensing petrol into the tanks of motor cycles: There are many recorded cases of fires having occurred due to the overfilling of motor cycle and scooter tanks. Due to the close proximity of the tanks to hot engine parts and electrics, petrol vapour has been ignited either immediately upon the tank having been overfilled, or when the motor cycle is being restarted. The reason for overfilling can be associated with the fact that the filling of motor cycle tanks is directly into the portal of the tank and not via a fill pipe as with a car; having the nozzle placed into the fill pipe of a car enables the cut off mechanism to operate before the fuel reaches a level where it can be spilt; this is not always possible with the tank of a motor cycle, particularly when the customer is trying to top up the tank, or during times when the petrol has been adapted for winter temperatures and the fuel is more volatile. In view of this, and also to avoid the contamination of customers' clothing with petrol, the recommendation is to not permit the filling of motor cycles whilst the rider or passenger remains seated on the machine.
- 19) After dispensing, nozzles should be firmly stowed in their housings; for petrol dispensers this will switch off metering pumps and dispensers or, in the case of centralised pump systems, will isolate hoses from sources of pressure. For autogas dispensers this will close the solenoid valve and may also turn off the pump. If appropriate, hoses should be draped or suspended to avoid damage by moving vehicles, or by contact with abrasive surfaces.
- 20) If any equipment develops a fault, or if spills, leaks or other emergencies occur during dispensing, those operations should be stopped, and the nozzles returned to their housings. The electrical supply should be isolated from faulty equipment. Dispensing should not be restarted until any faults affecting safety have been corrected or any incidents have been dealt with.
- 21) Dispensers should be visually checked before the site is opened for business to ensure that no accidental or malicious damage has occurred whilst the forecourt is closed; particular attention being given to the condition of hoses and nozzles. At sites reverting from UMS operation to ASS, these checks should be carried out at changeover time. In the case of UMS, the checks should be carried out on a daily basis.

Note: Having such an inspection regime in place will serve as a control measure to comply with the site operator's duties under S3 HSWA.

#### Portable LPG cylinders

- 22) Gas supplier owned cylinders: Cylinders supplied on an exchange empty for full basis are owned by the gas supplier and are designed to be filled by weight. It is a requirement that only the owner or their authorised filler may refill the cylinders.



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### Customer refillable cylinders

- 23) Cylinders that are designed to be refilled by the public should be of a type that is recognisable by the forecourt operator and incorporate the following safety features:
- Be fitted with an overfill prevention device, that prevents the cylinder being filled above 80 % of its capacity.
  - Have a fill valve compatible with the nozzle of an autogas dispenser.

It is recommended that where the refilling of cylinders is being allowed a sign headed 'Cylinder filling operation' covering the responsibilities of the filler be displayed on or adjacent to the autogas dispenser(s). The sign should include the following:

- This site allows the filling of cylinders specifically designed to be filled from an autogas dispenser.
- Do not fill any cylinder that has suffered any damage or that is out of test date.
- In the event of a leak or overfilling – stop filling immediately and notify the site operator.

Should a forecourt operator choose not to allow these cylinders to be filled on their premises, it is recommended that:

- clear signage is displayed on or near the autogas dispenser(s) stating that cylinders may not be filled,
- their personnel are trained to refuse the refilling of cylinders.

To enable cylinders that are designed to be filled by volume to be filled from autogas dispensers, the forecourt operator should comply with the requirements of DSEAR in that they have:

- Carried out a risk assessment then implemented suitable and sufficient control measures.
- Trained their staff to ensure that the cylinder is placed level and upright before authorising the dispenser.
- Trained their staff to recognise the incidents that may occur during the refilling of cylinders and the action to take as the result of an incident involving a cylinder.

A supplier or manufacturer of cylinders that are designed to be refilled from autogas dispensers may provide means by which a forecourt operator may recognise their cylinders.

Additional information is available from the UKLPG.

### LPG containers attached to vehicles

- (24) LPG containers that are securely attached to a vehicle for heating or cooking purposes may be filled from the autogas dispenser on the provision that they:
- remain in situ for filling;
  - are fitted with an internal device to physically prevent filling beyond 80% of the full capacity; and
  - have a fixed filling connection external to the vehicle.

### Adaptors for autogas filling

- 25) Dispensers on UK forecourts are fitted with nozzles to connect onto vehicle 'bayonet' filling connections, however vehicles, especially from continental Europe, may have other designs of filling connections so drivers then carry adaptors so that they can fill at any forecourt autogas dispenser.
- 26) Site operators should have a policy in place for the use of adaptors, this could be that the use of adaptors is not permitted. Alternatively, should they have satisfied themselves that they have identified and implemented the control measures that address the additional risks associated with the use of adaptors, they may consider their use. Their policy should be included in the training of forecourt staff.

- 27) When an adaptor is used by a customer the forecourt attendants needs to be aware of the following:
- The released volume of gas is much greater than when disconnecting from a normal fill coupling.
  - Some adaptors use small bore connections to secure the adaptor to the vehicle. These connections can be easily damaged or distorted by the weight of the nozzle.
  - The adaptor relies on a seal which must be present and in good condition to guarantee a seal during filling.
  - In extreme cases the flow may be reduced causing higher load on the LPG pump and/or it is outside the calibrated range of the dispenser. This usually results in the meter under reading.
  - The extra length of the adaptor will provide a greater bending movement. If the fill coupling has not been properly installed this can distort the panel of a vehicle or even cause the thread of the adaptor to shear leaving the broken piece in the nozzle.
  - The nozzle must be disconnected from the adaptor before it is removed. Should the adaptor be removed first or break whilst in the nozzle, the adaptor will hold open the nozzle valve and allow the contents of the hose to escape.
  - If a vehicle drives away whilst still connected, the adaptor may shear before the hose pull-a-way coupling parts.
  - If the adaptor is not correctly fitted there is a risk of unscrewing the adaptor when disconnecting the filler nozzle.

#### Forecourt attendants

- 28) Although not an age restriction stipulated in PCR 2014 or any other health and safety legislation, it is recommended that no one under the age of 18 years should be left in sole charge of a filling station and no one under the age of 16 is to be a forecourt attendant.

#### Mobile devices

In this section of guidance, an electronic device can be thought of as any mobile device that may be used on a forecourt, such as a mobile phone, tablet, camera, laptop computer, or any other type of device, such as a smartwatch.

- 29) Generally electronic devices used by the public are not designed and certified for use in explosive atmospheres. Their use can also create a serious distraction for people carrying out dispensing activities. Radio transmissions from individual electronic devices are generally too low to induce dangerous electric currents in nearby equipment and the risk of incendive sparking from the battery is low; however, they should not be used in the hazardous areas that exist when actually dispensing petrol. Neither should they be used in the hazardous areas around the fill and vent pipes during petrol deliveries.
- 30) Rather than applying a total prohibition on the use of electronic devices on filling station forecourts, which has resulted in some anomalies and frequent abuse to staff, the following controls are recommended:
- electronic devices should not be used by customers or forecourt staff whilst actually dispensing petrol;
  - during petrol deliveries electronic devices should not be used on those parts of the site that have been designated as hazardous areas by the site operator or the driver, and

- electronic devices should not be used during other petrol handling operations or during the maintenance of petrol equipment unless a specific assessment shows the risks are negligible.
- 31) There is no need to restrict the use of electronic devices, with respect to the safe keeping of petrol, at other times or in other areas of the forecourt. This includes in the shop, in motor vehicles parked on the forecourt or in other non-hazardous areas.
- 32) The use of radio equipment fitted on emergency vehicles and citizen band (CB) radios may create an ignition risk. These types of transmitting equipment do have a power output sufficient to induce dangerous electrical currents in nearby fixtures and they should not be allowed to be used at the dispensing points or in the vicinity of the road tanker when unloading. It should be noted that the radio equipment mounted on most emergency vehicles is under automatic interrogation from the base station. This means that radio messages are being received and transmitted without anyone speaking into a hand set. It is the duty of all employers to comply with DSEAR, and therefore they should carry out a risk assessment and implement all identified control measures to ensure the safety of their employees when working within the hazardous zones where a potentially explosive atmosphere may occur on a petrol forecourt. This would include the process fuelling of vehicles fitted with radio equipment within the hazardous zones associated with petrol, LPG (and as relevant LNG) dispensers; and during road tanker discharge, if this operation is taking place at the time.

#### Customer payment applications for electronic devices

- 33) Where site operators offer payment by electronic device, the traditional warning sign informing the customer of a prohibition on the use of electronic devices (for example, 'Switch off Mobile Phones' can cause confusion and reduce adherence to such signage. Customer demand for payment by electronic device and the need to reduce confusing messages sent to the consumer on sites has been considered, with the following signage option proposed for site operators to adopt where electronic device payment is permitted.



**Except for fuel  
payment**

- Where a PFS has the facilities to do so, and wishes to offer payment by electronic device, signage should be changed to show a prohibition of electronic devices apart from for payment purposes only. See example to the right.
  - This sign will discourage any use of an electronic device on the forecourt, other than for payment. Further safety guidance should be provided within the app, which includes a request for the user to remain in the vehicle whilst using the application.
- 34) Where a PFS does not wish to offer payment by electronic device, or does not have the facilities to do so, it can continue to use the current sign, which prohibits electronic device use on the forecourt altogether. This has the benefit that only sites that wish to use electronic device payments will have to make any changes to the current forecourt and should avoid any further customer or industry confusion.

#### Portable credit/debit card terminals

- 35) The introduction of high security chip and PIN credit/debit cards together with the requirement to provide equivalent services for disabled drivers has created a need for portable credit/debit card terminals to be used at the disabled driver's vehicle after it has been filled with petrol.

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- 36) Not all portable credit/debit card terminals will be suitable for use in Zone 1 or Zone 2 areas. They may be used, however, on the forecourt by trained attendants provided suitable procedures are established and adopted that will prevent the terminals from being taken into the temporary hazardous areas that will arise during petrol dispensing. The procedure will include the attendant ensuring that there are no petrol spillages in the area and that petrol is not being dispensed from any nozzles within 1 metre of where the terminal is to be used.

Housekeeping:

- 37) In order to reduce the risk of a fire on the forecourt, there should be a maintenance regime in place that will ensure waste bins on the forecourt are regularly emptied and combustible refuse is not allowed to accumulate within the curtilage of the filling station.

Such a preventative measure is especially important at sites operating as UMS.

**MITIGATION MEASURES (DSEAR REGULATION 6(5)) & ARRANGEMENTS TO DEAL WITH ACCIDENTS, INCIDENTS AND EMERGENCIES (DSEAR REGULATION 8)**

- 38) In order to comply with the requirements of regulation 6(5) and regulation 8, the site operator will need to make arrangements to prevent the spread of any outbreak of fire on the forecourt and have procedures and equipment in place to deal with any emergencies.
- 39) In the practical terms of a petrol filling station, the site operator must have arrangements in place to deal with any fire on the forecourt or any spillages of petrol or releases of autogas.
- 40) Where the site functions in an AS or an ASS mode, a suitably trained employee (the attendant) should be in a position to immediately:
- call the fire and rescue service or ambulance;
  - tackle a fire if it is safe to do so;
  - deal with any spillage of petrol or diesel (the latter to avoid a situation of vehicles skidding or persons slipping when entering the dispensing area);
  - deal with any incidents involving an autogas dispenser (on sites where there is an autogas facility);
  - close the site down, should that be necessary;
  - shutdown any defective dispenser, and
  - render assistance to any customer who has been splashed or drenched with petrol or who has suffered any other accidental injury; for example, cold burns from being in contact with autogas.

Note: The provision of personal protective equipment (PPE) and training to avoid skin contact with liquid phase propane (autogas) and deal with cold burns is the site operator's duty under the Control of Substances Hazardous to Health Regulations 2002.

- 41) Experience has shown that fires on forecourts are infrequent events; therefore, on the balance of probability, there are likely to be more instances of spillages (and consequential contamination of customer's clothing) than that of fire.
- 42) For filling stations that function in the UMS modes, the immediacy of reactions to an event by a trained attendant will not be available, so the site operator will have to put in place special arrangements to comply with their DSEAR statutory duties.
- 43) Guidance on the appropriate measures to deal with spillages is given in paragraph 79 of this section.
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**PROHIBITIONS IN REGULATION 12 OF THE PETROLEUM (CONSOLIDATION) REGULATIONS 2014**

- 44) In order to comply with the requirements of regulation 12, site operators will need to have control measures in place that will ensure that:
- The petrol is dispensed directly into the fuel tank of a motor vehicle or motor boat.
  - The only containers to be filled with petrol are suitable portable containers or demountable fuel tanks.

Note: The exceptions to the above restrictions are where petrol is dispensed for maintenance or calibration purposes.

- No person under the age of 16 years is allowed to operate a petrol dispenser.
- Petrol is not supplied (sold) to any person under the age of 16 years.

Note: With the exception of the supply of petrol to <16s, the above prohibitions apply to the site operator and to the person (customer) dispensing the petrol. For example, a person dispensing petrol, at a UMS site, into an unsuitable container will be in breach of regulation 12.

**TRAINING OF FORECOURT ATTENDANTS AND STAFF/CONTRACTORS REQUIRED TO RESPOND TO INCIDENTS**

- 45) It is a requirement of the DSEAR (regulation 9) and the Management of Health and Safety Regulations 1999 to provide adequate training and relevant information for all employees involved in the storage and handling of any dangerous substances. It will, therefore, be necessary to identify the training and retraining needs of forecourt staff and responders by an assessment of the risks relating to fire and explosion.
- 46) Training in matters relating to the dispensing operation for sites functioning in AS or ASS modes should include:
- procedures for activating and controlling dispensers (including autogas dispensers where installed);
  - the method of operating the dispensers (in the case of autogas, the method of connecting the nozzle to the fill point on the vehicle);
  - safe dispensing procedures (including the dispensing of autogas);
  - the site operator's policy on the use of autogas nozzle adaptors and the correct use of adaptors where the policy permits;
  - use of customer information systems, e.g. public address systems;
  - safe filling of portable petrol containers;
  - dealing with customers' enquiries on safety matters;
  - spillage control and emergency procedures during dispensing including the theoretical use of the types of fire extinguishers provided;
  - recognising the circumstances when it is not safe to authorise a dispenser and when pre-authorisation should be over-ridden;
  - understanding customer behaviour and unacceptable customer practices;
  - dealing with customers that have been splashed with petrol or suffering from cold burns (See paragraph 39)
  - when and how to summon further assistance, including calling the emergency services, and
  - procedures for closing part or all of the site when there has been a malfunction of equipment or a fire or spillage incident, including electrical isolation of relevant equipment.

- 47) For sites that are functioning in UMS mode, it will be necessary to train the staff, or contractors that have the responsibility for attending/responding to incidents on the forecourts in:
- procedures for activating and controlling dispensers;
  - safe dispensing procedures;
  - use of systems for monitoring, communicating with and controlling equipment, e.g. CCTV, dispenser controls, emergency and information telephones or other communication systems or equipment control systems;
  - safe filling of portable petrol containers;
  - dealing with customers' enquiries on safety matters;
  - spillage control and emergency procedures during dispensing including the theoretical use of the types of fire extinguishers provided;
  - understanding customer behaviour and unacceptable customer practices;
  - dealing with customers that have been splashed with petrol;
  - when and how to summon further assistance, including calling the emergency services, and
  - procedures for closing part or all of the site when there has been a malfunction of equipment or a fire or spillage incident, including electrical isolation of relevant equipment.

## **SITES OPERATING IN UNMANNED MODE**

### Overview

- 48) The decision to operate a filling station in UMS mode will usually emanate from a business perspective or in the case of remote rural locations by the civic need to provide a local facility on a 'cost effective' basis. The extent of engineered and managed controls will need careful consideration to ensure that any emergencies or incidents are effectively and quickly dealt with. When determining the level of management control measures to put in place, three important points must be borne in mind:
- any incident may involve a customer being in a state of distress and in need of personal assistance;
  - the emergency services, especially the fire and rescue service, should not be relied upon to deal with minor incidents; this is the responsibility of the site operator, and
  - the number of dispensing operations carried out in any given period of time, as there is a correlation between usage, throughput and risk.
- 49) It is important for the site operator to bear in mind when operating in UMS mode that the customers using the facility are doing so by invitation and on some occasions by enticement when cut-price fuel is on offer. Whilst it is recognised that there are financial benefits for the site operator to run the business without the presence of staff on the forecourt, the employer's statutory duty under section 3 of HSWA is no different to that when a site is in ASS or AS operation.
- 50) In the case of a remote rural (civic amenity) filling station (UMS 1 only) where the site operator (or an agent) resides within the community, there may be no need for site monitoring (other than a daily check) and the means for a customer or passer-by to seek assistance or give warning of a problem can simply be:
- a notice giving directions to the site operator's/agent's house; or
  - the provision of a telephone with the site operator's/agent's name and number conspicuously displayed, and
  - signage for the prohibition on underage sales and the restrictions on the types/capacities of containers that can be filled.
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- 51) At the other end of the spectrum there are multi-pumped high-throughput sites that may warrant enhanced control measures such as a sophisticated and integrated remote monitoring system.
  - 52) When deciding whether a filling station is suitable for UMS operation, an important point that must be considered by the operator is the ability to control underage petrol sales and the filling of inappropriate containers. For example, any instances of anti-social behaviour by juveniles using pit and trials bikes in the neighbourhood of the filling station may lead to the attempted purchase of petrol by under 16s. The wider availability of debit cards to juveniles and the absence of an attendant may make such locations more attractive for under 16s to attempt to obtain petrol. Similarly, operators should be aware of the potential for inappropriate containers to be filled, especially during anticipated fuel shortages or during any periods of civil disturbances.
  - 53) The above legal obligations should be assessed in the decision-making process; the mere provision of warning signage and restricted payment by credit and debit card may not prove to be sufficient to prevent under age sales and the filling of inappropriate containers.

Autogas:

- 54) Customers should not be allowed to dispense autogas at UMS or sites (see paragraphs 23-26).

Two phase risk assessment (continued from paragraph 7):

- 55) Phase 1 of the risk assessment should be an assessment of the risks of damage being sustained to the dispensing and safety equipment by the actions of vandals and other persons of an unruly nature. Sites where vandalism has occurred or is likely to occur (if it is open for business without any supervision) should only be considered suitable for UMS operation where effective control measures can be employed to deter damage to equipment.
- 56) Phase 2 should comprise a more detailed assessment that considers the following points:
  - the site's location to determine if any incidents arising during dispensing can be contained within the curtilage of the site;
  - the number of all dispensing operations carried out and/or the throughput of petrol and diesel anticipated for an UMS or for the periods of time that a site is to be operated in UMS mode; and
  - selecting the appropriate level of control measures (see paragraphs 41-49);
  - the range and location of equipment/facilities and a response procedure to deal with foreseeable emergency incidents;
  - proposed 'managed' and 'engineered' control measures including those built into the installed equipment; and
  - road tanker deliveries, but only in respect of deliveries that may take place when the site is in UMS operation.

Note: Number of dispensing operations will normally be measured in hourly time periods.

- 57) The PEA (in England and Wales) can also use section 17 of the Crime and Disorder Act 1998 to request information from the local Police and Fire and Rescue Service, as well as the operator, as to the history of the site with respect to vandalism, theft and other issues that could impinge on safe operation of the site, particularly a UMS site.

PEAs can then use this information to challenge operator risk assessments (where such activity does not appear to have been considered) and ensure any concerns are properly addressed by the operator.

Management control measures:

- 58) The management control measures for UMS sites would, typically, include:
- The site operator or a trained member of staff being on call.
  - An emergency procedure for responding to incidents and assisting customers.
  - A procedure for carrying out inspections at UMS. At sites alternating between ASS and UMS operation, this procedure should be carried out at the changeover time.
  - Procedures for checking, testing and maintaining emergency equipment.
  - Where the site is monitored remotely by live CCTV, the control room staff should be trained in the operation of the equipment within their sphere of responsibility, and in any emergency procedures which they may have to instigate.
  - Where a site alternates between ASS and UMS modes of operation it would be appropriate for a hand-over check list to be used to identify that the appropriate control measures are in place each time the site moves into UMS mode. This check should include ensuring that all the emergency equipment is present and in working order and the memory buttons on the emergency telephone are still programmed-in and operable.
- 59) A procedure must be in place for a trained person to attend the site within a realistic time period to deal with any reported incidents. Consideration can be given to installing a remote CCTV monitoring system with direct two-way communication with the forecourt as this will provide an immediate response to advise a person in difficulties and an initial assessment of the severity of the incident can be made and relayed to the person available to attend the incident. However, remote supervision of the site should not in all instances be considered as a pre-requisite to UMS operation as the primary control measure is the physical response to the site by a trained person. The time taken for a trained person to attend an incident will be site and location specific, see Table 6.
- 60) Incidents of sudden hose or coupling failures are foreseeable events that can result in the customer becoming splashed or sprayed with petrol. The consequences of such an incident occurring when a site is in UMS operation has to be addressed in the risk assessment so that effective control measures to mitigate against serious personal injury can be put in place.

Engineered control measures:

- 61) The following is a list of basic engineered control measures that should be applied to UMS sites:
- limiting devices on each dispenser set to prevent the continuous operation for more than three minutes and a continuous outflow of more than 100 litres (or the equivalent monetary amount);
  - removal of any latching mechanisms fitted to nozzles;
  - adequate illumination of the dispensing area and the position(s) of the emergency equipment;
  - restricting the sale of petrol to credit/debit/fuel card transactions only in order to limit access to children and minimise misuse;
  - displaying a notice detailing the restrictions on the types of containers that can be filled with petrol, and
  - a CCTV system.



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Enhanced (engineered) control measures:

- 62) Enhanced control measures will normally comprise some form of remote monitoring and supervision of a site. The important feature of remote supervision is a permanently manned control centre (referred to as Alarm Response Centres in BS EN 50518-1 2013 Monitoring and alarm receiving centre) with:
- a live CCTV system that covers the dispensing areas and the emergency cabinet;
  - two-way communication with customers on the forecourt;
  - the capability of closing the site, or isolating the power to one or all of the dispensers;
  - the capability of contacting the emergency services covering the county or area where the site is located, and
  - the capability of dispatching a trained responder to the site.

Note: There are remote surveillance systems available that include a 'prompt' feature to highlight activities on site which could lead to intervention by trained control centre staff. The 'prompts' would/could include:

- failure of CCTV camera(s), which would result in closure to be instigated by the control centre;
- a discriminating movement/mass/action system which would, for example, prompt should there not be a vehicle present adjacent to the dispenser when a fuelling transaction is initialised. Or that people are moving about on the forecourt, but making no effort to operate a dispenser;
- a variable pre-set frequency prompt i.e. this could be a prompt for every tenth transaction, used to ensure that control centre staff monitor the general site conditions from time to time;
- abnormal dispenser running time/if the dispensing is stopped by the 100 L/ three minute limiter;
- repeated rapid nozzle removal and replacement;
- repeated authorisation attempts at payment system;
- opening of emergency cabinet/operation of emergency switch;
- operation of customer communication system, and
- a fire/smoke/vapour detection system.

Emergency equipment:

- 63) Emergency equipment made available for customers to use when the site is functioning in UMS modes will include the following items:
- petrol pumps isolation switch. This may be of the 'push button' design or interlocked with the door of the emergency cabinet. More detailed guidance on emergency isolation switches is given in clause 9.6 of the Blue Book. See Note a below;
  - a means for communicating quickly and directly with site personnel and the emergency services. An adjacent notice should display the site's name and address and emergency telephone number. Where a blanking plate is fitted to the telephone to permit the use of selected buttons with pre-set memories only, the '9' button should not be covered by the plate so that in the event of a memory loss to the pre-set buttons, it will still be possible for the emergency services to be contacted in the conventional way;
  - notice displaying the actions to be taken in case of emergency, and
- an appropriate number of dry powder fire extinguishers and a container of dry sand or other absorbent material to deal with small spillages. See Note ii.

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Notes:

- i) *At sites which alternate between ASS and UMS, there should be no need to install an additional petrol pump isolation switch if the existing external isolation switch is conspicuously marked 'PETROL PUMPS SWITCH OFF HERE' and is in a position that is clearly visible from the dispensing position(s) of the UMS pumps. Where there is an autogas facility, this switch should also isolate the power supply to the autogas dispenser(s).*
  - ii) *When a site is in AS or ASS operation there should always be staff available that are trained in the use of extinguishers, therefore, the number of extinguishers provided should be in accordance with Table 1 (section 4.11) of the Blue Book. The same will not apply at an UMS site and the likelihood that at the time of fire there is a customer or passer-by being on hand who is trained in how to use an extinguisher is remote. For this reason, there should normally be no need to make available more than 2 x 4,5 kg dry powder extinguishers at UMS sites; the preference being given to dry powder extinguishers because of their effectiveness when used by untrained persons.*
- 64) The location of the above equipment should be conspicuous so that it can be seen from the dispensing areas. It should also be at a safe distance from the potentially wetted areas should any spillages or leakages occur when the dispensers are in use.
  - 65) If the equipment is located in a cabinet, the enclosure should be clearly marked to indicate the equipment it contains. Alternatively, the door could be fully glazed so that the customers can see the equipment. The method of securing the door to cabinet should not impede immediate access in the case of an emergency.
  - 66) Consideration should be given to providing an additional telephone (to the one installed for emergency use) for customers to seek non-emergency advice or to notify the site operator of any instances of equipment not working properly etc.

Notes:

- i) *Information on the display of warning notices and graphic symbols of CCTV surveillance is given in Annex A to this section.*
- ii) *For a summary of dispensing control measures see Table 6.*

#### **ATTENDED SELF SERVICE SITES**

- 67) The principle of ASS is that there will always be one or more trained attendants exercising direct control over the forecourt, with the number of attendants being correlated to the number of dispensing hoses that can be in operation at any point in time; this ratio usually equating to one attendant per eight hoses.
- 68) When operating in ASS mode the site operator will need to decide on the degree of control exercised by the attendants over the forecourt activities. In practice this will be the pre or post-authorisation of the dispensers; a decision to be made on a risk assessed basis. At some sites forecourt control may alternate between pre and post-authorisation.
- 69) When a site is operating ASS with pre-authorisation, there are the risks of either the attendant becoming incapacitated or failing to devote sufficient attention to the forecourt operation. A method of controlling this risk would be to put limits on the number of dispensing operations that may be carried out without authorisation, or the time for which a site may operate without the need for a transaction to be authorised. Limits of 10 transactions and 10 minutes would be appropriate to address the risk.

Note: Pre-authorisation (including Pay @ Pump dispensers) removes the need for the attendant to authorise the dispensers for each transaction.

- 70) There are two levels of pre-authorisation operation: 'level one' where the attendant remains at the control point, or is immediately available on the forecourt, and 'level two' where the attendant is in the immediate vicinity of the control point. An example of the 'level 1' would be where payment is made at some or all of the dispensers by credit/debit card; whereas an example of the 'level 2' would be at quiet times of trading so as to release the attendant from the control point for other shop duties.

Pre-authorisation of dispensers – 'Level 1':

- 71) The decision to operate the site at 'Level 1' pre-authorisation should only be taken after a risk assessment has been carried out and it can be demonstrated that the monitoring exercised by the forecourt staff will maintain the same level of vigilance as would be the case if the dispensers had to be authorised for each transaction. The attendants will still need to be vigilant to the customers' actions at the commencement of and during the dispensing activity. In order to prevent persons under 16 years of age from having access to petrol and minimise misuse, pre-authorised dispensers should only be activated by a credit/debit card payment facility.

Pre-authorisation of dispensers – 'Level 2':

- 72) 'Level 2' pre-authorisation is only suitable at quiet rural sites and other sites at quiet trading periods when there are the occasional customers on the forecourt. With 'Level 2', the attendant can be involved with other work; however, this is conditional on he/she being in a position to monitor the forecourt so as to intervene if any unsafe practices are about or are taking place. Under these circumstances there should be a limit on the time and number of transactions before it is necessary to authorise a transaction (see paragraph 69).
- 73) Depending on the size of the forecourt and the configuration of the dispensers, there may be one or more combined control and pay points. The control point should be positioned so as to afford the attendant with an unobstructed view of all the dispensing areas. At sites where this is impracticable, the installation of a CCTV system or the strategic fixing of mirrors can overcome any blind spots.

Control points:

- 74) The location and design of the control point should allow the attendants a clear and unrestricted view of all the dispensers so far as is reasonably practicable, so that they can prevent unsafe practices and if necessary switch off the dispenser, if for instance:
- inappropriate containers are being filled with petrol, or containers are not placed on the forecourt when being filled with petrol (static discharge hazard);
  - sources of ignition are present (i.e. smoking, vehicle engine still running, radio transmitting equipment operating);
  - inappropriate use of the dispenser (i.e. devices being used to hold open the trigger mechanism on the nozzle, the hose being over-stretched/damaged due to the vehicle position, and
  - a child appearing under 16 attempting to obtain petrol.

Note: Latching mechanisms on nozzles should be removed or disarmed.

- 75) A public address system should be provided so that the attendant(s) can quickly give instructions to customers on the forecourt.

Management of the forecourt:

- 76) Whether the site adopts pre or post authorisation of the dispensers, the site operator

will need to ensure that proper supervision of the forecourt is achieved particularly during busy times or when the site is taking delivery of petrol or other provisions. In carrying out the assessment of the ability of staff to supervise the dispensing operations the site operator will need to consider:

- appropriate staffing levels;
  - other duties expected of staff (i.e. re-stocking shelves, sales, petrol deliveries) during times the forecourt is open for business;
  - management of forecourt staff, and
  - training of forecourt staff (see paragraphs 42–44).
- 77) Where the forecourt layout gives rise to poor visibility of dispensers, additional methods of work will need to be introduced for the forecourt staff. It may be necessary to delay authorisation (or to cancel the pre-authorisation) of a specific pump until a temporary obstruction to vision has moved away or instructions may be given over the public address system for the customer to move to an alternative pump. When portable containers to be filled are out of the attendant's line of vision it may also be necessary to use the public address system to ask the customer to show the container, prior to filling, so that it can be identified as being suitable.

#### **ATTENDED SERVICE OPERATION**

- 78) Whenever an attended service filling station is open for business, a trained attendant should be available to operate the dispensing equipment. The attendant should not allow customers to operate the equipment with or without supervision.

#### **DEALING WITH SPILLAGES**

- 79) Spillages of petrol when dispensing activities are taking place are foreseeable events and control measures and equipment should be in place to deal with such occurrences. Experience has shown that spillages can be put into the following three general categories in the order of frequency:
- Blow-backs from the fuel tank or container when the liquid level is reaching full capacity. Due to the safety features designed into the dispenser nozzle, this type of spillage will normally only involve a small quantity of petrol; most of which will quickly evaporate on the forecourt surface.
  - A leak from a defective fuel tank of the vehicle being refuelled. This type of spillage can arise from the sudden and catastrophic failure of the fuel tank resulting in the full contents being discharged onto the forecourt. The quantity can be in the region of 50 litres if the failure occurs when the tank is full, or if both the customer and the site staff are unaware of the leak and dispensing continues.
  - The failure of a hose coupling or a leak from a hose that has been cut or stabbed by vandals. This is, potentially, the most serious type of leak as it can result in the customer being splashed with petrol. In a worst-case scenario, there is the possibility of a customer being 'showered' with petrol if, for example, there is a coupling or hose failure on a 'high hose' dispenser.
- 80) At sites functioning in an AS or an ASS mode, site operators should ensure that the trained attendant has received adequate instruction to deal with spillages of petrol (and releases of autogas, where relevant). This should include the provision of written emergency procedures (an action plan) that can be readily accessed and implemented. In particular site operators will need to consider their response to the

scale of a spillage and provide appropriate training to their staff in the implementation of this duty. For example, the circumstances under which dispensing operations at the petrol filling station should be suspended and the emergency services called; and circumstances where the spillage may be appropriately and safely dealt with by trained staff using dry sand or other absorbent material, which should be available.

- 81) In the case of a customer (or employee) is sprayed or splashed with petrol, there should be first-aid provision to enable washing of the affected parts of their body (and arrange further medical assistance as necessary) and where clothing is contaminated with petrol, there are appropriate facilities to enable the customer/employee to safely remove contaminated clothing.
- 82) The site operator will need to consider where a person can be safely treated without risk of ignition. The site operator should also have available spare clothing; e.g. 'disposable' cover-all suit; and means for safely handling the contaminated clothing; e.g. plastic 'bin' bag and provide advice/assistance in its safe treatment.
- 83) At all sites functioning in UMS mode, the site operator needs to consider how adequate emergency arrangements to deal with spillages of petrol (and releases of autogas, where relevant) are to be provided; in particularly accidents/incidents where a customer is splashed with petrol, or the spillage is of such a size to be a risk to individuals.
- 84) A facility such as an alarm, intercom or telephone should be provided to enable a customer in an emergency situation to promptly contact a responsible person appointed by the site operator who is able to assist the customer in dealing with the emergency and initiate further response as required. The alarm, intercom or telephone etc. should be in a safe position remote from potential ignition sources. It should be clearly indicated, and clear instructions should be displayed on its use. The site operator will also need to consider how provision is to be made to enable a customer if splashed with quantities of petrol causing or likely to cause injury, to wash this from their body; and remove/deal with contaminated clothing.

Note: See Table 6 for guidance on control measures.

## **ASSESSING THE RISKS**

- 85) When you assess the risks associated with dispensing operations you will need to take into account the way you operate your site. Consider how the equipment is operated and identify how spills could occur. Then consider the possible ways to prevent each event, and measures to mitigate if it does happen. You will need to decide whether the precautions you have in place are sufficient to control the risk.
- 86) Table 5 shows one way you could go through this process. The control measures column gives some examples of the precautions that could be taken; there may well be alternatives. Also, some measures are more appropriate to new sites or those being refurbished than older existing sites, where the cost of them could be disproportionate to the risk. Remember that you must provide sufficient control measures to keep the risk to people's safety as low as is reasonably practicable.

**Table 5: Controlling the risks from dispensing**

Activity	Risk	Control measures
Vehicle access	Vehicle collision with petrol dispenser while manoeuvring on site	<ul style="list-style-type: none"> <li>– Provide impact check valves at the base of the dispensers using pressure delivery</li> <li>– Provide shear valves at the base of the pumps using suction delivery</li> <li>– Protect dispensers by mounting on properly designed plinths and/or provide safety barriers</li> <li>– Hoses should be draped to avoid damage by moving vehicles.</li> <li>– Provide, maintain and mark clear routes to, from and around dispensers</li> <li>– Ensure adequate lighting</li> <li>– Train staff to take appropriate action if collision occurs</li> <li>– Ensure that spills of petrol, diesels etc are cleared up promptly; the latter to reduce the risk of vehicles skidding</li> </ul>
	Vehicle collision where vehicles are refuelled on highway	<ul style="list-style-type: none"> <li>– Only use attendant operated procedures</li> <li>– Train staff to take appropriate action if collision occurs</li> <li>– Provide notices to alert pedestrians to refuelling activity and hazards</li> </ul>
Dispensers	Leak from damaged dispenser	<ul style="list-style-type: none"> <li>– Check that dispensers are undamaged, working and are properly maintained</li> <li>– Do not allow damaged dispensers to be used/activated</li> </ul>
	Leak from damaged hose or nozzle	<ul style="list-style-type: none"> <li>– Use dispensers with volume or time limited cut-offs, or fit such devices to existing dispensers</li> <li>– Ensure that dispenser nozzles and couplings etc. are regularly inspected and properly maintained</li> <li>– Do not allow dispensers with damaged hoses etc. to be used</li> <li>– De-activate hold-open devices on the nozzles of self-service dispensers</li> <li>– Draw up procedures for emergency shut down</li> </ul>
	Petrol spilled during dispensing	<ul style="list-style-type: none"> <li>– Draw up emergency procedures and train staff</li> <li>– Provide and maintain emergency equipment</li> <li>– Provide sand to absorb small spills</li> <li>– Provide changing/washing facilities (including disposable coverall suits) for customers/employees who are splashed with petrol</li> </ul>
	Member of public drives away during refuelling	<ul style="list-style-type: none"> <li>– Install breakaway couplings</li> <li>– Draw up procedures for emergency shut down</li> </ul>
Static Electricity	Ignition of vapours	<ul style="list-style-type: none"> <li>– Make sure that the resistance of the forecourt surface does not have a resistance exceeding <math>10^8 \Omega</math></li> <li>– Train staff to ensure that portable containers &gt;5 litres capacity are placed on the forecourt before the pump is commissioned. At unattended self-service sites, a notice to this effect should be displayed at the dispenser(s)</li> </ul>
General		<ul style="list-style-type: none"> <li>– Train staff to take appropriate action if a leak or spill occurs</li> <li>– Control ignition sources in hazardous area</li> <li>– Train staff not to activate dispensers when potential ignition sources are present</li> <li>– Train staff to take appropriate action where there is a fault or malfunction with the Stage 2 vapour recovery system</li> </ul>

Table 6: Dispensing control measures

Type/mode of operation	Forecourt supervision	Emergency response	Engineered control measures	Managed control measures
<b>Attended Service (AS)</b>	Attendant dispensing into customers' vehicles	Attendant trained to deal with minor incidents and to call emergency services if necessary	Provision of fire extinguishers and supply of dry sand or absorbent material. Appropriate signage (underage sales, suitable containers etc)	Trained and competent staff available on site
<b>Attended Self Service (ASS)</b>	Attendant with vision of dispensing operations. (self-service equipment in shop). Authorising dispensing transactions	As above	As above plus latch pins removed from nozzles and 100 litre limit per transaction. Each attendant only able to authorise eight dispensing operations at any one time.	As above
<b>Attended Self Service with pre-authorisation ASS with pay@pump</b>	Attendant with vision of forecourt operations supervising dispensing operations. Dispensing is pre-authorised but attendant available to stop any unlawful dispensing	As above	As above plus three-minute time limit per transaction. Pre-authorisation system to allow only 10 transactions before requiring reset by authorising of a transaction	As above

Table 6: Dispensing control measures (continued)

Type/mode of operation	Forecourt supervision	Emergency response	Engineered control measures	Managed control measures
<p><b>Unmanned site (UMS 1) Serving a community. Local Operation</b></p>	<p>Petrol filling station monitored and managed by trained and competent person(s) living or working near to site.</p>	<p>Attendance to an incident on the forecourt by a trained/competent person should be within 5 minutes. If this is not achievable the operator should identify why a longer timeframe may be considered acceptable, based on a site-specific risk assessment. See note**</p>	<p>All sites should have telephone with a 999 facility and for UMS sites to summon competent person</p> <p>Provision of fire extinguishers and absorbent material. Appropriate signage (underage sales, suitable containers etc.). Provision of replacement clothing, eye washing facilities and first aid kit. Latch pins removed from nozzles, 100 litre limit per transaction. Emergency stop button. (Phone may not be required if trained person can be alerted and attend site promptly).</p>	<p>Trained and competent person(s) available (may not be employed). Site safety inspection plan/check list to be in place.</p>
<p><b>Unmanned out of normal hours (UMS 2)</b></p>	<p>When operating unmanned mode, dispensing operations to be monitored either by direct vision from adjacent premises or via live CCTV.</p>	<p>As UMS 1 above</p>	<p>Provision of fire extinguishers and absorbent material. Appropriate signage (underage sales, suitable containers etc.). Provision of replacement clothing, eye washing facilities and first aid kit. Latch pins removed from nozzles, 100 litre limit per transaction. Emergency stop button. Live CCTV monitoring if no direct vision from adjacent premises. Alarm to sound at monitoring point if emergency stop button used. Instructions to customer sign, with address of site details.</p>	<p>Trained and competent person(s) available to attend site within 5 minutes. Safety inspection plan/check list to be used when transitioning from ASS to UMS.</p>



Table 6: Dispensing control measures (continued)

Type/mode of operation	Forecourt supervision	Emergency response	Engineered control measures	Managed control measures
<b>Unmanned serving a community. Commercial Operation (UMS 3)</b>	Forecourt dispensing locations and emergency cabinet to have live monitoring via intuitive CCTV system by Alarm Receiving Centre with EN 50518-1 accreditation. Having two-way communication with customers and capability of closing site or isolating power to one or more dispensers, and of dispatching trained responder or local emergency services.	As UMS 1 & UMS 2 above	Provision of fire extinguishers and absorbent material. Appropriate signage (underage sales, suitable containers etc.). Provision of replacement clothing, eye washing facilities and first aid kit. Latch pins removed from nozzles, 100 litre limit per transaction. Emergency stop button. Alarm to sound at monitoring point if emergency stop button used or intuitive prompts triggered. Instructions to customer sign, with address of site details.	Trained and competent person(s) available to attend site in event of an incident. Safety inspection plan/check list to be in place
<b>Unmanned commercially operated high volume (UMS 4)</b>	As above	As UMS 1, UMS 2 and UMS 3 above	As above	As above.

\*\*Note: It is the responsibility of the site operator to initiate and provide a physical emergency response. They must not be reliant on the emergency services as the primary responder.

## 8.6 DECOMMISSIONING

### INTRODUCTION

- 1) Where equipment used for storing or dispensing of petrol is taken out of use, DSEAR[1] require operators to ensure that the work is carried out safely and that the equipment is left in a safe state.
- 2) Taking equipment out of use is a specialist activity and, as a site operator or owner, you are unlikely to carry out the work yourself. Seek advice from a contractor, the enforcing authority or, if necessary, the site owner about:
  - a) whether you should take equipment out of use permanently or temporarily;
  - b) what methods will be necessary and appropriate for the circumstances of the site and the equipment, the results of a risk assessment will help to answer this, and
  - c) how the work should be carried out.

### METHODS OF TAKING EQUIPMENT OUT OF USE

- 3) The following paragraphs describe what you need to consider when you intend to take equipment out of use. Guidance on technical aspects of the work, including the selection and use of particular methods, is given in: the Blue Book<sub>[2]</sub>, the EI's *Guidelines for uplift of petroleum products from filling station and customer storage tanks*<sub>[46]</sub>. In addition, the *Dangerous Substances and Explosive Atmospheres Regulations 2002 (L138)*<sub>[27]</sub> gives practical advice on assessing the risk from, and the design and use of, plant, equipment and workplaces which handle or process dangerous substances. The ACoP also includes measures for making redundant plant and equipment safe.
- 4) Your trade association may also be able to offer you some advice.

### TAKING EQUIPMENT OUT OF USE PERMANENTLY

- 5) If there is no intention to use equipment in the future, either for economic reasons or because it is damaged and cannot be repaired, it should be taken out of use permanently.

### TAKING EQUIPMENT OUT OF USE TEMPORARILY

- 6) Equipment may be taken out of use temporarily for a variety of reasons. For example, a storage tank may be taken out of use for cleaning, modification or during reconstruction of a petrol station, but will remain in place for future storage of petrol or alternative substances such as diesel or heating fuels. Before expiry of a lease, a site may stop storing and dispensing petrol, but it may need to be returned to the owner with equipment in situ, functional and safe. In this case, suitable and appropriate measures will need to be taken to bring equipment safely back into use.

### SAFE SYSTEMS OF WORK

- 7) A systematic examination of all the tasks associated with the decommissioning works should first be carried out for the purposes of identifying all the hazards associated with the decommissioning works. The system of work should be a formal process that defines safe methods of work so as to ensure that hazards are eliminated or that risks are minimised. The Approved Code of Practice and *Guidance Dangerous Substances and Explosive Atmospheres Regulations 2002*<sub>[27]</sub> provides further information.

**METHOD STATEMENT**

- 8) A suitable method statement should be prepared by the person carrying out the work. The statement should be comprehensive; for example, a method statement for taking a tank out of use should include information on how the supply lines, vent pipes and other related equipment will be made safe.
- 9) Where the proposed work is a high-risk activity, stricter controls will be required and the work should only be carried out against previously agreed safety procedures by implementing a permit-to-work system<sup>[30]</sup>.

**STORAGE TANKS AND PIPEWORK**

- 10) Tanks (and individual compartments, where appropriate) and pipework taken out of use permanently may be removed from the site and disposed of safely, or made safe and left in place. If they are to remain in the ground, they should require no future maintenance.
- 11) When taking tanks, compartments or pipework out of use temporarily, the method you select should take account of the condition of the equipment, the length of time it is likely to be out of use, and why. Depending on the method chosen, you will need to know what maintenance may be required in the interim. For example, when tanks or compartments are temporarily filled with water, the water level can drop to leave a flammable sludge or vapour. You will need to make frequent and regular checks to ensure that the water level is not falling, and, where necessary, arrange for petrol to be removed from the surface of the water.
- 12) Tanks, compartments and pipework that are taken out of use for a very short time but still contain petrol, such as during a temporary surplus of resources, should remain subject to the same operational procedures and maintenance regime as other similar equipment still in use on the site. Tanks taken out of active use temporarily but still holding a quantity of residual petrol will remain subject to the licensing regime.
- 13) Under the provisions of Section 73 of the Public Health Act 1961<sup>[47]</sup> (Section 94 of the Civic Government (Scotland) Act 1982 in Scotland<sup>[48]</sup>), site operators have a legal obligation to take all practical steps to prevent danger from the storage tank.

**ELECTRICAL INSTALLATION**

- 14) The supply to equipment taken out of use should be isolated by someone competent to carry out such work. If the site is being vacated, this should be the electricity supply company.

## Other equipment

- 15) Work to take dispensers, the interceptor and/or the effluent treatment system and drainage systems, and manhole chambers out of use should be carried out safely, and the equipment left in a safe condition. For example, after dispensers have been made safe, they can be removed from the site or left in place, provided they have sufficient protection from vandalism, such as by enclosure in a sturdy encasement.

## Conversion to other products

- 16) Work carried out to convert petrol equipment to other products, such as diesel and heating fuels, should take account of the effects of cross-contamination of the

new substance with petrol. Other precautions, such as re-labelling the fill points and posting warning notices, may also be necessary. The EI's *Code of practice for a product identification system for petroleum products*<sup>[40]</sup> give further advice on the marking of pipework.

#### Record keeping

- 17) You should keep records to show how equipment has been taken out of use and made safe. Where appropriate, the equipment itself should be clearly marked to show that it is no longer in service. The location of abandoned underground tanks or pipework should be recorded and brought to the attention of anyone who subsequently becomes responsible for the site.

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## ANNEX A

### CCTV SURVEILLANCE

The following is an edited extract of the CCTV Code of Practice (Data Protection Act 1998) published by the Information Commissioner's Office<sup>[45]</sup>.

Site operators must let people know that they are in an area where CCTV surveillance is being carried out. The most effective way of doing this is by using prominently placed signs at the entrance to the CCTV zone and reinforcing this with further signs inside the area.

Clear and prominent signs are particularly important where the cameras themselves are very discreet, or in locations where people might not expect to be under surveillance. As a general rule, signs should be more prominent and frequent where it would otherwise be less obvious to people that they are on CCTV. In the exceptional circumstance that audio recording is being used, this should be stated explicitly and prominently.

Signs should:

- be clearly visible and readable;
- contain details of the organisation operating the system, the purpose for using CCTV;
- who to contact about the scheme (where these things are not obvious to those being monitored), and
- be an appropriate size depending on context, for example, whether they are viewed by pedestrians or car drivers.

Signs do not need to say who is operating the system if this is obvious. If CCTV is installed within a shop, for example, it will be obvious that the shop is responsible. All staff should know what to do or who to contact if a member of the public makes an enquiry about the CCTV system.

Systems in public spaces and shopping centres should have signs giving the name and the contact details of the company, organisation or authority responsible. An example sign for a filling station is given below.

Images are being monitored and recorded for the purposes of fire and public safety. This scheme is controlled by ACME Filling Stations Ltd. For more information, call 01234 567890.



## APPENDIX 1

### STATISTICAL INVENTORY RECONCILIATION

#### WETSTOCK CONTROL FOR PETROL FILLING STATIONS

- 1) Many petrol filling station operators rely on a manual petrol stock reconciliation system to detect leaks from the storage tanks and pipework. The basic idea is that by finding how much petrol has come out of a tank through the dispensers (by checking the totaliser readings, for example) and taking into account how much has been put into the tank, you can calculate how much should be left in the tank. If you then measure how much petrol actually is in the tank you know if there has been a loss or gain that could indicate a leak.
- 2) This method of leak detection relies on consistent measurements of the tank contents, the accuracy of the measurements, and knowledge of the pattern of apparent losses and gains for your site.
- 3) A lot of sites still use dipsticks or pump-up (hydrostatic) gauges to measure the contents of tanks. Pump-up gauges and dipsticks can only be read to a certain accuracy, not usually better than 50 to 100 litres either way. The readings are still useful because over a period of time they can be analysed and in some cases very small leaks can be detected by using special methods. Even without specialist analysis the readings can be sufficient to detect leaks before a lot of petrol has been lost.
- 4) Stock losses are to be expected due to evaporation, shrinkage and the displacement of vapour during the road tanker unloading process. Typically, an average stock loss of some 0,2 % to 0,3 % can be expected. However, at some sites average stock losses can be as high as 0,5 % or 0,6 %. Although most sites tend to experience stock losses, occasional stock gains can occur.

#### NOTES:

- a) If a vapour recovery system has been fitted then dipsticks and pump up gauges can become unreliable (as they are affected by positive and negative pressures that can be present in the tank(s)) and it can be practically impossible to detect leaks. You should seek advice from your PEA Inspector regarding the fitting of a pressure relief device if you are experiencing problems with stock measurements.
- b) For the purposes of detecting a leak, it is essential that the quantities of petrol delivered, stored and dispensed are accurately monitored and recorded on a daily basis.

#### SAMPLE STOCK RECONCILIATION FORM

- 5) Stock reconciliation entails using very simple arithmetic, but recording the information in a clear and useful way can be difficult. There are some good commercial computer programmes to help you, but you really only need a calculator to do the calculations. The form in Table 7 allows you to record all the details of your reconciliation for a petrol tank. In some cases, where a tank feeds more than one pump, you will need to work out the sales from the tank by adding up the totals for all the dispensers fed by the tank.

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## USING THE FORM

### Columns A and D

- 6) If your site is not open 24 hours a day then you should try to take your 'opening stock' measurement before the site opens (or after you close in the evening). This will go into *column A* of the form. Your closing (dipped) stock one day should match your opening stock the next day. The closing (dipped) stock should go into *column E*. For 24-hour sites the same stock measurement should be used.
- 7) If you operate a 24-hour site, taking the readings at roughly the same time of day will make it easier to get into a routine so that you don't miss any readings, and may help eliminate some variations.

### Column B

- 8) Record deliveries into the tank in this column.

### Column C

- 9) The total sales from each tank will go into column C. You need to add together the sales for each pump fed by the tank.

Note: Petrol removed from the tank for reasons other than sales must be included in the daily reconciliation. For example, if 50 litres is drawn from a pump to check the accuracy of the meter, the quantity will be automatically recorded on the (pump) totaliser as a sale. This quantity (50 litres) must then be recorded in column B when the petrol is returned to the tank.

### Column D

- 10) In this column enter the amount of (book stock) petrol that should be in the tank, calculated according to:
  - a) Amount in at start of day + amount delivered – amount sold

(This can be expressed as  $D = A + B - C$  where a letter stands for the number written in that column.)
- 11) The closing (dipped) stock, in *column E*, is what is actually left in the tank when you measure the contents. If there is less than you expect (i.e. less than the quantity you have written in *column D*) then there is an apparent loss. To find the loss or gain (referred to as the variance) calculate: dipped stock – book stock = variance. (This can be expressed as  $E - D$  where a letter stands for the number written in that column). This figure goes into *column F*.

Remember that occasionally there may be a stock increase that will result in the dipped stock being a larger figure than the book stock. An example of adding an increase to a loss is given in paragraph 15.

### Columns G, H and I (cumulative figures)

- 12) The daily loss can be useful to know but it does not show you the way stock variations change over time. A large loss one day can be followed by several days where smaller gains show up and even out the variations.
- 13) To get round this you can use the totals for each period, adding the figures day by day and using these to find the percentage variation. The figure of greatest interest

is the cumulative loss as a percentage of sales, which gives an evened out picture of the normal losses and gains for a site.

- 14) The cumulative variance (G) is calculated by adding the *day's* variance (F) onto the previous *day's* cumulative variance (G). Care is needed during this step of the record keeping as you may be adding a day's gain to a cumulative loss. For example, +20 litres added to -250 litres is -230 litres.
- 15) The cumulative sales (H) are calculated by adding the *day's* sales onto the previous *day's* cumulative sales.
- 16) The percentage cumulative loss (or gain) is based on the cumulative sales (H) and is easily calculated by using the formula;  $G \div H \times 100 = \%$
- 17) An example of the calculations over a five-day period is shown on the form in table 7.

### Conclusion

- 18) It is important to note that there are more sophisticated ways to examine the stock figures that have the advantage of detecting quite small leaks. The appropriate level of leak detection/prevention for your site should be determined by a risk assessment, which you are obliged to carry out as a duty under the DSEAR<sup>[1]</sup>. However if, as a minimum, you carry out your stock reconciliation using a system similar to the one described here you should be able to detect unusual losses and the figures you have collected will be there for more detailed analysis if required.
- 19) Section 11 of the Blue Book<sup>[2]</sup> describes the various systems of leak detection available



**Table 7: Example of wetstock reconciliation**

**NAME OF SITE:** High Street Filling Station, Anytown

**TANK NUMBER:** 3

**GRADE:** ULG

**CAPACITY:** 22,700 litres

**PUMP NUMBERS:** 1 and 4

Day	Date	Opening Stock	Delivery	Sales	Book Stock (A + B - C)	Closing (Dipped) Stock	DAILY			CUMULATIVE		
							Variance Loss/Gain (E - D)	Variance Loss/Gain	Sales	Variance Loss/Gain	Sales	% G÷Hx100
		A	B	C	D	E	F	G	H	I		
1	1-Jan-13	20 000	0	2 500	17 500	17 495	-5	-5	2 500	0,200		
2	2-Jan-13	17 495	0	3 300	14 195	14 186	-9	-14	5 800	0,240		
3	3-Jan-13	14 186	5 000	2 000	17 186	17 160	-26	-40	7 800	0,510		
4	4-Jan-13	17 160	0	3 500	13 660	13 665	+5	-35	11 300	0,310		
5	5-Jan-13	13 665	0	2 400	11 265	11 260	-5	-40	13 700	0,290		
6	6-Jan-13	11 260										
7	7-Jan-13											

and a methodology to assess the most appropriate class of system for a particular site.

The figures in columns E, G, H & I are carried forward to the next weekly or monthly period.

## APPENDIX 2

### TRAINING

Table 8 gives examples of the training needs of people working at petrol stations. The list is not exhaustive and some elements may not always be appropriate. Similarly, additional or more specific training may be necessary to meet the needs of staff with key responsibilities and to deal with the circumstances at individual petrol stations.

**Table 8: Examples of training needs**

Activity/area	Training
Control of ignition sources	<ul style="list-style-type: none"> <li>– The hazards and characteristics of petrol</li> <li>– Hazardous zones</li> <li>– Procedures to identify and report potential ignition sources and other fire and explosion hazards</li> <li>– Instruction/information signs</li> </ul>
General forecourt safety	<ul style="list-style-type: none"> <li>– Procedure for opening and closing the site</li> <li>– Site security arrangements</li> <li>– Special arrangements for other permanent or temporary activities or other people on site</li> <li>– Procedures for managing contractors</li> <li>– Reporting procedures for damage to the site or equipment</li> <li>– Procedures for dealing with minor leaks and spills</li> <li>– Procedures for dealing with customers splashed with petrol</li> <li>– Maintenance and safe housekeeping procedures</li> <li>– Company safety policy</li> </ul>
Emergency procedures	<ul style="list-style-type: none"> <li>– Types of emergencies</li> <li>– Isolation/shutdown procedures</li> <li>– Individual responsibilities</li> <li>– Arrangements for contacting the emergency services</li> <li>– Evacuating the site</li> <li>– Location and use of fire-fighting equipment</li> <li>– First aid</li> <li>– Clean-up procedures</li> </ul>
Vapour recovery process	<ul style="list-style-type: none"> <li>– Basic principles of vapour balancing related to the type of system installed</li> <li>– Safety precautions to be followed before, during and after a delivery.</li> <li>– Restrictions on measuring the contents of tanks where dipsticks are used</li> <li>– Restrictions for split compartment deliveries</li> <li>– Reasons for and correct sequence for connecting/disconnecting the vapour recovery hose</li> <li>– Signs and symptoms of vapour leaks</li> <li>– Reporting/recording procedures for instances of vapour lock, vapour leak, equipment failure or slow deliveries</li> <li>– Precautions to be taken should the system become over-pressurised</li> </ul>

**Table 8: Examples of training needs (continued)**

Activity/area	Training
Unloading procedures	<ul style="list-style-type: none"> <li>– Site procedures in preparation for and during unloading</li> <li>– Arrangements for tanker access and parking</li> <li>– Identification of fill points, tanks and vent pipes</li> <li>– Dipping/ullage checks</li> <li>– Gauge/monitor readings</li> <li>– Documentation procedures</li> <li>– Arrangements for driver unassisted and driver assisted deliveries</li> <li>– Overfill prevention devices and alarm systems</li> <li>– The vapour recovery system</li> </ul>
Petrol storage	<ul style="list-style-type: none"> <li>– Methods of wetstock reconciliation</li> <li>– Operation of monitoring equipment</li> <li>– Operation of leak detection equipment</li> <li>– Loss reporting</li> <li>– Maintenance procedures</li> </ul>
Operation of dispensing equipment (attendant operated)	<ul style="list-style-type: none"> <li>– Fuel grades and types</li> <li>– Safe dispensing procedures</li> <li>– Correct use of dispensing equipment</li> <li>– Safe use of portable petrol containers</li> <li>– Recognising and reporting equipment faults</li> <li>– Emergency procedures during dispensing</li> <li>– Injury/incident reporting procedures for employees</li> </ul>
Operation of dispensing equipment (attended self-service)	<ul style="list-style-type: none"> <li>– Procedures for activating and controlling dispensers</li> <li>– Fuel grades and types</li> <li>– Safe dispensing procedures</li> <li>– Use of public information/communication system</li> <li>– Safe use of portable petrol containers</li> <li>– Dealing with customers' enquiries on safety matters</li> <li>– Emergency procedures during dispensing</li> <li>– Injury/incident reporting procedures for members of the public</li> </ul>

## APPENDIX 3 SUGGESTED VISUAL INSPECTION PROGRAMME

Table 9: Visual inspection programme

Item	Scope	Actions
Observation well	Inspect for presence of petrol or vapours	Investigate the possibility of a leaking tank or pipework or spillage during offloading. Inform PEA Inspector if necessary. Make arrangements for removal of petrol
Underground storage tank access chambers (including those without fill points)	Inspect for presence of petrol	Investigate source of petrol. Check for leaking pipework or spillages. Make arrangements for removal of petrol
	Inspect for presence of excessive quantity of water	Remove water. If necessary, carry out remedial work to prevent further water ingress
	Inspect for accumulation of debris/rubbish	Remove and take necessary action to prevent reoccurrence
	Inspect condition of fill point labels and warning notices	Replace missing, damaged or illegible labels/notices
	Inspect general construction of chamber, cover, frame, safety platform and liner where applicable	Make arrangements for repair/ replacement as appropriate
	Inspect dipstick for damage or serious deformation	Repair, replace or recalibrate as appropriate
	Inspect the condition of exposed pipework for leaking joints, signs of corrosion or damage	Make arrangements with a competent person for repairs as appropriate
	Inspect the effectiveness of fill point security including off-set fill 'T' piece access plug where appropriate	Secure fill point. Lubricate and/or replace defective padlocks. Make arrangements for a competent person to replace or tighten the 'T' piece plug

**Table 9: Visual inspection programme (continued)**

Above ground storage tanks	Inspect the bunding system for the presence of surface water	Open stock valve or siphon/pump out as appropriate
	Inspect the bund for accumulations of debris/rubbish	Remove and take necessary action to prevent reoccurrence
	Inspect the tank for signs of damage, corrosion etc	Treat any areas of incipient corrosion and re-apply protective coating. In case of severe corrosion or evidence of damage, make arrangements for a competent person to carry out a thorough examination and repairs as necessary
<b>Item</b>	<b>Scope</b>	<b>Actions</b>
	Inspect the condition of surface mounted pipework, joints and fittings for corrosion or damage	Treat any areas of incipient corrosion and re-apply protective coating. In case of severe corrosion or evidence of damage, make arrangements for a competent person to carry out a thorough examination and repairs as necessary
	Inspect the condition of fill point labels and warning notices	Replace missing, damaged or illegible labels/notices
	Inspect the general construction of the bund walls	Make arrangements for repairs as necessary
Pipework access chambers	Inspect the condition of the valves/joints for signs of leaks, corrosion or damage	Make arrangements with a competent person for repairs as appropriate
	Inspect the condition of instruction/warning labels	Replace missing, damaged or illegible labels
	Inspect for accumulation of debris/rubbish	Remove and take necessary action to prevent reoccurrence
Vapour recovery system	Inspect the condition of: the p/v valve (or orifice plate and pressure valve); the self-sealing poppet valve; warning notices	Make arrangements with a competent person for repairs/ replacement as necessary
	If there is a vapour recovery hose kept on site check: the condition of the spigot for evidence of damage or deformation; the general condition of the hose; electrical continuity	Make arrangements with a competent person for repairs/ replacement as necessary and periodic electrical continuity testing

**Table 9: Visual inspection programme (continued)**

Vent pipe (above ground level)	Check pipe for stability/corrosion/damage (pay special attention to signs of corrosion at ground level)	Make arrangements with a competent person for repairs/ replacement as necessary
	Inspect the condition of the flame trap outlet	Make arrangements with a competent person for repairs/ replacement as necessary.
Pumps/dispensers	Remove pump panel(s) and check for signs of leaks, general condition of electrics (signs of overheating, etc.) and the integrity of the cavity infill/seal	Make arrangements with a competent person for a thorough inspection, repair or replacement
<b>Item</b>	<b>Scope</b>	<b>Actions</b>
Dispenser hoses	Check condition of dispensing hose and nozzle for: Cracks in the hose cover such that the reinforcement is clearly visible Leakage from the hose assembly. Abrasion of cover revealing the reinforcement Movement of the hose from the end fitting. (A colour change near fitting may be an indicator. Swelling or blistering of the cover	Make arrangements with a competent person for a thorough inspection, repair or replacement
Hazardous areas	Check the hazardous areas associated with the underground storage tank fill point, vent pipe, vapour balance pipe and dispenser for sources of ignition and fire hazards	Remove/isolate as appropriate
Cable ducts	Inspect access chambers and the entry point in the building to ensure that the seals have not been damaged or removed	Make arrangements with a competent person for the seals to be replaced
Drainage gullies and forecourt surface	Check for blocked drains (this may need to be more frequent in the Autumn when leaves fall from trees) and signs of deterioration to the forecourt surface	Clean out drains and make arrangements for repairs as necessary
Interceptor	Inspect all chambers for the presence of petrol/oil and build-up of grit and debris	Make arrangements with specialist contractor for cleaning

**Table 9: Visual inspection programme (continued)**

Constructed wetland	Check to ensure the reeds are thriving And the bed is free from debris. Check any valves to ensure they are working. Inspect any retaining vault for the presence of hydrocarbons or effluent	If unsure, make arrangements for the designer/installer to examine the reed bed
Artificial illumination	Check all forecourt and tanker standing hazardous area lighting systems	Replace defective bulbs/ tubes and repair as necessary. Note: repairs to light fittings within or above hazardous areas may only be carried out by a competent electrical contractor as defined by Regulation 16 of the Electricity at Work Regulations 1989 <sup>[7]</sup>
<b>Item</b>	<b>Scope</b>	<b>Actions</b>
Fire-fighting equipment	Check that none of the extinguishers are missing, all are fully charged and there are no signs of damage. Check the sand bucket(s) is full of dry sand with the applicator intact	Make arrangements for recharging/replacement as appropriate
Housekeeping	Check for accumulations of combustible refuse and general tidiness of site	Remove refuse to a safe place. Empty forecourt bins used by the public
Emergency equipment	Check that all emergency switches and the loudspeaker system and telephone (where applicable) are functioning correctly	Make arrangements with a competent person to repair as appropriate
Warning/advice notices	Check that none are missing, damaged or illegible	Replace and clean as necessary

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## APPENDIX 5

### GLOSSARY OF TERMS

<b>ADR</b>	European Agreement concerning the International Carriage of Dangerous Goods by Road.
<b>ADR certificate</b>	The drivers of all vehicles (including those with a gross vehicle weight of 3,5 tonnes or less) carrying dangerous goods must have an ADR training certificate.
<b>Approved Code of Practice (ACoP)</b>	Is a code of practice approved by the Health and Safety Commission, with the consent of the Secretary of State. ACoPs give practical advice on how to comply with the law. If an employer (site operator) follows the advice he will be doing enough to comply with the law in respect of the matters specified on which the ACoP gives advice. An employer may use alternative methods to those set out in the ACoP in order to comply with the law.
<b>ACoPs</b>	Have a special legal status. If an employer is prosecuted for breaches of health and safety law, and it is proved that he did not follow the relevant provisions of the ACoP, he will need to show that he has complied with the law in some other way or a court will find him at fault.
<b>attendant operated</b>	A petrol station where an attendant directly operates and controls the dispensing equipment.
<b>attended self-service</b>	A petrol station where customers operate the dispensing equipment, which is activated, supervised and may be shut off in an emergency by an attendant in a control point.
<b>automatic stock reconciliation</b>	A system of leak detection for tanks and pipework. A tank gauging system is linked to dispensers and automatically reconciles the amount of product dispensed to the amount delivered, thereby providing a reliable indication of any leakage.
<b>breakaway coupling</b>	A coupling designed to separate without damaging the dispenser or allowing excessive fuel spillage if a vehicle drives away with the nozzle still inserted in the filler neck. The type and location of the coupling depends on the type of refuelling nozzle and the hoses being used.
<b>bund</b>	An enclosed permanent wall system or other temporary measure to retain spilt liquid.
<b>child</b>	means a person who is not over compulsory school age, construed in accordance with section 8 of the Education Act 1996.
<b>check valve</b>	A type of non-return valve used in suction lines, which prevents petrol falling back from the line into the tank and so keeps the system primed.

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<b>commissioning</b>	The process of bringing a petrol station and equipment into use. This may include testing of equipment and preparing operation instructions, carrying out initial training, etc.
<b>competent person</b>	A person with enough practical and theoretical knowledge, training and actual experience to carry out a particular task safely and effectively. The person should have the necessary ability in the particular operation of the type of plant and equipment with which they are concerned, an understanding of the relevant statutory requirements and an appreciation of the hazards involved. They should also be able to recognise the need for specialist advice or assistance when necessary, and to assess the importance of the results of examinations and tests in the light of their purpose. A <i>person</i> can be taken to mean more than one, or a body corporate or incorporate. It is therefore possible to appoint appropriate organisations (e.g. insurance companies or inspection bodies) to carry out tasks designed for competent persons.
<b>control point</b>	A position in a kiosk or other building at an attended self-service station from which an attendant can adequately view and supervise dispensing activities, activate the equipment and shut it off in an emergency.
<b>constructed wetland (reed beds)</b>	An environmental alternative to oil separators. Bacteria living in the soil around the roots of the reeds break down any hydrocarbon products contained in the surface water drainage system directed to the wetland.
<b>controlled waters:</b>	Include all watercourses, lakes, coastal waters and water contained in underground strata (groundwater).
<b>dipping</b>	Checking the liquid level of product in a tank with a dipstick.
<b>dispenser (metering pump)</b>	A measuring system designed to draw fuel from a supply tank and dispense it into fuel tanks or suitable containers.
<b>dispensing premises</b>	A workplace (non-retail or retail) for the dispensing of petrol, it does not include a road tanker or similar vehicle.
<b>double skin tank/pipe (also double wall)</b>	A storage tank or pipework system, which is essentially a tank within a tank or pipe within a pipe, with a small space (the interstice) between the two.
<b>drainage system</b>	A system, normally below ground, for carrying foul and surface water to a disposal point.
<b>Energy Institute</b>	<a href="https://www.energyinst.org">https://www.energyinst.org</a>
<b>electrical installation</b>	All electrical/electronic equipment and telecommunications equipment located within the boundary of the site. All electrical equipment in hazardous areas must be constructed to a suitable explosion protection standard and can be certified as such by a certification body.

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<b>Environment Agency</b>	<a href="https://www.gov.uk/government/organisations/environment-agency">https://www.gov.uk/government/organisations/environment-agency</a>
<b>fill point</b>	The inlet through which a storage tank is filled from a road tanker
<b>fire wall</b>	A wall of fire-resisting construction e.g. brick or concrete block which separates fill points from the rest of the site.
<b>flame arrester</b>	A device typically fitted to the opening(s) of petrol tank vent pipes, which prevents flames from entering or spreading in the pipework system.
<b>gauge</b>	A device for measuring the level of liquid in a tank
<b>hazard</b>	Anything that can cause harm.
<b>hazardous area</b>	An area where flammable or explosive gas or vapour-air mixtures (also known as explosive gas-air mixtures) are, or may be expected to be, present in quantities which require special precautions to be taken against the risk of ignition.
<b>hazard zone</b>	The classified part of a hazardous area representing the degree of likelihood of flammable or explosive gas-air mixtures being present.
<b>Health and Safety Executive</b>	<a href="https://www.hse.gov.uk">https://www.hse.gov.uk</a>
<b>HSE publications</b>	<a href="https://www.hsebooks.co.uk">https://www.hsebooks.co.uk</a>
<b>hydraulic pressure testing</b>	A pressure testing method using only a liquid (usually water) as the pressurising medium. Hydraulic testing used as a leak detection technique minimises the explosive energy that could be released following a failure of tanks or pipework under test.
<b>hydrostatic pressure testing</b>	The testing of a vessel by means of a pneumatic test in which the explosive energy, which would be released if the vessel failed, is reduced by almost filling the vessel with water.
<b>interceptor</b>	(also known as an oil separator): A device installed in a surface water drainage system to separate out any petrol to prevent it reaching public drains, sewers or water courses.
<b>interstice</b>	The space between the inner and outer skins of a double skin tank or pipe, into which monitoring equipment can be fitted to continually monitor for leaks.
<b>Keeper</b>	The term applied in the <i>Petroleum (Consolidation) Regulations 2014</i> for the person who keeps petrol in compliance with regulation 5 and who has notification duties under regulations 8, 9 and 10. For a typical petrol filling station this will be the site operator/employer with duties under the <i>Dangerous Substances and Explosive Atmospheres Regulations 2002</i> .

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<b>leak alarm</b>	A device which is capable of triggering an audible and/or visual alarm if a leak is detected.
<b>leak detection system</b>	An automated system for detecting product leaks from tanks and pipework.
<b>limiting devices</b>	Fitted to dispensing facilities at unattended sites to prevent the continuous operation of any dispenser. They may operate on a timing, volume or cash limit.
<b>material change</b>	A change to any specified matter, which was part of the application for consent, or anything concerning the construction or design of the site, which is capable of materially affecting safety at the site.
<b>maximum working capacity</b>	The safe working capacity of a storage tank, defined as 97 % of the total capacity.
<b>monitoring system</b>	An automatic system used in double skin tanks and pipework for detecting failure of the containment walls.
<b>Natural Resources Wales</b>	<a href="https://naturalresourceswales.gov.uk/splash?orig=/">https://naturalresourceswales.gov.uk/splash?orig=/</a>
<b>Northern Ireland Environment Agency</b>	<a href="https://www.doeni.gov.uk/niea//">https://www.doeni.gov.uk/niea//</a>
<b>nozzle</b>	A device for controlling the flow of fuel during dispensing.
<b>observation well</b>	A slotted or screened tube or pipe positioned vertically in the ground around an underground storage installation that permits an operator to check conditions in the excavation to determine whether there may be a leak in the installation.
<b>orifice plate</b>	A plate or component with an engineered central opening used to control the flow rate of vapour out of the petrol tank ventilation pipe with a maximum size of orifice not exceeding 10 mm diameter/78,5 mm <sup>2</sup> . The plate is fitted in an appropriate accessible position in the final leg of the storage tank ventilation pipe before release to atmosphere. A pressure relief valve set at +35 mbar is fitted on a parallel vent leg, by-passing the orifice plate, in order to allow the safe release of vapour pressure in the event of any blockages in the vapour return during a road tanker delivery.

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<b>orifice plate continued...</b>	<p>At low vapour/air flow rates during normal breathing and when fuel is drawn from the tank, the orifice plate allows for normal air/vapour movement in and out so as to allow the storage tank to be maintained at atmospheric pressure. During a delivery of petrol into the storage tank the orifice plate restricts the amount of vapour which can exit through the vent thereby creating a preferential vapour flow path to the connected road tanker. A 10 mm orifice plate when associated with standard 75 mm vapour return line, poppet valve and other standard fittings to the road tanker ensures losses to atmosphere during deliveries are maintained below 0,01 % w/w as required by the Stage 1b vapour recovery controls in the <i>Pollution Prevention and Control Regulations</i>.</p> <p>An orifice plate should be inspected as part of the normal testing and maintenance requirements set out in the PP&amp;C Regulations.</p>
<b>Overfill prevention device</b>	<p>A device or system designed to automatically shut off and prevent a delivery of fuel overflowing a tank (or compartment of a tank) beyond its maximum working capacity.</p>
<b>PELG-PETELS</b>	<p>Local authority circulars issued by the Petroleum Enforcement Liaison Group, through the EI, to advise petroleum licensing authorities on enforcement matters. PELG-PETELS on other local authority enforcement subjects that are designated as 'open' are available to petrol filling station operators and other interested parties to read/download from the EI's website: <a href="https://www.energyinst.org/PELG">https://www.energyinst.org/PELG</a></p>
<b>petrol or petroleum-spirit</b>	<p>Means petroleum which, when tested in accordance with Part A.9. of the Annex to the European Commission Directive 92/69, has a flash point (as defined in that Part) of less than 21 °C.</p>
<b>Petroleum Enforcement Authority</b>	<p>The Authority responsible for enforcing the <i>Petroleum (Consolidation) Regulations 2014</i> and the <i>Dangerous Substances &amp; Explosive Atmospheres Regulations 2002</i> (DSEAR) insofar DSEAR applies to dangerous substances dispensed into the fuel tanks of motor vehicles at workplace dispensing premises (petrol filling stations).</p>
<b>Petroleum Enforcement Liaison Group (PELG)</b>	<p><a href="https://www.energyinst.org/technical/distribution-and-marketing/filling-stations/pelg">https://www.energyinst.org/technical/distribution-and-marketing/filling-stations/pelg</a></p>
<b>Petroleum Inspector</b>	<p>A person acting on behalf of the Petroleum Enforcing Authority who is empowered to enforce the <i>Petroleum (Consolidation) Regulations 2014</i> and the <i>Dangerous Substances and Explosive Atmospheres Regulations 2002</i>.</p>
<b>petroleum filling station (retail)</b>	<p>Means premises used, or intended for use, for dispensing petroleum-spirit to the public for use in motor vehicles, ships or aircraft by ways of sale.</p>

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<b>petroleum filling station (non-retail)</b>	Means premises used, or intended for use, for dispensing petroleum-spirit for use in motor vehicles, ships or aircraft, but it does not include any retail petroleum filling station.
<b>petrol vapour</b>	Gaseous material released from petrol by evaporation.
<b>pipework</b>	All pipes, lines and fittings designed to carry petrol and petrol vapour.
<b>poppet valve</b>	A mushroom shaped valve, located in the vapour balance pipe connection adaptor, that is lifted from its seating by the spigot located in the coupling of the vapour balance hose.
<b>portable petrol container</b>	<p>Under regulation 19 (Schedule 3) of the <i>Petroleum (Consolidation) Regulations 2014</i>, for a portable petrol container to meet the 'suitable' requirement in the dispensing prohibitions of regulation 12, it must:</p> <ul style="list-style-type: none"><li>(a) have a nominal capacity<ul style="list-style-type: none"><li>(i) no greater than 10 litres if made of plastic; and</li><li>(ii) no greater than 20 litres if made of metal;</li></ul></li><li>(b) have a total capacity between 10 % and 15 % more than the nominal capacity;</li><li>(c) be made of either metal or plastic that is suitable and safe for the purpose and will not significantly degrade due to exposure to petrol or naturally occurring ultra-violet radiation;</li><li>(d) be designed and constructed so that<ul style="list-style-type: none"><li>(i) it is reasonably robust and not liable to break under the normal conditions of use;</li><li>(ii) the escape if liquid or vapour is prevented;</li><li>(iii) petrol can be poured safely from it; and</li><li>(iv) it is not unsteady when placed on a flat surface;</li></ul></li><li>(e) be marked or labelled in a legible and indelible form with<ul style="list-style-type: none"><li>(i) the words 'PETROL' and 'HIGHLY FLAMMABLE';</li><li>(ii) an appropriate hazard warning sign;</li><li>(iii) the nominal capacity in litres; and</li><li>(iv) the manufacturer's name and date and month of manufacture.</li></ul></li></ul>

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<b>prescribed material change</b>	<p>Under Regulation 8 (Schedule 1), prescribed material changes to dispensing premises are the:</p> <ul style="list-style-type: none"> <li>– cessation of use of one or more petrol storage tanks;</li> <li>– removal or permanent decommissioning of one or more petrol storage tanks;</li> <li>– installation of any tank, pipework or vapour pipework associated with the storage and dispensing of petrol; and</li> <li>– installation of any petrol pump, any other automotive pump, or dispenser in a new location.</li> </ul>
<b>pressurised system</b>	<p>A system in which petrol is pumped under pressure from the storage tank to the dispenser.</p>
<b>principal contractor</b>	<p>The firm or individual under the provisions of the <i>Construction (Design and Management) Regulations 1994</i> who has a duty to take account of health and safety issues when preparing and presenting tenders or similar documents for construction work. He also has a duty to develop the health and safety plan for the site and to co-ordinate the activities of all contractors to ensure they comply with health and safety legislation. Principal contractors also have duties to check on the provision of information and training for employees and for consulting with employees, and the self-employed on health and safety.</p>
<b>radio-frequency (r.f.) transmitters</b>	<p>Electromagnetic waves produced by radio-frequency transmitters (e.g. mobile telephone masts and the emergency services radios) will induce electrical currents in any conducting structure on which they impinge. The magnitude of the induced current depends on the shape and size of the structure relative to the wavelength of the transmitting signal and on the strength of the electromagnetic field. When parts of the structure normally in contact are caused to break or separate momentarily, a spark may occur if the induced voltage and current at the break are sufficiently large. If this happens in a place where a flammable atmosphere is present, the spark may have sufficient energy to cause ignition.</p> <p>British Standard BS 6656: 1991 <i>Prevention of inadvertent ignition of flammable atmospheres by radio-frequency radiation</i> details a methodology for the assessment and elimination of r.f. induced ignition. Such an assessment should be carried out before fixed radio transmitters are installed at petrol filling stations.</p>

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<b>reasonably practicable</b>	The degree of risk in a particular job or workplace, balanced against the time, trouble, cost and physical difficulty of taking measures to avoid or reduce the risk.
<b>relevant environment agency</b>	Means the Environment Agency in England, Natural Resources Wales, the Northern Ireland Environment Agency or the Scottish Environmental Protection Agency.
<b>risk</b>	The chance that someone will be harmed by a hazard.
<b>risk assessment</b>	A careful examination of what could cause harm to people so that an evaluation can be made as to whether enough precautions have been taken to prevent harm, or whether more should be done.
<b>Scottish Environment Protection Agency</b>	<a href="https://www.sepa.org.uk">https://www.sepa.org.uk</a>
<b>Secondary containment</b>	An additional protection of the primary system of storage tanks or pipework e.g. double skin tanks.
<b>Spigot</b>	see <i>poppet valve</i>
<b>stage 1b vapour recovery system</b>	A system designed to capture vapour displaced from inside the storage tank during petrol deliveries. The system prevents vapour from escaping into the air, and returns it to the road tanker via a vapour tight connection line.
<b>stage 2 vapour recovery system</b>	A system designed to capture the vapour displaced from inside the vehicle fuel tank during petrol deliveries. The system involves special adaptation to the installation to return the vapour to the underground storage tank.
<b>suction system</b>	A system where petrol is pumped from the storage tank to a dispenser by a pump fitted at the dispenser.
<b>thermite reaction</b>	A thermite spark, or thermite reaction, occurs when there is an impact between a light metal, or an alloy of that metal (e.g. an aluminium hose coupling used for road tanker deliveries), and rust on the surface of steel, or when some aluminium is smeared on a rusty steel object and that object impacts a hard surface, e.g. a concrete kerbstone.
<b>UKLPG</b>	<a href="https://www.uklpg.org">https://www.uklpg.org</a>
<b>ullage</b>	The difference between the maximum working capacity of a storage tank and the quantity of petrol in it at any given time
<b>unattended self-service</b>	A petrol station where dispensing equipment is activated and operated by customers without the supervision of an attendant. The term 'unattended self service' is used at those sites that alternatively operate as 'attended self service' during normal working hours.

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<b>unmanned petrol filling station</b>	A petrol station where dispensing equipment is activated and operated by customers without the supervision of an attendant. Unmanned petrol filling stations will normally have no attended self service facilities.
<b>vapour lock</b>	<p>Vapour lock is a phenomenon that can occur during a road tanker delivery and is identified by a stoppage in the flow of product before the road tanker's compartment is fully discharged. There are two possible causes of vapour lock:</p> <ul style="list-style-type: none"> <li>i) Where there is an insufficient head of product in the road tanker compartment to force the air/vapour mixture in the delivery hose and fill pipe through the residual product in the storage tank. This cause of vapour lock can affect both atmospheric (free venting) and vapour balanced deliveries.</li> <li>ii) Where there is a back flow of vapour into the delivery hose from a leak in the storage tank's internal fill pipe. This cause will only arise during vapour-balanced deliveries.</li> </ul>
<b>verification</b>	is the confirmation that all the measures (including fixed equipment/plant and operational/emergency procedures) to prevent the ignition of flammable vapours in the designated hazardous places are suitable and adequate. The verification process can be carried out by a competent person or organization.
<b>wetstock</b>	The amount of petrol stored in a tank at any given time.
<b>westock reconciliation</b>	Systems for checking and keeping records of the petrol stored and dispensed, and comparing the two to identify any discrepancies, which might indicate a leak.
<b>wet test</b>	is a close visual inspection, using tissue paper, to ascertain the sealing of certain pipework joints and fittings on the storage tank lid and in the dispenser housing that cannot be pneumatically or hydraulically leak tested at the commissioning stage or when modifications or repairs have been carried out.
<b>young person</b>	means any person who has not attained the age of 18

## APPENDIX 6

### GLOSSARY OF ACRONYMS AND ABBREVIATIONS

<b>ADR</b>	Accord Européen relatif au transport international des marchandises dangereuses par route
<b>ACoP</b>	approved code of practice
<b>APEA</b>	Association of Petroleum and Explosives Administration
<b>BS</b>	British Standard
<b>CB</b>	citizens band (radio)
<b>CDGR</b>	<i>Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004</i>
<b>CDM</b>	<i>Construction (Design and Management) Regulations 2015</i>
<b>DSEAR</b>	<i>Dangerous Substances and Explosive Atmospheres Regulations 2002</i>
<b>EA</b>	Environment Agency
<b>FRSNIO</b>	Fire and Rescue Services (Northern Ireland) Order 2006
<b>FSA</b>	Fire (Scotland) Act 2005
<b>GRP:</b>	glass reinforced plastic
<b>HSE</b>	Health and Safety Executive
<b>HSWA</b>	<i>Health and Safety at Work etc Act 1974</i>
<b>LNG</b>	liquefied natural gas
<b>LPG</b>	liquefied petroleum gas
<b>MHSWR</b>	Management of Health and Safety at Work Regulations 1999
<b>NRW</b>	Natural Resources Wales
<b>OPD</b>	overfill prevention device
<b>PCR 2014</b>	Petroleum (Consolidation) Regulations 2014
<b>PELG</b>	Petroleum Enforcement Liaison Group
<b>PEA</b>	Petroleum Enforcement Authority
<b>PMC</b>	prescribed material change
<b>PSC</b>	petroleum storage certificate
<b>rf</b>	radio frequency

<b>RIDDOR</b>	<i>Reporting of Injuries, Disease and Dangerous Occurrences Regulations 1995</i>
<b>RRO</b>	<i>Regulatory Reform (Fire Safety) Order 2005</i>
<b>SIR</b>	statistical inventory reconciliation
<b>SMS</b>	safety method statement
<b>UK</b>	United Kingdom
<b>WFD</b>	Water Framework Directive

## APPENDIX 7 AMENDMENTS

(With effect from October 2018)

October 2018

- Change of host of publication from the Chief Fire Officers' Association to the EI.
- Update of references.
- 8.5 Dispensing control measures has been reviewed and reformatted with changes to reference numbering.
- 8.5 amendments have been made to reflect the **new categories of unmanned operation**, appropriate control measures and physical response to incidents.
- 8.5.5.5 Guidance on customer owned **refillable LPG cylinders** added.
- 8.5.5.9 Guidance on **payment for fuel using mobile devices** added.

July 2013

- Change of host of publication from the Chief Fire Officers' Association to the EI.
- Update of references.

October 2010

- Appendix 4 Examples of typical hazardous areas deleted as this information can be found in the Blue Book.
- Section 8.5 Dispensing control measures completely re-written.

### 2015

- Removed all references to the repealed *Petroleum (Consolidation) Act 1928* and to replace with references to the *Petroleum (Consolidation) Regulations 2014*.
- Updated references to other relevant legislation and associated guidance.



# Storing petrol safely

Petrol is a dangerous substance; it is a highly flammable liquid and can give off vapour which can easily be set on fire and when not handled safely has the potential to cause a serious fire and/or explosion.

This means there is always a risk of a fire and/or an explosion if there is a source of ignition nearby, for example a naked flame, an electrical spark or similar. Because of these risks storing petrol safely is covered by legislation; and this applies to you if you store petrol.

## What is the law on storing petrol safely?

[The Petroleum \(Consolidation\) Regulations 2014 \(PCR\)](#)<sup>[1]</sup> which came into force on 1 October 2014 apply to:

- workplaces that store petrol where petrol is dispensed directly into the tank of a vehicle with an internal combustion engine, ie retail and non retail petrol filling stations;
- non-workplace premises storing petrol, for example at private homes, or at clubs/associations (or similar)

[Petroleum Enforcement Authorities \(PEAs\)](#)<sup>[2]</sup>, formerly Petroleum Licensing Authorities (PLAs) are responsible for enforcing the Petroleum (Consolidation) Regulations 2014. They also continue to enforce DSEAR at workplaces covered by PCR. This means that there is no change to the current enforcing arrangements.

The safe storage and use of petrol in workplaces is also covered by the [Dangerous Substances and Explosive Atmospheres Regulations 2002 \(DSEAR\)](#)<sup>[3]</sup>.

## Who does this apply to?

Information on how the Petroleum (Consolidation) Regulations 2014 applies to the following groups:

[If you are an owner/employee of a petrol filling station](#)<sup>[4]</sup>

[If you store petrol at home, or at a club/association or similar premises](#)<sup>[5]</sup>

[If you design, manufacture or supply portable petrol storage containers](#)<sup>[6]</sup>

[If your workplace stores but does not dispense petrol](#)<sup>[7]</sup>

[If you store and use petrol at your workplace as part of a work activity](#)<sup>[8]</sup>

## What does this legislation replace?

The Petroleum (Consolidation) Regulations 2014 combine, update and replace all previous legislation on petrol storage. The existing health and safety responsibilities remain the same; anything that is still relevant is included in the 2014 Regulations.

## What has been withdrawn?

- List of [old petroleum legislation](#)<sup>[9]</sup>.



- Approved Code of Practice (ACOP) COP6 – Petroleum-Spirit (Plastic Containers) Regulations 1982. Requirements for testing and marking or labelling.
- Approved Document L93 – Approved tank requirements. The provisions for bottom loading and vapour recovery systems of mobile containers carrying petrol.

## New guidance

- New guidance on [portable petrol storage containers \(PDF\)](#)<sup>[10]</sup> is available giving practical advice on the design, construction, materials and marking or labelling of containers as required by the regulations.
- Guidance on [staying safe while using petrol](#)<sup>[11]</sup> is also available.

## Resources

[Dangerous substances and explosive atmospheres ACOP L138 \(Second edition\)](#)<sup>[12]</sup>

[Controlling fire and explosion risks in the workplace](#)<sup>[13]</sup>

[The dangers of cellulose nitrate film](#)<sup>[14]</sup>

## See also

[Dept for Business, Innovation and Skills \(BIS\)](#)<sup>[16]</sup>

[Energy Institute](#)<sup>[17]</sup>

[Association for Petroleum and Explosives Administration \(APEA\)](#)<sup>[18]</sup>

[The trade association for the LPG industry in the UK \(UKLPG\) Codes of practice](#)<sup>[19]</sup>

## Related content

[REACH](#)<sup>[20]</sup>

[Exemption certificates](#)<sup>[21]</sup>

[COMAH](#)<sup>[22]</sup>

[Chemicals](#)<sup>[23]</sup>

[Risk](#)<sup>[24]</sup>

[Construction](#)<sup>[25]</sup>

[COSHH](#)<sup>[26]</sup>

[Ports](#)<sup>[27]</sup>

[Textiles](#)<sup>[28]</sup>

[Welding](#)<sup>[29]</sup>

[LEV](#)<sup>[30]</sup>

## Link URLs in this page

1. The Petroleum (Consolidation) Regulations 2014 (PCR)  
<http://www.legislation.gov.uk/ukxi/2014/1637/contents/made>
2. Petroleum Enforcement Authorities (PEAs)  
<https://www.hse.gov.uk/fireandexplosion/petroleum-enforcement-authorities.htm>
3. Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR)  
<https://www.hse.gov.uk/fireandexplosion/dsear.htm>
4. If you are an owner/employee of a petrol filling station  
<https://www.hse.gov.uk/fireandexplosion/owner-petrol-station.htm>
5. If you store petrol at home, or at a club/association or similar premises  
<https://www.hse.gov.uk/fireandexplosion/petrol-storage-club-association.htm>
6. If you design, manufacture or supply portable petrol storage containers  
<https://www.hse.gov.uk/fireandexplosion/design-manufacture-storage-containers.htm>
7. If your workplace stores but does not dispense petrol  
<https://www.hse.gov.uk/fireandexplosion/workplace-not-dispensing.htm>
8. If you store and use petrol at your workplace as part of a work activity  
<https://www.hse.gov.uk/fireandexplosion/store-use-petrol-workplace.htm>
9. old petroleum legislation  
<https://www.hse.gov.uk/fireandexplosion/withdrawn-legislation.htm>
10. portable petrol storage containers  
<https://www.hse.gov.uk/fireandexplosion/portable-petrol-storage-containers.pdf>
11. staying safe while using petrol  
<https://www.hse.gov.uk/fireandexplosion/staying-safe.htm>
12. Dangerous substances and explosive atmospheres ACOP L138 (Second edition)  
<https://www.hse.gov.uk/pubns/books/l138.htm>
13. Controlling fire and explosion risks in the workplace  
<https://www.hse.gov.uk/pubns/indg370.htm>
14. The dangers of cellulose nitrate film  
<https://www.hse.gov.uk/pubns/indg469.htm>
15. More resources  
<https://www.hse.gov.uk/fireandexplosion/resources.htm>
16. Dept for Business, Innovation and Skills (BIS)  
<http://www.bis.gov.uk/policies/business-sectors/environmental-and-product-regulations/product-regulation/ec-product-directives/atex-directive>
17. Energy Institute  
<http://www.energyinst.org/home>
18. Association for Petroleum and Explosives Administration (APEA)  
<http://www.apoa.org.uk/>
19. The trade association for the LPG industry in the UK (UKLPG) Codes of practice  
<http://www.uklpg.org/>
20. REACH  
<https://www.hse.gov.uk/reach/index.htm>
21. Exemption certificates  
<https://www.hse.gov.uk/asbestos/exemption.htm>
22. COMAH  
<https://www.hse.gov.uk/comah/index.htm>

- 23. Chemicals  
<https://www.hse.gov.uk/chemicals/index.htm>
- 24. Risk  
<https://www.hse.gov.uk/risk/index.htm>
- 25. Construction  
<https://www.hse.gov.uk/construction/index.htm>
- 26. COSHH  
<https://www.hse.gov.uk/coshh/index.htm>
- 27. Ports  
<https://www.hse.gov.uk/ports/index.htm>
- 28. Textiles  
<https://www.hse.gov.uk/textiles/index.htm>
- 29. Welding  
<https://www.hse.gov.uk/welding/index.htm>
- 30. LEV  
<https://www.hse.gov.uk/lev/index.htm>

## Glossary of abbreviations/acronyms on this page

### **REACH**

Registration, Evaluation, Authorisation & restriction of Chemicals

### **COMAH**

Control of major accident hazards

### **COSHH**

Control of Substances Hazardous to Health

### **LEV**

Local exhaust ventilation

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# Dispensing petrol as a fuel: Health and safety guidance for employees

- [Petrol - the dangers](#)
- [What you need to know](#)
- [Risk assessment](#)
- [Training](#)
- [You also need to know...](#)
- [Personal protection and hygiene](#)
- [Dispensing petrol safely](#)
- [Make sure that...](#)
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- [Further information](#)

## Do you work at a petrol filling-station or any other site where petrol is stored and dispensed as a fuel?

If so, this leaflet is for you. It explains what you and your employer need to do in order to safeguard your health and safety and that of others.

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### Petrol - the dangers

- Petrol is a highly flammable liquid which can give off flammable vapour, even at very low temperatures. This means there is always a risk of fire or explosion if a source of ignition is present;
- It floats on the surface of water and may travel long distances, eventually causing danger away from the place where it escaped;
- Petrol vapour does not disperse easily and may also travel long distances. It tends to sink to the lowest possible level and may collect in tanks, cavities, drains, pits, or other enclosed areas, where there is little air movement;
- Flammable atmospheres may be present in empty tanks and petrol cans. There is also a danger if petrol is spilled on clothing, rags etc;
- Petrol vapour can be harmful if inhaled. Petrol should not be swallowed and contact with the skin should be avoided.

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### What you need to know

Under the Health and Safety at Work Act your employer has a responsibility towards you, both to take all reasonable steps to ensure your safety, and to equip you to do your job without danger to yourself or others.

You also have a duty to look after your own safety and that of others.

---

## Risk assessment

Your employer has a legal responsibility to carry out an assessment of the risks arising from the operation of your site and to take steps to eliminate or control those risks. You should inform your employer if you identify any potentially dangerous situations which are not being controlled. The essential steps to the risk assessment are:

- Step 1 - Look for the hazards;
  - Step 2 - Decide who might be harmed and how;
  - Step 3 - Evaluate the risks arising from the hazards and decide whether existing precautions are adequate or more should be done;
  - Step 4 - Record the significant findings of the assessment;
  - Step 5 - Review the assessment from time to time and revise it if necessary.
- 

## Training

You should have received training on the correct safety procedures for any of the following tasks for which you are responsible:

- Operating dispensing equipment, and recognising and reporting faults;
- Recording tank contents and meter readings;
- Using other site equipment, and recognising and reporting faults;
- Dealing with potential danger, including the use of firefighting equipment, dealing with leakages and spillages, notifying the emergency services and recording accident damage;
- Procedures when delivery of petrol takes place - **only people appointed and trained as 'competent persons' under the appropriate Regulations may receive deliveries;**
- Procedures for dispenser switch-off, tanker parking, tanker and tank dip checks or gauge readings, petroleum certification, and completion of fuel stock control records;
- Site opening and closing procedures;
- Dealing with customer queries regarding safety.

A record of this training should be maintained by your employer.

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## You also need to know...

- the danger zones on site and the special precautions needed there;
  - the safety standards on receipt of deliveries;
  - the importance to safety of a clean and tidy forecourt with no flammable materials in danger zones;
  - site security practices and how to follow them;
- 

## Personal protection and hygiene

- the value of protective clothing, such as footwear, gloves and goggles, and when to wear them;

- the need to wash properly with plenty of soap and water after finishing work, or at any time when you get petrol or oil on your hands;
- the correct methods of handling and lifting.

Do make sure you have the information and training needed to carry out your duties safely. If in doubt, **ask**.

**Don't** carry out any task for which you have not been properly trained. **Don't** assume you know the dangers or the correct safety procedures.

---

## Dispensing petrol safely

If you are under the age of 18 you should not be left in sole charge of a filling-station.

Before a petrol dispenser is used (whether by you or by customers) you should make sure there is no danger. Control has to be **constant** to prevent dangerous situations occurring.

---

### Make sure that...

- each vehicle and the person using a dispenser can be seen and that your view is not obstructed;
- proper procedures are followed throughout the filling operation, eg dispenser nozzles are correctly inserted, delivery hoses are not stretched or kinked and tripper latches are not wedged open;
- at filling-stations the loudspeaker system and any closed-circuit TV is working correctly;
- vehicle engines are switched off when at the dispensers;
- people under the age of 16 do not buy petrol or operate dispensers;
- no one smokes in the vicinity of the dispenser (ie in danger zones);
- no one uses portable electric/electronic equipment such as a CB radio or portable telephone;
- people wishing to fill containers with petrol use only those which are approved.

**Always** check carefully that there is no danger before you start the petrol dispenser and during its operation.

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## Fire precautions

There should be:

- adequate means for contacting the fire brigade when necessary;
- suitable equipment for dealing with minor incidents;
- a supply of dry sand and fire extinguishers readily available;
- conspicuous notices - 'Petrol' or 'Petroleum Spirit', 'Highly Flammable', 'No Smoking', and 'Switch Off Engine' - positioned close to pumps and dispensers to alert customers to the hazards.

**Make sure** you know what you are expected to do and who you should inform if there is a dangerous incident.

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## Further information

More detailed information is contained in the booklet, the APEA/IP *Code of practice for the design, construction and operation of petrol filling stations*, available from The Administrator, Association for Petroleum and

Explosives Administration, PO Box 2, Hadleigh, Suffolk IP7 5SF. Additional single copies of this leaflet version of this document are available free from HSE Books. It is also available in priced packs of 15, price £5.00 (discounts available for multiples), from HSE Books, ISBN 0 7176 1098 5.

HSE priced and free publications are available by mail order from HSE Books, TSO Customer Services, PO Box 29, Norwich, NR3 1GN, Tel: +44 (0)333 202 5070 Website: <https://books.hse.gov.uk/> (HSE priced publications are also available from bookshops and free leaflets can be downloaded from HSE's website: [www.hse.gov.uk](http://www.hse.gov.uk)<sup>[1]</sup>.)

Further advice can be obtained from HSE offices (see under Health and Safety Executive in the telephone directory). For other enquiries write to HSE's Information Centre, Broad Lane, Sheffield S3 7HQ..

**This document contains notes on good practice which are not compulsory but which you may find helpful in considering what you need to do.**

This document is available at: [www.hse.gov.uk/pubns/indg216.htm](http://www.hse.gov.uk/pubns/indg216.htm)<sup>[2]</sup>.

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## See also

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# The Highway Code

From: **Department for Transport**  
(/government/organisations/department-for-transport)

Published 1 October 2015

Updated: 17 September 2023 - [See all updates](#)

## Contents

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# Annex 6. Vehicle maintenance, safety and security

Information and rules about vehicle maintenance, safety and security.

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## Vehicle maintenance

Take special care that lights, brakes, steering, exhaust system, seat belts, demisters, wipers, washers and any audible warning systems are all working. Also

- lights, indicators, reflectors, and number plates **MUST** be kept clean and clear

- windscreens and windows **MUST** be kept clean and free from obstructions to vision
- lights **MUST** be properly adjusted to prevent dazzling other road users.
- Extra attention needs to be paid to this if the vehicle is heavily loaded
- exhaust emissions **MUST NOT** exceed prescribed levels
- ensure your seat, seat belt, head restraint and mirrors are adjusted correctly before you drive
- ensure that items of luggage are securely stowed.

### Laws **RVLR 1989 regs 23**

<http://www.legislation.gov.uk/ukxi/1989/1796/regulation/23/made>) & **27**

<http://www.legislation.gov.uk/ukxi/1989/1796/regulation/27/made>), & **CUR regs 30**

<http://www.legislation.gov.uk/ukxi/1986/1078/regulation/30/made>) & **61**

<http://www.legislation.gov.uk/ukxi/1986/1078/regulation/61/made>)

**Warning displays.** Make sure that you understand the meaning of all warning displays on the vehicle instrument panel. Do not ignore warning signs, they could indicate a dangerous fault developing.

- When you turn the ignition key, warning lights will be illuminated but will go out when the engine starts (except the handbrake warning light). If they do not, or if they come on while you are driving, stop and investigate the problem, as you could have a serious fault.
- If the charge warning light comes on while you are driving, it may mean that the battery isn't charging. This should also be checked as soon as possible to avoid loss of power to lights and other electrical systems.

**Window tints.** You **MUST NOT** use a vehicle with excessively dark tinting applied to the windscreen, or to the glass in any front window to either side of the driver. Window tinting applied during manufacture complies with the Visual Light Transmittance (VLT) standards. There are no VLT

limits for rear windscreens or rear passenger windows.

### Laws [RTA 1988 sect 42](#)

<http://www.legislation.gov.uk/ukpga/1988/52/section/42/enacted>) & [CUR reg 32](#)  
(<http://www.legislation.gov.uk/uksi/1986/1078/regulation/32/made>)

**Tyres.** Tyres **MUST** be correctly inflated to the vehicle manufacturer's specification for the load being carried. Always refer to the vehicle's handbook or data. Tyres should also be free from certain cuts and other defects.

**Cars, light vans and light trailers MUST** have a tread depth of at least 1.6 mm across the central three-quarters of the breadth of the tread and around the entire circumference.

**Motorcycles, large vehicles and passenger-carrying vehicles MUST** have a tread depth of at least 1 mm across three-quarters of the breadth of the tread and in a continuous band around the entire circumference.

**Mopeds** should have visible tread.

Be aware that some vehicle defects can attract penalty points.

**Tyre age.** Tyres over 10 years old **MUST NOT** be used on the front axles of:

- goods vehicles with a maximum gross weight of more than 3.5 tonnes
- passenger vehicles with more than 8 passenger seats

Additionally, they **MUST NOT** be used on the rear axles of passenger vehicles with 9 to 16 passenger seats, unless equipped with twin wheels.

To prove the age of a tyre, it is further required that the date of tyre manufacture marking **MUST** always be legible.

Vehicles currently excluded from tyre roadworthiness regulations and vehicles of Exhibit BA4 - 163

historical interest which are not used for commercial purpose are exempt from these requirements.

### **Law [CUR reg 27](#)**

<http://www.legislation.gov.uk/ukxi/1986/1078/regulation/27/made>

If a tyre bursts while you are driving, try to keep control of your vehicle. Grip the steering wheel firmly and allow the vehicle to roll to a stop at the side of the road.

If you have a flat tyre, stop as soon as it is safe to do so. Only change the tyre if you can do so without putting yourself or others at risk - otherwise call a breakdown service.

**Tyre pressures.** Check weekly. Do this before your journey, when tyres are cold. Warm or hot tyres may give a misleading reading.

Your brakes and steering will be adversely affected by under-inflated or over-inflated tyres. Excessive or uneven tyre wear may be caused by faults in the braking or suspension systems, or wheels which are out of alignment. Have these faults corrected as soon as possible.

**Fluid levels.** Check the fluid levels in your vehicle at least weekly. Low brake fluid may result in brake failure and a crash. Make sure you recognise the low fluid warning lights if your vehicle has them fitted.

**Before winter.** Ensure that the battery is well maintained and that there are appropriate anti-freeze agents in your radiator and windscreen bottle.

**Other problems.** If your vehicle

- pulls to one side when braking, it is most likely to be a brake fault or incorrectly inflated tyres. Consult a garage or mechanic immediately
- continues to bounce after pushing down on the front or rear, its shock absorbers are worn. Worn shock absorbers can seriously affect the operation of a vehicle and should be replaced

- smells of anything unusual such as burning rubber, petrol or an electrical fault; investigate immediately. Do not risk a fire.

**Overheated engines or fire.** Most engines are water-cooled. If your engine overheats, you should wait until it has cooled naturally. Only then remove the coolant filler cap and add water or other coolant.

If your vehicle catches fire, get the occupants out of the vehicle quickly and to a safe place. Do not attempt to extinguish a fire in the engine compartment, as opening the bonnet will make the fire flare. Call the fire brigade.

**Petrol stations/fuel tank/fuel leaks.** Ensure that, when filling up your vehicle's tank or any fuel cans you are carrying, you do not spill fuel on the forecourt. Any spilled fuel should be immediately reported to the petrol station attendant. Diesel spillage is dangerous to other road users, particularly motorcyclists, as it will significantly reduce the level of grip between the tyres and road surface. Double-check for fuel leaks and make sure that

- you do not overfill your fuel tank
- the fuel cap is fastened securely
- the seal in the cap is not torn, perished or missing
- there is no visual damage to the cap or the fuel tank.

Emergency fuel caps, if fitted, should form a good seal.

Never smoke, or use a mobile phone, on the forecourt of petrol stations as these are major fire risks and could cause an explosion.

Undertake all aspects of the daily walkaround checks for commercial vehicles, as recommended by DVSA ([www.gov.uk/dvsa/commercial-vehicle-safety](http://www.gov.uk/dvsa/commercial-vehicle-safety) (<https://www.gov.uk/dvsa/commercial-vehicle-safety>)) and the Fleet Operator Recognition Scheme ([www.fors-online.org.uk](http://www.fors-online.org.uk) (<http://www.fors-online.org.uk>)).

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## Vehicle security

### When you leave your vehicle you should

- remove the ignition key and engage the steering lock
- lock the car, even if you only leave it for a few minutes
- close the windows completely
- never leave children or pets in an unventilated car
- take all contents with you, or lock them in the boot. Remember, for all a thief knows a carrier bag may contain valuables
- never leave vehicle documents in the car.

**For extra security** fit an anti-theft device such as an alarm or immobiliser. If you are buying a new car it is a good idea to check the level of built-in security features. Consider having your registration number etched on all your car windows. This is a cheap and effective deterrent to professional thieves.

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