SCHEDULES

SCHEDULE 6

AIRCRAFT AND BOAT FUEL, HEATING OIL AND FUEL USED FOR CERTAIN ENGINES

PART 1

FUEL USED IN AIRCRAFT AND BOATS

Aviation gasoline

1 HODA 1979 is amended as follows.

2 In section 1 (hydrocarbon oil), after subsection (3C) insert—

"(3D) "Aviation gasoline" means light oil which—

(a) is specially produced as fuel for aircraft,

(b) at 37.8oC, has a Reid Vapour Pressure of not less than 38kPa and not more than 49kPa, and

(c) is delivered for use solely as fuel for aircraft."

3 In section 2A(1) (power to amend definitions), before paragraph (a) insert—

"(za) aviation gasoline;".

4 (1) Section 6 (hydrocarbon oil: rates of duty) is amended as follows.

(2) In subsection (1), for the words from the beginning to "below, there" substitute "There".

(3) Omit subsections (3) and (4).

5 In section 24(1) (control of use of duty-free and rebated oil), omit "section 6(3),".

6 In section 27(1) (interpretation), in the definition of "aviation gasoline", for "section 6(4) above" substitute "section 1(3D)".

7 In Schedule 3 (regulations under section 21), omit paragraph 10A.

8 In consequence of the amendments made by paragraphs 2 to 7, omit—

(a) in FA 1982, section 4(2), (3) and (7),

(b) in FA 1990, section 3(5), and

(c) in FA 1998, section 6(1)(a).

Kerosene used for aviation (avtur)

9 HODA 1979 is amended as follows.

10 In the heading of section 13AB, for "**misuse of kerosene**" substitute "**contravention of section 13AA**".

11 After that section insert—

"**13AC Use of rebated kerosene for private pleasure-flying**

(1) This section applies in respect of kerosene upon which a rebate under section 11(1)(c) has been allowed.

(2) The kerosene must not be used as fuel for private pleasure-flying.

(3) If, on the supply of a quantity of the kerosene to a person, the person makes a relevant declaration to the supplier—

(a) subsection (2) does not apply in relation to that kerosene, and

(b) the person must pay, in accordance with regulations, the amount specified in subsection (4) to the Commissioners.

(4) The amount is—

$$Q \times R$$

where—

Q is the quantity (in litres) of the kerosene, and

R is the rate of the rebate under section 11(1)(c) at the time of the declaration.

(5) The amount referred to in subsection (3)(b) is to be treated, for the purposes of section 12 of the Finance Act 1994 (assessments to excise duty), as an amount of excise duty.

(6) Regulations may provide, in cases where kerosene to which subsection (2) applies and other kerosene is taken into an aircraft as fuel, for the order in which the different kinds of kerosene are to be treated (for the purposes of this section and section 13AD) as used.

(7) In this section—

"private pleasure-flying" has the same meaning as in Article 14(1)(b) of Council Directive 2003/96/EC (taxation of energy products etc),

"regulations" means regulations under section 24(1) made for the purposes of this section, and

"relevant declaration", in relation to a quantity of kerosene, means a declaration, made in the way and form specified by or under regulations, that the kerosene is to be used for private pleasure-flying.

13AD Penalties for contravention of section 13AC

(1) This section applies if a person—

(a) uses a quantity of kerosene in contravention of section 13AC(2), or

(b) fails to comply with section 13AC(3)(b).

(2) The Commissioners may assess the amount specified in section 13AC(4) as being excise duty due from the person, and may notify the person or the person's representative accordingly.

(3) The use or failure attracts a penalty under section 9 of the Finance Act 1994 (civil penalties).

(4) For the purposes of that section, if this section applies by virtue of subsection (1)(b)—

(a) the amount referred to in section 13AC(3)(b) is to be treated as an amount of excise duty,

(b) the penalty for the failure is to be calculated by reference to that amount, and

(c) the failure also attracts daily penalties.

(5) If this section applies by virtue of subsection (1)(a), for the purpose of subsection (2) the reference in section 13AC(4) to the time of the declaration is to be read as the time of use."

Fuel for private pleasure craft

12 HODA 1979 is amended as follows.

13 (1) Section 14A (rebate on biodiesel used other than as fuel for road vehicles) is amended as follows.

(2) In subsection (1)—

(a) omit the "or" at the end of paragraph (a),

(b) after that paragraph insert—

"(aa) used as fuel for propelling private pleasure craft, or", and

(c) in paragraph (b), for "so used" substitute "used as mentioned in paragraph (a) or (aa)".

(3) After subsection (3) insert—

"(4) In this section "private pleasure craft" has the same meaning as in section 14E."

(4) Accordingly, in the heading, insert at the end "**etc**".

14 (1) Section 14C (restrictions on use of rebated biodiesel and bioblend) is amended as follows.

(2) In subsection (1)—

(a) omit the "or" at the end of paragraph (b), and

(b) after paragraph (c) insert ", or

(d) (in the case of rebated biodiesel) used as fuel for propelling private pleasure craft or as an additive or extender in any substance so used."

(3) After subsection (4) insert—

"(4A) In subsection (1) "private pleasure craft" has the same meaning as in section 14E."

15 After section 14D insert—

"**14E Rebated heavy oil and bioblend: private pleasure craft**

(1) This section applies in respect of rebated heavy oil or bioblend.

(2) The heavy oil or bioblend must not be used as fuel for propelling private pleasure craft.

(3) If, on the supply by a person ("the supplier") of a quantity of the heavy oil or bioblend to another person, the other person makes a relevant declaration to the supplier—

(a) subsection (2) does not apply in relation to that heavy oil or bioblend, and

(b) the supplier must pay, in accordance with regulations, the amount specified in subsection (4) to the Commissioners.

(4) The amount is—

$$Q \times R$$

where—

Q is the quantity (in litres) of the heavy oil or bioblend, and

R is the rate of the relevant rebate at the time of supply.

(5) The "relevant rebate" is—

(a) in the case of heavy oil upon which rebate was allowed under section 13ZA or 13AA(1), the rebate under that provision,

(b) in the case of heavy oil to which paragraph (a) does not apply, the rebate under section 11 for that kind of heavy oil, and

(c) in the case of bioblend, the rebate under section 11(1)(b).

(6) The amount referred to in subsection (3)(b) is to be treated, for the purposes of section 12 of the Finance Act 1994 (assessments to excise duty), as an amount of excise duty.

(7) Regulations may provide, in cases where heavy oil or bioblend to which subsection (2) applies and other heavy oil or bioblend is taken into a craft as fuel, for the order in which the different substances are to be treated (for the purposes of this section and section 14F) as used.

(8) In this section—

"private pleasure craft" has the same meaning as in Article 14(1)(c) of Council Directive 2003/96/EC (taxation of energy products etc),

"regulations" means regulations under section 24(1) made for the purposes of this section, and

"relevant declaration", in relation to a quantity of heavy oil or bioblend, means a declaration, made in the way and form specified by or under regulations, that the heavy oil or bioblend is to be used as fuel for propelling private pleasure craft.

14F Penalties for contravention of section 14E

(1) This section applies if a person—

(a) uses a quantity of rebated heavy oil or bioblend in contravention of section 14E(2), or

(b) fails to comply with section 14E(3)(b).

(2) The Commissioners may assess the amount specified in section 14E(4) as being excise duty due from the person, and may notify the person or the person's representative accordingly.

(3) The use or failure attracts a penalty under section 9 of the Finance Act 1994 (civil penalties).

(4) For the purposes of that section, if this section applies by virtue of subsection (1)(b)—

(a) the amount referred to in section 14E(3)(b) is to be treated as an amount of excise duty,

(b) the penalty for the failure is to be calculated by reference to that amount, and

(c) the failure also attracts daily penalties.

(5) If this section applies by virtue of subsection (1)(a), for the purpose of subsection (2) the reference in section 14E(4) to the time of supply is to be read as the time of use."

16 In section 24(1) (control of use of duty-free and rebated oil), for "14C" substitute "14E".

Consequential amendments

17 FA 1994 is amended as follows.

18 In section 12A(3)(c) (other assessment relating to excise duty matters)—

(a) after "13AB," insert "13AD,", and

(b) after "14," insert "14F,".

19 In section 12B(2)(f) (section 12A: supplementary provisions)—

(a) after "13AB," insert "13AD,", and

(b) after "14" insert ", 14F".

20 In section 14(1)(ba) (requirement for review of a decision)—

(a) after "13AB," insert "13AD,", and

(b) after "14," insert "14F,".

Commencement etc

21 The amendments made by this Part of this Schedule come into force on 1 November 2008.

22 But section 13AC(2) of HODA 1979 does not apply to kerosene upon which a rebate under section 11(1)(c) of that Act was allowed before that date if it was supplied for use as fuel for an aircraft before that date.

23 And section 14E(2) of that Act does not apply to heavy oil or bioblend upon which a rebate was allowed before that date if it was supplied for use as fuel for a craft before that date.