

FACTS AND INFORMATION ON THE IMPLEMENTATION OF THE NEW ARRANGEMENTS BROUGHT ABOUT BY THE PETROLEUM (CONSOLIDATION) REGULATIONS 2014

Overview of the changes:

Arrangements under Petroleum (Consolidation) Act 1928	Arrangements under Petroleum (Consolidation) Regulations 2014	Advantages to the New Arrangements
Petroleum Licence issued for the storage of petrol to an individual or company for a specified premises.	Petroleum Storage Certificate (PSC) issued for the premises only.	There will no longer be a licensee therefore no need to transfer a licence between site operators. Removes the transfer fee.
Licensee - legally obliged to adhere to any conditions attached to the licence and all other relevant legislation.	A registered 'keeper of petrol' (keeper) will be responsible for complying with all relevant legislation. The 'keeper' merely has to be registered with the Petroleum Enforcing Authority (PEA). There is a responsibility for an outgoing 'keeper' to notify the PEA, and for an incoming 'keeper' to notify the PEA.	Where the 'keeper' intends to pass the premises on to a new 'keeper' they are only required to simply notify the PEA, no forms to be submitted, or fees to be paid.
Additional/special conditions of licence can be imposed by the Petroleum Licensing Authority (PLA).	Additional requirements cannot be added by the PEA. All fire and explosion risks associated with the storage and dispensing of petrol to be addressed by control measures identified on employer's DSEAR risk assessment.	There will no longer be special conditions.
Licences subject to renewal, usually at 1 to 3 yearly intervals, at the discretion of the PLA.	The certificate remains in force unless prescribed material changes have taken place (as listed on PSC) or the premises cease to be used for keeping of petrol for a continuous period exceeding 12 months.	Reduces bureaucracy.
Approval must be sought for changes to the approved arrangements.	Prescribed material changes that require notification are clearly defined in the Regulations.	The list of works needing approval is reduced.
A new licence would be issued following major works and significant changes to the approved arrangements. This may have incurred a new licence fee.	Where prescribed material changes are made to the site, the certificate would be replaced with an updated PSC detailing the new arrangements.	A revised PSC will not incur a fee.

Licence fee paid on the application for the granting, renewal or transfer of licence. Failure to apply for a licence or renew a licence constitutes the criminal offence of illegal storage.	The 'keeper' can choose the number of years for which they would like to pay for, up to 10 years. There is no facility for paying refunds of fees. Failure to pay a fee is to be pursued by the PEA as a 'civil debt' but would have no impact on the site operating legally.	Reducing the administrative burden, and possibly paying a reduced rate should fees increase during the period for which the fee has already been paid.
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Fees:

- Fees will continue to be collected by the PEA issuing the storage certificate and remain at the same level as the pre-existing PCA licensing fees (Ref: **Schedule 4, Part 4**):

Band	Litreage	Annual Subsistence (Current fees)
A	Up to 2,500	£44
B	2,500 up to 50,000	£60
C	Above 50,000	£125

* These fees are set by the Health and Safety (Fees) Regulations 2012. These regulations are reviewed. Site operators should be aware that fees may be subject to change.

- The fee band will be decided on the maximum working capacity of the tanks (to conform to Approved Code of Practice L133 – Unloading petrol from road tankers) that contain petrol at the time the fee is due, and not the capacities of the tanks that may be used to store petrol, as indicated on the table on the PSC. Further information is provided within the Frequently Asked Questions.
- The fee paid may be for any period (in whole years) up to 10 years, however the Regulations may be reviewed, and this could result in a change in the fee arrangements. This means that the Keeper will not be subject to any increase in fees during the period for which they have paid, and may reduce their administrative burden by having a lower frequency of fee payments.
- We are inviting all 'keepers' to indicate the period for which they wish to pay the fee via the attached form. Once the agreed period has ended a new timeframe can be initiated.
PLEASE NOTE: Failure to pay will result in a civil debt being levied upon the premises and 'keeper'.

As a 'keeper' what do I need to do:

During the transition:

The basis of the new legislation is to remove the burden on industry, to that end the enforcing authorities are required to grant the PSC with the information they have available. Therefore 'keepers' are not required to do anything during this transition; however it is important to become familiar with the new legal framework and the new/amended legal duties.

To complete the PSC, where available, the PEA will quote the drawings on the PSC they have previously approved (under the PCA) showing arrangements on site. If no such drawings exist, the PSC will state 'as in place on the date immediately after the licence would have expired'.

Within the PSC a table will list the tanks/compartments that the PEA will accept for the storage of petrol; these tanks may currently be used to store other fuels, but can be converted to store petrol without notification to the PEA. The legal obligations under the Dangerous Substances & Explosive Atmosphere Regulations 2002 still apply.

Whilst there is no legal requirement to do so, it will also be in the interest of the site operator to carefully check through the attached site specific details form and notify the authority if any of the information within the form is incorrect. As this will form the basis for the storage certificate, highlighting any discrepancies at this stage will prevent the incorrect information being entered on to the certificate, which would then be deemed invalid.

Note: The new Regulations (PCR) do not empower the PEA to require the submission of information, documentation, etc. for existing sites, to enable them to create a PSC. Therefore keepers are **not** required to submit paperwork such as site drawings, electrical certificates, risk assessments, etc to an enforcing authority prior to the issue of the certificate.

For 'keepers' with multiple sites, dependent on each enforcing authority, issuing of certificates is to be done on a rolling basis, with authorities utilising the previous licence renewal date as the initiator for issuing the storage certificate.

Once the legislation is in place:

From this point onwards the 'keeper' must:

- Continue to comply with all other legislation relevant to the safe operation of the site e.g. the Health & Safety at Work act 1974, The Management of Health & Safety at Work Regulations 1999 and the Dangerous Substances and Explosive Atmosphere Regulations 2002.
- Notify the PEA if prescribed material changes are made to the certificated premises.
- Notify the PEA if they wish to cease occupation/operation.
- Intended 'keepers' should notify the PEA prior to occupation of a certified site.
- Notification of any incidents occurring, in line with the nationally accepted guidance of best practice on reporting incidents, including leaks, spills, damage to the petrol installation etc.
- Drawings should be available on site to form part of the emergency plan.

FAQs

Licence/storage certificate:

Do I need to confirm the details on the site information sheet?

- There is no legal obligation to confirm the details or highlight any discrepancies however by doing so you can prevent incorrect information being entered on to the certificate, which would then be deemed invalid.

I have more than one site but I have not received the same form for those premises, what happens to the licences on those sites?

- Due to the high volume of certificates to process they are being done on a rolling programme based on existing licence renewal date. Whilst the licence will no longer be valid your site will be deemed to be compliant until the new certificate is issued.

What should I do with the certificate if I hand the site over to a new occupier?

- The certificate should be handed over to the new occupier as soon as they become responsible for the site.

Do I need to provide a copy of the electrical certificate to the PEA before I can have the storage certificate issued?

- No. There is no legal obligation for a site operator to hand over such information to be granted a certificate.

I have not received the storage certificate for my site yet, I still have a licence, but I wish to transfer the site to a new occupier, do I still need to use a transfer form?

- No, after October 2014 the new rules apply therefore you are required to notify the Authority no later than 28 days prior to your departure and after the specified date a storage certificate will be issued in the place of the licence. Please note the incoming occupier is also duty bound to notify the authority of their intention to take over the site no later than 28 days beforehand.

Keeper of petrol (keeper):

What is a 'keeper'?

- A 'keeper' is a person who keeps petrol on dispensing premises, who has responsibility for the safe operation of the site and will be legally obliged to ensure the site is compliant with the PCR.

Is this the same as a licensee?

- In most cases yes, this term will be replaced with 'keeper'. As licences will be removed there will no longer be the need for a licensee; instead the current licensee will become a 'keeper'; the level of legal responsibility that person will have will remain the same.

What happens if I sell the site to somebody else?

- As stated within the letter, there will no longer be a transfer procedure in place. Instead the current 'keeper' is required to notify the Petroleum Enforcing Authority (PEA) no later than 28 days prior to their departure.

What actions should the new occupier take?

- The new occupier is also required to notify the PEA of their intention to occupy the premises. They must do so, 28 days prior to commencing occupation.

Why do I need to tell the PEA if I am vacating the premises, my name will not be on the certificate?

- The 'keeper' has responsibility for the site and therefore is duty bound to notify the PEA if they are vacating a premises.

What are my responsibilities if I am closing and vacating the site?

- In the first instance the PEA must be informed. Where the site is to no longer operate as a dispensing premises the petroleum installation must be made safe. Guidance on the safe decommissioning of the installation can be obtained from PELG PETEL 12 and the Guidance for Design, Construction, Modification, Maintenance and Decommissioning of Filling Stations (Revised June 2011) published by the Association for Petroleum and Explosive Administration (APEA) and the Energy Institute.

Fees:

What happens at the end of the period I have selected?

- Shortly before the end of the designated period a letter will be sent by the PEA asking for you to indicate once again, the number of years for which you wish to pay

Can I obtain a refund if I vacate the premises before the end of the specified period?

- This fee is non-refundable. The premises will remain covered until the end of the specified period.

What happens if a new occupier takes over the premises before the end of the period?

- The premises will be covered until the end of the specified period. After such date the new occupier will be asked to specify the time frame for which they intend to pay. (Please note the correct notification procedures must be followed)

What happens if I do not specify the time frame I wish to pay for?

- Where a timeframe is not specified, a default invoice will be issued to cover a one year period from the date the initial storage certificate is issued. Should this fee not be paid, a debt for the fee will be levied against the premises/'keeper', which will be recorded by the PEA and debt recovery action will be taken to recover outstanding monies.

How do I pay the fee?

- The same method currently used to collect fees will remain in place. You can effect payment by cheque (payable to Scottish Borders Council), or by debit/credit card by telephoning 01835 825571

I have more than one site, do I have to choose the same payment period for all the sites or can I decide on a case by case basis?

- There is no requirement for an occupier with multiple sites to have a uniform payment period; each site can have its own designated payment period, which can be re-evaluated at the end of the allotted timeframe.

If you have any further queries please direct them to your Petroleum Enforcing Authority.

