



# Hydrocarbon Oil Duties Act 1979

## 1979 CHAPTER 5

An Act to consolidate the enactments relating to the excise duties on hydrocarbon oil, petrol substitutes, power methylated spirits and road fuel gas. [22nd February 1979]

### Modifications etc. (not altering text)

- C1 Act amended by Value Added Tax Act 1983 (c. 55, SIF 40:2), s. 24(1)(3) and Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 114(1)
- C2 Act modified by S.I. 1990/2167, art. 5
- C3 Act modified by Alcoholic Liquor Duties Act 1979 (c. 4), Sch. 2A para. 3(5) (as inserted (22.2.2006) by Finance Act 2004 (c. 12), Sch. 1; S.I. 2006/201, art. 2)

### Commencement Information

- II Act wholly in force at 1.4.1979 see s. 29(2)

### *The dutiable commodities*

## 1 Hydrocarbon oil.

- (1) [<sup>F1</sup>Subsections (2) to (7)] below define the various descriptions of oil referred to in this Act.
- (2) “Hydrocarbon oil” means petroleum oil, coal tar, and oil produced from coal, shale, peat or any other bituminous substance, and all liquid hydrocarbons, but does not include such hydrocarbons or bituminous or asphaltic substances as are—
  - (a) solid or semi-solid at a temperature of 15°C or
  - (b) gaseous at a temperature of 15°C and under a pressure of 1013·25 millibars.
- (3) “Light oil” means hydrocarbon oil—
  - (a) of which not less than 90 per cent. by volume distils at a temperature not exceeding 210°C or
  - (b) which gives off an inflammable vapour at a temperature of less than 23°C when tested in the manner prescribed by the Acts relating to petroleum.

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- [<sup>F2</sup>(3A) “Ultra low sulphur petrol” means unleaded petrol—
- (a) the sulphur content of which does not exceed 0.005 per cent. by weight,
  - (b) the aromatics content of which does not exceed 35 per cent. by volume, and
  - (c) which is not sulphur-free petrol.
- (3B) “Sulphur-free petrol” means unleaded petrol the sulphur content of which does not exceed 0.001 per cent. by weight (or is nil).
- (3C) “Unleaded petrol” means petrol that contains not more than 0.013 grams of lead per litre of petrol; and petrol is “leaded petrol” if it is not unleaded petrol.]
- (4) “Heavy oil” means hydrocarbon oil other than light oil.
- [<sup>F3</sup>(5) “Gas oil” means heavy oil of which not more than 50 per cent. by volume distils at a temperature not exceeding 240° C and of which more than 50 per cent. by volume distils at a temperature not exceeding 340° C.
- [<sup>F4</sup>(6) “Ultra low sulphur diesel” means gas oil—
- (a) the sulphur content of which does not exceed 0.005 per cent. by weight,
  - (b) the density of which does not exceed 835 kilograms per cubic metre at a temperature of 15°C,
  - (c) of which not less than 95 per cent. by volume distils at a temperature not exceeding 345°C, and
  - (d) which is not sulphur-free diesel.
- (7) “Sulphur-free diesel” means gas oil the sulphur content of which does not exceed 0.001 per cent. by weight (or is nil).]]

#### Textual Amendments

- F1** Words in s. 1(1) substituted (1.9.2004) by [Finance Act 2004 \(c. 12\), s. 7\(3\)\(9\)](#)
- F2** S. 1(3A)-(3C) substituted for s. 1(3A)(3B) (1.9.2004) by [Finance Act 2004 \(c. 12\), s. 7\(1\)\(9\)](#)
- F3** S. 1(5)(6) inserted (15.8.1997) by [1997 c. 16, s. 7\(1\)\(b\)\(10\)](#); [S.I. 1997/1960, art. 2](#)
- F4** S. 1(6)(7) substituted for s. 1(6) (1.9.2004) by [Finance Act 2004 \(c. 12\), s. 7\(2\)\(9\)](#)

## 2 Provisions supplementing s. 1.

- (1) The method of testing oil for the purpose of ascertaining its classification in accordance with section 1 above shall, subject to subsection (3)(b) of that section, be such as the Commissioners may direct.
- <sup>F5</sup>(1A) . . . . .
- (2) Subject to subsection (3) below, the Treasury may from time to time direct that, for the purposes of any duty of excise for the time being chargeable on hydrocarbon oil, any specified description of light oil shall be treated as being heavy oil.
- (3) The Treasury shall not give a direction under subsection (2) above in relation to any description of oil unless they are satisfied that the description is one which should, according to its use, be classed with heavy oil.
- (4) For the purposes of the Customs and Excise Acts 1979, the production of hydrocarbon oil includes—

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- (a) the obtaining of one description of hydrocarbon oil from another description of hydrocarbon oil; and
- (b) the subjecting of hydrocarbon oil to any process of purification or blending, as well as the obtaining of hydrocarbon oil from other substances or from any natural source.

<sup>F6</sup>(5) .....

**Textual Amendments**

- F5** S. 2(1A) repealed (*retrospective* to 7.3.2001 at 6pm) by 2001 c. 9, ss. 2(5), 110, **Sch. 33 Pt. I(1)** Note
- F6** S. 2(5) repealed (15.10.1993) by 1993 c. 34, ss. 12(7)(a)(8), 213, **Sch. 23 Pt. I(5)** Note; S.I. 1993/2215, **art. 3**

**[<sup>F7</sup>2AA Biodiesel**

- (1) In this Act “biodiesel” means diesel quality liquid fuel—
  - (a) that is produced from biomass or waste cooking oil,
  - (b) the ester content of which is not less than 96.5% by weight, and
  - (c) the sulphur content of which does not exceed 0.005% by weight or is nil.
- (2) In subsection (1)—
  - (a) “diesel quality” means capable of being used for the same purposes as heavy oil;
  - (b) “liquid” does not include any substance that is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars;
  - (c) “biomass” means vegetable and animal substances constituting the biodegradable fraction of—
    - (i) products, wastes and residues from agriculture, forestry and related activities, or
    - (ii) industrial and municipal waste.]

**Textual Amendments**

- F7** S. 2AA inserted (24.7.2002) by 2002 c. 23, s. 5(2)

**[<sup>F8</sup>2AB Bioethanol**

- (1) In this Act “bioethanol” means a liquid fuel—
  - (a) consisting of ethanol produced from biomass, and
  - (b) capable of being used for the same purposes as light oil.
- (2) In subsection (1)—
  - (a) “liquid” does not include any substance that is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars, and
  - (b) “biomass” means vegetable and animal substances constituting the biodegradable fraction of—
    - (i) products, wastes and residues from agriculture, forestry and related activities, or

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- (ii) industrial and municipal waste.
- (3) A substance shall be treated as falling within subsection (1)(a) if it—
  - (a) is denatured alcohol for the purposes of section 5 of the Finance Act 1995 (c. 4), and
  - (b) would fall within subsection (1)(a) above (without reliance on this subsection) but for the presence of a component introduced—
    - (i) for the purpose of rendering the substance denatured alcohol, and
    - (ii) in the minimum proportion necessary for that purpose.]

#### Textual Amendments

**F8** S. 2AB inserted (1.1.2005) by Finance Act 2004 (c. 12), s. 10(1)(10)

### <sup>F9</sup>2A Power to amend definitions.

[<sup>F10</sup>(1) The Treasury may by order made by statutory instrument amend the definition for the purposes of this Act of—

- (a) sulphur-free diesel;
- (b) sulphur-free petrol;
- (c) ultra low sulphur diesel;
- (d) ultra low sulphur petrol;
- (e) unleaded petrol and leaded petrol.]

[ The Treasury may by order made by statutory instrument amend the definition for the <sup>F11</sup>(1A) purposes of this Act of “biodiesel”.]

[<sup>F12</sup>(1B) The Treasury may by order made by statutory instrument amend the definition for the purposes of this Act of “bioethanol”.]

[<sup>F13</sup>(1C) The Treasury may by order made by statutory instrument amend the definition for the purposes of section 11 of “fuel oil”.]

- (2) An order under this section may contain such incidental, supplementary and transitional provision as appears to the Treasury to be appropriate.
- (3) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of the House of Commons.

#### Textual Amendments

**F9** S. 2A inserted (28.7.2000) by 2000 c. 17, s. 7

**F10** S. 2A(1) substituted (1.9.2004) by Finance Act 2004 (c. 12), s. 7(4)(9)

**F11** S. 2A(1A) inserted (24.7.2002) by 2002 c. 23, s. 5(3)

**F12** S. 2A(1B) inserted (1.1.2005) by Finance Act 2004 (c. 12), s. 10(2)(10)

**F13** S. 2A(1C) inserted (22.7.2004) by Finance Act 2004 (c. 12), s. 8

### 3 Hydrocarbon oil as ingredient of imported goods.

Where imported goods contain hydrocarbon oil as a part or ingredient thereof, the oil shall be disregarded in the application to the goods of section 126 of the Management

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Act (charge of duty on manufactured or composite imported articles) unless in the opinion of the Commissioners the goods should, according to their use, be classed with hydrocarbon oil.

**Modifications etc. (not altering text)**

- C4** S. 3 modified (26.7.2002) by S.I. 2002/1928, **reg. 3(2)(a)**  
**C5** S. 3 modified (1.9.2004) by [The Biofuels and Other Fuel Substitutes \(Payment of Excise Duties etc.\) Regulations 2004](#) (S.I. 2004/2065), regs. 1(1), **3(2)(a)**

**F14** .....

**Textual Amendments**

- F14** S. 4 repealed (1.12.1995) by [1993 c. 34, ss. 11\(2\)\(5\), 213, Sch. 23 Pt.I](#); S.I. 1995/2715, **art. 2**

**5 Road fuel gas.**

[<sup>F15</sup>(1) In this Act “road fuel gas” means any substance which is gaseous at a temperature of 15°C and under a pressure of 1013·25 millibars, and which is for use as fuel in road vehicles.]

[<sup>F16</sup>(2) In this Act “natural road fuel gas” is road fuel gas with a methane content of not less than 80%.]

**Textual Amendments**

- F15** S. 5 renumbered as s. 5(1) (1.9.2004) by [Finance Act 2004 \(c. 12\), s. 6\(1\)\(4\)](#)  
**F16** S. 5(2) added (1.9.2004) by [Finance Act 2004 \(c. 12\), s. 6\(1\)\(4\)](#)

*Charging provisions*

**6 Excise duty on hydrocarbon oil.**

(1) Subject to [<sup>F17</sup>subsections (2) . . . <sup>F18</sup>and (3)] below, there shall be charged on hydrocarbon oil—

- (a) imported into the United Kingdom; or
- (b) produced in the United Kingdom and delivered for home use from a refinery or from other premises used for the production of hydrocarbon oil or from any bonded storage for hydrocarbon oil, not being hydrocarbon oil chargeable with duty under paragraph (a) above, [<sup>F19</sup>a duty of excise at [<sup>F20</sup>the rates specified in subsection (1A) below.]]

[<sup>F21</sup>(1A) The rates at which the duty shall be charged are—

- (a) [<sup>F22</sup>£0.4710] a litre in the case of ultra low sulphur petrol;
- [<sup>F23</sup>(aa) [<sup>F24</sup>£0.4710] a litre in the case of sulphur-free petrol;]
- (b) [<sup>F25</sup>£0.5620] a litre in the case of light oil other than ultra low sulphur petrol [<sup>F26</sup>and sulphur-free petrol];

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- (c) [<sup>F27</sup>£0.4710] a litre in the case of ultra low sulphur diesel; and  
 [ [<sup>F29</sup>£0.4710] a litre in the case of sulphur-free diesel;]
- <sup>F28</sup>(ca)  
 (d) [<sup>F30</sup>£0.5327] a litre in the case of heavy oil other than ultra low sulphur diesel  
 [<sup>F31</sup>and sulphur-free diesel].]
- (2) Where imported hydrocarbon oil is removed to a refinery, the duty chargeable under subsection (1) above shall, instead of being charged at the time of the importation of that oil, be charged on the delivery of any goods from the refinery for home use and shall be the same as that which would be payable on the importation of like goods.
- <sup>F32</sup>(2A) . . . . .
- [<sup>F33</sup>(3) In the case of aviation gasoline, the duty of excise charged under subsection (1) above shall be at one half of the rate specified in [<sup>F34</sup>subsection [<sup>F35</sup>(1A)(b) above]].
- (4) In this Act “aviation gasoline” means light oil which—
- is specially produced as fuel for aircraft; and
  - is not normally used in road vehicles; and
  - is delivered for use solely as fuel for aircraft.]

#### Textual Amendments

- F17** Words substituted by [Finance Act 1982 \(c. 39, SIF 40:1\)](#), **s. 4(2)(a)**
- F18** Words inserted by [Finance Act 1989 \(c. 26, SIF 40:1\)](#), **s. 1(1)(a)** and repealed by [Finance Act 1990 \(c. 29, SIF 40:1\)](#), s. 132, **Sch. 19 Pt. I** Note
- F19** Words substituted by virtue of [Finance Act 1981 \(c. 35, SIF 40:1\)](#), **s. 4(1)(3)**
- F20** Words in s. 6(1)(b) substituted (15.8.1997) by 1997 c. 16, **s. 7(2)**; S.I. 1997/1960, **art. 2**
- F21** S. 6(1A) substituted (1.10.2000) by 2000 c. 17, **s. 5(3)**; S.I. 2000/2674, **art. 2**
- F22** Word in s. 6(1A)(a) substituted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), **s. 6(2)(a)**
- F23** S. 6(1A)(aa) inserted (1.9.2004) by [Finance Act 2004 \(c. 12\)](#), **s. 7(5)(a)(9)**
- F24** Word in s. 6(1A)(aa) substituted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), **s. 6(2)(b)**
- F25** Word in s. 6(1A)(b) substituted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), **s. 6(2)(c)**
- F26** Words in s. 6(1A)(b) inserted (1.9.2004) by [Finance Act 2004 \(c. 12\)](#), **s. 7(5)(b)(9)**
- F27** Word in s. 6(1A)(c) substituted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), **s. 6(2)(d)**
- F28** S. 6(1A)(ca) inserted (1.9.2004) by [Finance Act 2004 \(c. 12\)](#), **s. 7(5)(c)(9)**
- F29** Word in s. 6(1A)(ca) substituted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), **s. 6(2)(e)**
- F30** Word in s. 6(1A)(d) substituted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), **s. 6(2)(f)**
- F31** Words in s. 6(1A)(d) inserted (1.9.2004) by [Finance Act 2004 \(c. 12\)](#), **s. 7(5)(d)(9)**
- F32** S. 6(2A) inserted by [Finance Act 1989 \(c. 26, SIF 40:1\)](#), **s. 1(1)(b)** and repealed by [Finance Act 1990 \(c. 29, SIF 40:1\)](#), ss. 3(1)(b)(6), 132, **Sch. 19 Pt. I** Note
- F33** S. 6(3)(4) inserted by [Finance Act 1982 \(c. 39, SIF 40:1\)](#), **s. 4(2)(b)**
- F34** Words in s. 6(3) substituted (15.8.1997) by 1997 c. 16, **s. 7(4)**; S.I. 1997/1960, **art. 2**
- F35** Words in s. 6(3) substituted (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), **s. 4(3)(12)**

#### Modifications etc. (not altering text)

- C6** Words in s. 6(1) modified (*retrospective* to 6pm on 2.7.1997 until 14.8.1997) by 1997 c. 58, **s. 11(1)(5)**
- C7** S. 6(1A) modified (*temp.* to midnight on 14.6.2001) (*retrospective* to 7.3.2001 at 6pm) by 2001 c. 9, **s. 1(2)(4)**

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### <sup>F36</sup>**6AA Excise duty on biodiesel**

- (1) A duty of excise shall be charged on the setting aside for a chargeable use by any person, or (where it has not already been charged under this section) on the chargeable use by any person, of biodiesel.
- (2) In subsection (1) “chargeable use” means use—
  - (a) as fuel for any engine, motor or other machinery, <sup>F37</sup>...
  - (b) as an additive or extender in any substance so used.
  - <sup>F38</sup>(c) [ for the production of bioblend.]
- (3) The rate of duty under this section shall be [<sup>F39</sup>£0.2710] a litre.]

#### **Textual Amendments**

- F36** Ss. 6AA-6AC inserted (24.7.2002 with effect as mentioned in s. 5(6)(7) of the amending Act) by 2002 c. 23, s. 5(4)
- F37** Word in s. 6AA(2) repealed (with effect in accordance with s. 11(2) of the amending Act) by Finance Act 2004 (c. 12), Sch. 42 Pt. 1(1)
- F38** S. 6AA(2)(c) added (1.1.2005) by Finance Act 2004 (c. 12), s. 11(1)(2)
- F39** Word in s. 6AA(3) substituted (19.7.2006) by Finance Act 2006 (c. 25), s. 6(3)

### <sup>F40</sup>**6AB Excise duty on blends of biodiesel and heavy oils**

- (1) A duty of excise shall be charged on bioblend—
  - (a) imported into the United Kingdom, or
  - (b) produced in the United Kingdom and delivered for home use from a refinery or from other premises used for the production of hydrocarbon oil or from any bonded storage for hydrocarbon oil, not being bioblend chargeable with duty under paragraph (a) above. This is subject to subsection (6) below.
- (2) In this Act “bioblend” means any mixture that is produced by mixing—
  - (a) biodiesel, and
  - (b) heavy oil not charged with the excise duty on hydrocarbon oil.
- (3) The rate at which the duty shall be charged on any bioblend shall be a composite rate representing—
  - (a) in respect of the proportion of the bioblend that is hydrocarbon oil, the rate that would be applicable to the bioblend if it consisted entirely of heavy oil of the description that went into producing the bioblend, and
  - (b) in respect of the proportion of the bioblend that is biodiesel, the rate that would be applicable to the bioblend if it consisted entirely of biodiesel.
- (4) The references in subsection (3) above to the proportions of—
  - (a) hydrocarbon oil, and
  - (b) biodiesel,are to the proportions by volume to the nearest 0.001%.
- (5) If the Commissioners are not satisfied as to the proportion of biodiesel in any bioblend, the rate of duty chargeable shall be the rate that would be applicable to the bioblend if it consisted entirely of heavy oil of the description that went into producing the bioblend.



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- (6) Where imported bioblend is removed to a refinery, the duty chargeable under subsection (1) above shall, instead of being charged at the time of the importation of the bioblend, be charged on the delivery of any goods from the refinery for home use and shall be the same as that which would be payable on the importation of like goods.]

#### Textual Amendments

**F40** Ss. 6AA-6AC inserted (24.7.2002 with effect as mentioned in s. 5(6)(7) of the amending Act) by 2002 c. 23, s. 5(4)

### [<sup>F41</sup>6AC Application to biodiesel and bioblend of provisions relating to hydrocarbon oil

- (1) The Commissioners may by regulations provide for—
- (a) references in this Act, or specified references in this Act, to hydrocarbon oil to be construed as including references to—
    - (i) biodiesel;
    - (ii) bioblend;
  - (b) references in this Act, or specified references in this Act, to duty on hydrocarbon oil to be construed as including references to duty under—
    - (i) section 6AA above;
    - (ii) section 6AB above;
  - (c) biodiesel, or bioblend, to be treated for the purposes of such of the following provisions of this Act as may be specified as if it fell within a specified description of hydrocarbon oil.
- (2) Where the effect of provision made under subsection (1) above is to extend any power to make regulations, provision made in exercise of the power as extended may be contained in the same statutory instrument as the provision extending the power.
- (3) In this section “specified” means specified by regulations under this section.
- (4) Regulations under this section may make different provision for different cases.
- (5) Paragraph (b) of subsection (1) above shall not be taken as prejudicing the generality of paragraph (a) of that subsection.]

#### Textual Amendments

**F41** Ss. 6AA-6AC inserted (24.7.2002 with effect as mentioned in s. 5(6)(7) of the amending Act) by 2002 c. 23, s. 5(4)

### [<sup>F42</sup>6AD Excise duty on bioethanol

- (1) A duty of excise shall be charged on the setting aside for a chargeable use by any person, or (where it has not already been charged under this section) on the chargeable use by any person, of bioethanol.
- (2) In subsection (1) “chargeable use” means use—
- (a) as fuel for any engine, motor or other machinery,
  - (b) as an additive or extender in any substance so used, or



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(c) for the production of bioethanol blend.

(3) The rate of duty under this section shall be [<sup>F43</sup>£0.2710] a litre.

#### Textual Amendments

**F42** Ss. 6AD-6AF inserted (1.1.2005) by [Finance Act 2004 \(c. 12\)](#), [s. 10\(3\)\(10\)](#) (with [s. 10\(11\)](#))

**F43** Word in s. 6AD(3) substituted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [s. 6\(4\)](#)

### **6AE Excise duty on blends of bioethanol and hydrocarbon oil**

- (1) A duty of excise shall be charged on bioethanol blend—
  - (a) imported into the United Kingdom, or
  - (b) produced in the United Kingdom and delivered for home use from a refinery or other premises used for the production of hydrocarbon oil or from any bonded storage for hydrocarbon oil, not being bioethanol blend chargeable with duty under paragraph (a) above.
- (2) In this Act “bioethanol blend” means any mixture that is produced by mixing—
  - (a) bioethanol, and
  - (b) hydrocarbon oil not charged with excise duty.
- (3) The rate at which the duty shall be charged on any bioethanol blend shall be a composite rate representing—
  - (a) in respect of the proportion of the blend that is hydrocarbon oil, the rate that would be applicable to the blend if it consisted entirely of hydrocarbon oil of the description that went into producing the blend, and
  - (b) in respect of the proportion of the blend that is bioethanol, the rate that would be applicable to the blend if it consisted entirely of bioethanol.
- (4) A reference in subsection (3) to a proportion is to a proportion by volume to the nearest 0.001%.
- (5) If the Commissioners are not satisfied as to the proportion of bioethanol in any bioethanol blend, the rate of duty chargeable shall be the rate that would be applicable to the blend if it consisted entirely of hydrocarbon oil of the description that went into producing the blend.
- (6) Where imported bioethanol blend is removed to a refinery, the duty chargeable under subsection (1) above shall, instead of being charged at the time of the importation of the blend, be charged on the delivery of any goods from the refinery for home use and shall be the same as that which would be payable on the importation of like goods.

#### Textual Amendments

**F42** Ss. 6AD-6AF inserted (1.1.2005) by [Finance Act 2004 \(c. 12\)](#), [s. 10\(3\)\(10\)](#) (with [s. 10\(11\)](#))

### **6AF Application to bioethanol and bioethanol blend of provisions relating to hydrocarbon oil**

- (1) The Commissioners may by regulations provide for—

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- (a) references in this Act, or specified references in this Act, to hydrocarbon oil to be construed as including references to—
    - (i) bioethanol;
    - (ii) bioethanol blend;
  - (b) references in this Act, or specified references in this Act, to duty on hydrocarbon oil to be construed as including references to duty under—
    - (i) section 6AD above;
    - (ii) section 6AE above;
  - (c) bioethanol, or bioethanol blend, to be treated for the purposes of such of the following provisions of this Act as may be specified as if it fell within a specified description of hydrocarbon oil.
- (2) Where the effect of provision made under subsection (1) above is to extend any power to make regulations, provision made in exercise of the power as extended may be contained in the same statutory instrument as the provision extending the power.
- (3) In this section “specified” means specified by regulations under this section.
- (4) Regulations under this section may make different provision for different cases.
- (5) Paragraph (b) of subsection (1) above shall not be taken as prejudicing the generality of paragraph (a) of that subsection.]

#### Textual Amendments

**F42** Ss. 6AD-6AF inserted (1.1.2005) by [Finance Act 2004 \(c. 12\)](#), s. 10(3)(10) (with s. 10(11))

#### [6A <sup>F44</sup>Fuel substitutes.

- (1) A duty of excise shall be charged on the setting aside for a chargeable use by any person, or (where it has not already been charged under this section) on the chargeable use by any person, of any liquid [<sup>F45</sup>which is not—
- (a) hydrocarbon oil,
  - (b) biodiesel,
  - (c) bioblend,
  - (d) bioethanol, or
  - (e) bioethanol blend.]
- (2) In this section “chargeable use” in relation to any substance means the use of that substance—
- (a) as fuel for any engine, motor or other machinery; or
  - [<sup>F46</sup>(b) as an additive or extender in any substance so used.]
- <sup>F47</sup>[ But the use of water is not a chargeable use if—
- (2A) (a) the water is comprised in an emulsion of water in gas oil, and
- (b) the emulsion is stabilised by additives.]
- (3) The rate of the duty under this section shall be prescribed by order made by the Treasury.
- (4) In the following provisions of this Act references to hydrocarbon oil shall be construed as including references to any substance on which duty is charged under this section;

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- and, accordingly, references to duty on hydrocarbon oil shall be construed, where a substance is to be treated as such oil, as including references to duty under this section.
- (5) The Treasury may by order provide for any substance on which duty is charged under this section to be treated for the purposes of such of the following provisions of this Act as may be specified in the order as if it fell within <sup>F48</sup>such description of hydrocarbon oil as may be so specified].
- (6) In exercising their powers under this section, the Treasury shall so far as practicable secure—
- (a) that a substance set aside for use or used as mentioned in subsection (2)(a) above is—
- (i) charged with duty at the same rate as, and
- (ii) otherwise treated for the purposes of the following provisions of this Act as if it were,
- <sup>F49</sup>hydrocarbon oil of the description] to which, when put to that use, it is most closely equivalent; and
- (b) that a substance set aside for use or used as an additive or extender in any substance is—
- (i) charged with duty at the same rate as, and
- (ii) otherwise treated for the purposes of the following provisions of this Act as if it were,
- the substance in which it is an additive or extender.
- (7) For the purposes of this section “liquid” does not include any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars.
- (8) The power of the Treasury to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (9) An order under this section—
- (a) may make different provision for different cases and for different substances;
- (b) may prescribe the rate of duty under this section in respect of any substance by reference to the rate of duty under this Act in respect of any other substance; and
- (c) in making different provision for different substances, may define a substance by reference to the use for which it is set aside or the use to which it is put.]

#### Textual Amendments

**F44** S. 6A inserted (1.12.1995) by 1993 c. 34, s. 11(1); S.I. 1995/2715, art. 2

**F45** Words in s. 6A(1) substituted (1.1.2005) by Finance Act 2004 (c. 12), s. 10(4)(10)

**F46** S. 6A(2)(b) substituted (with effect in accordance with s. 12(2) of the amending Act) by Finance Act 2004 (c. 12), s. 12(1)

**F47** S. 6A(2A) inserted (28.7.2000 with effect in relation to duty charged on or after 28.7.2000) by 2000 c. 17, s. 11(1)(2)

**F48** Words in s. 6A(5) substituted for s. 6A(5)(a)-(d) and the preceding words (24.7.2002) by 2002 c. 23, s. 7(1)(a)

**F49** Words in s. 6A(6)(a) substituted (24.7.2002) by 2002 c. 23, s. 7(1)(b)

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F507 .....

#### Textual Amendments

**F50** S. 7 repealed (1.12.1995) by 1993 c. 34, ss. 11(2)(5), 213, **Sch. 23 Pt. I**; S.I. 1995/2715, **art. 2**

### 8 Excise duty on road fuel gas.

- (1) A duty of excise shall be charged on road fuel gas which is sent out from the premises of a person producing or dealing in road fuel gas and on which the duty charged by this section has not been paid.
- (2) The like duty of excise shall be charged on the setting aside for use, or on the use, by any person, as fuel in a road vehicle, of road fuel gas on which the duty charged by this section has not been paid.
- [<sup>F51</sup>(3) The rate of the duty under this section shall be—
  - (a) in the case of natural road fuel gas, [<sup>F52</sup>£0.0900] a kilogram, and
  - (b) in any other case, [<sup>F53</sup>£0.0900] a kilogram.]
- (6) For the purposes of this Act, so far as it relates to the excise duty chargeable under this section, road fuel gas shall be deemed to be used as fuel in a road vehicle if, but only if, it is used as fuel for the engine provided for propelling the vehicle, or for an engine which draws its fuel from the same supply as that engine.
- <sup>F54</sup>(7) .....

#### Textual Amendments

**F51** S. 8(3) substituted (1.9.2004) by **Finance Act 2004 (c. 12), s. 6(2)(4)**

**F52** Word in s. 8(3)(a) substituted (19.7.2006) by **Finance Act 2006 (c. 25), s. 6(5)(a)**

**F53** Word in s. 8(3)(b) substituted (19.7.2006) by **Finance Act 2006 (c. 25), s. 6(5)(b)**

**F54** S. 8(7) repealed (1.5.1995) by 1995 c. 4, ss. 9, 162, **Sch. 29 Pt. II**

#### *Delivery of oil without payment of duty*

### 9 Oil delivered for home use for certain industrial purposes.

- (1) The Commissioners may permit hydrocarbon oil to be delivered for home use to an approved person, without payment of excise duty on the oil, where—
  - (a) it is to be put by him to a use qualifying for relief under this section; or
  - (b) it is to be supplied by him in the course of a trade of supplying oil for any such use.
- [<sup>F55</sup>(2) the uses of hydrocarbon oil qualifying for relief under this section are all uses which do not consist in either—
  - (a) the use of the oil as fuel for any engine, motor or other machinery; or
  - (b) the use of the oil as heating fuel.]
- (4) Where the Commissioners are authorised to give permission under subsection (1) above in the case of any oil, but the permission is for any reason not given, they shall,

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if satisfied that the oil has been put by an approved person to a use qualifying for relief under this section, repay to him the amount of the excise duty paid on the oil, less any rebate allowed in respect of the duty.

- (5) In this section—
- (a) “an approved person” means a person for the time being approved in accordance with regulations made for any of the purposes of subsection (1) or (4) above under section 24(1) below; <sup>F56</sup> . . .
  - <sup>F56</sup>(b) . . . . .

**Textual Amendments**

- F55** S. 9(2) substituted (1.1.1993) for s. 9(2) and (3) by S.I. 1992/3158, **reg. 3(1)**
- F56** S. 9(5)(b) and the word "and" immediately preceding it repealed (1.1.1993) by S.I. 1992/3158, **reg. 3(2)**

**Modifications etc. (not altering text)**

- C8** S. 9 restricted (subject to reg. 6 of the amending S.I.)(1.8.2002) by S.I. 2002/1773, **regs. 5, 6**
- C9** S. 9 excluded (20.10.1995) by S.I. 1995/2518, **reg. 118(b)**
- C10** S. 9(4) amended by S.I. 1985/1032, **reg. 11(c)**
- C11** S. 9(4) amended (1.1.1993) by S.I. 1992/3152, **reg. 11(d)** (with **reg. 12**)

**10 Restrictions on the use of duty-free oil.**

- (1) Except with the consent of the Commissioners, no oil in whose case delivery without payment of duty has been permitted under section 9 above shall—
- (a) be put to a use not qualifying for relief under that section; or
  - (b) be acquired or taken into any vehicle, appliance or storage tank in order to be put to such a use.
- (2) In giving their consent for the purposes of subsection (1) above, the Commissioners may impose such conditions as they think fit.
- (3) [<sup>F57</sup>Where any person]—
- (a) uses or acquires oil in contravention of subsection (1) above; or
  - (b) is liable for oil being taken into a vehicle, appliance or storage tank in contravention of that subsection,
- [<sup>F58</sup>his use or acquisition of the oil or, as the case may be, his becoming so liable shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)]; and the Commissioners may [<sup>F59</sup>assess an amount equal to the excise duty on like oil at the rate in force at the time of the contravention as being excise duty due from him, and notify him or his representative accordingly.]
- (4) [<sup>F60</sup>Where any person] supplies oil having reason to believe that it will be put to a use not qualifying for relief under section 9 above [<sup>F60</sup>and] that use without the consent of the Commissioners would contravene subsection (1) above [<sup>F61</sup>his supplying the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)].
- (5) A person who, with the intent that the restrictions imposed by subsection (1) above should be contravened,—
- (a) uses or acquires oil in contravention of that subsection; or

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- (b) supplies oil having reason to believe that it will be put to a use not qualifying for relief under section 9 above, being a use which, without the consent of the Commissioners, would contravene that subsection, shall be guilty of an offence under this subsection.
- (6) A person who is liable for oil being taken into a vehicle, appliance or storage tank in contravention of subsection (1) above shall be guilty of an offence under this subsection where the oil was taken in with the intent by him that the restrictions imposed by that subsection should be contravened.
- (7) A person guilty of an offence under subsection (5) or (6) above shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the oil in question, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
- (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding [<sup>F62</sup>7 years], or to both.
- (8) For the purposes of this section, a person is liable for oil being taken into a vehicle, appliance or storage tank in contravention of subsection (1) above if he is at the time the person having the charge of the vehicle, appliance or tank, or is its owner, except that if a person other than the owner is, or is for the time being, entitled to possession of it, that person and not the owner is liable.
- (9) Any oil acquired, or taken into a vehicle, appliance or storage tank as mentioned in subsection (1) above, or supplied as mentioned in subsection (4) or (5) above, shall be liable to forfeiture.

#### Textual Amendments

- F57** Words in s. 10(3) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 50(1)(a)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F58** Words in s. 10(3) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 50(1)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F59** Words in s. 10(3) substituted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 6(1)**; S.I. 1997/1305, **art. 2**
- F60** Words in s. 10(4) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 50(2)(a)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F61** Words in s. 10(4) inserted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 50(2)(c)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F62** Words substituted by Finance Act 1988 (c. 39, SIF 40:1), **s. 12(1)(b)(6)**

#### Modifications etc. (not altering text)

- C12** S. 10 restricted (1.6.1997) by 1994 c. 9, **s. 12A(3)(c)** (as inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 paras. 1(1)**; S.I. 1997/1305, **art. 2**)

#### *Rebate of duty*

### 11 Rebate on heavy oil.

- (1) Subject to sections 12 [<sup>F63</sup>13, 13AA and 13AB] below, where heavy oil charged with the excise duty on hydrocarbon oil is delivered for home use, there shall be allowed on the oil at the time of delivery a rebate of duty at a rate—

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- <sup>F64</sup>(a) in the case of fuel oil, of [<sup>F65</sup>£0.0604] a litre less than the rate at which the duty is for the time being chargeable;
- (b) in the case of gas oil [<sup>F66</sup>which is not ultra low sulphur diesel], of [<sup>F67</sup>£0.0644] a litre less than the rate at which the duty is for the time being chargeable;
- [<sup>F68</sup>(ba) in the case of ultra low sulphur diesel, of [<sup>F69</sup>£0.0644] a litre less than the rate at which the duty is for the time being chargeable; and]
- (c) in the case of heavy oil [<sup>F70</sup>which is neither fuel oil nor] gas oil, equal to the rate at which the duty is for the time being chargeable.]

<sup>F71</sup>(2) In this section—

“fuel oil” means heavy oil which contains in solution an amount of asphaltenes of not less than 0·5 per cent. or which contains less than 0·5 per cent. but not less than 0·1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C; <sup>F72</sup> . . .

<sup>F72</sup> . . .]

<sup>F73</sup>(3) This subsection applies in any case where—

- (a) oil is delivered for home use,
  - (b) regulations under section 24 below require, as a condition of allowing a rebate on the oil under subsection (1) above, that a marker prescribed by regulations under that section shall have been added to the oil, and
  - (c) the marker is present at the time of delivery for home use but in such a proportion that its presence falls to be disregarded by virtue of provision made by regulations under that section.
- (4) In any case where subsection (3) above applies, a rebate may be allowed on the oil at the time it is delivered for home use if it appears to the Commissioners to be appropriate to allow it.
- (5) Where a rebate is allowed under subsection (4) above, the rate at which the rebate is allowed—
- (a) shall be such rate as appears to the Commissioners to be appropriate, but
  - (b) shall not be less than 95 per cent. of, and shall not exceed, the rate of rebate specified in the relevant paragraph of subsection (1) above.]

#### Textual Amendments

- F63** Words in s. 11(1) substituted (1.10.1996) by 1996 c. 8, s. 5(2); S.I. 1996/2314, art. 2(b)
- F64** S. 11(1)(a)(b)(c) substituted for paragraphs (a) and (b) by Finance Act 1986 (c.41, SIF 40:1), s. 2(3)(4)
- F65** Word in s. 11(1)(a) substituted (1.9.2005) by Finance Act 2005 (c. 7), s. 5(6)(a)(9)
- F66** Words in s. 11(1)(b) inserted (15.8.1997) by 1997 c. 16, s. 7(5)(a); S.I. 1997/1960, art. 2
- F67** Word in s. 11(1)(b) substituted (1.9.2005) by Finance Act 2005 (c. 7), s. 5(6)(b)(9)
- F68** S. 11(1)(ba) substituted (15.8.1997) for the word “and” by 1997 c. 16, s. 7(5)(b); S.I. 1997/1960, art. 2
- F69** Word in s. 11(1)(ba) substituted (1.9.2005) by Finance Act 2005 (c. 7), s. 5(6)(c)(9)
- F70** Words in s. 11(1)(c) substituted (15.8.1997) by 1997 c. 16, s. 7(5)(c); S.I. 1997/1960, art. 2
- F71** S. 11(2) substituted by Finance Act 1986 (c. 41, SIF 40:1), s. 2(3)(4)
- F72** S. 11(2): definition of “gas oil” and the preceding “and” repealed (15.8.1997) by 1997 c. 16, ss. 7(10), 113, Sch. 18 Pt. I Note; S.I. 1997/1960, art. 2
- F73** S. 11(3)-(5) inserted (28.7.2000) by 2000 c. 17, s. 10(2)



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#### Modifications etc. (not altering text)

- C13** S. 11(1)(b)(ba)(c) restricted (subject to reg. 6 of the amending S.I.) (1.8.2002) by [S.I. 2002/1773](#), [regs. 4, 6](#)

## 12 Rebate not allowed on fuel for road vehicles.

- (1) If, on the delivery of heavy oil for home use, it is intended to use the oil as fuel for a road vehicle, a declaration shall be made to that effect in the entry for home use and thereupon no rebate [<sup>F74</sup>under section 11 above] shall be allowed in respect of that oil.
- (2) No heavy oil on whose delivery for home use rebate has been allowed [<sup>F75</sup>(whether under [<sup>F76</sup>section 11] above or 13AA(1) below)] shall—
- (a) be used as fuel for a road vehicle; or
  - (b) be taken into a road vehicle as fuel,
- unless an amount equal to the amount for the time being allowable in respect of rebate on like oil has been paid to the Commissioners in accordance with regulations made under section 24(1) below for the purposes of this section.
- (3) For the purposes of this section and section 13 below—
- (a) heavy oil shall be deemed to be used as fuel for a road vehicle if, but only if, it is used as fuel for the engine provided for propelling the vehicle or for an engine which draws its fuel from the same supply as that engine; and
  - (b) heavy oil shall be deemed to be taken into a road vehicle as fuel if, but only if, it is taken into it as part of that supply.

#### Textual Amendments

- F74** Words in s. 12(1) inserted (24.7.2002) by [2002 c. 23](#), s. 6, [Sch. 3 para. 6](#)
- F75** Words in s. 12(2) inserted (1.10.1996) by [1996 c. 8](#), s. 5(3); [S.I. 1996/2314](#), [art. 2\(b\)](#)
- F76** Words in s. 12(2) substituted (24.7.2002) by [2002 c. 23](#), s. 6, [Sch. 3 para. 7](#)

#### Modifications etc. (not altering text)

- C14** S. 12(2) restricted by [S.I. 1989/2439](#), [reg. 2](#)

## 13 Penalties for misuse of rebated heavy oil.

- (1) [<sup>F77</sup>Where any person]—
- (a) uses heavy oil in contravention of section 12(2) above; or
  - (b) is liable for heavy oil being taken into a road vehicle in contravention of that subsection,
- [<sup>F78</sup>his use of the oil [<sup>F79</sup>or his becoming so liable (or, where his conduct includes both, each of them)] shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)]. . .
- [<sup>F80</sup>(1A) Where oil is used, or is taken into a road vehicle, in contravention of section 12(2) above, the Commissioners may—
- (a) assess an amount equal to the rebate on like oil at the rate in force at the time of the contravention as being excise duty due from any person who used the oil or was liable for the oil being taken into the road vehicle, and
  - (b) notify him or his representative accordingly.]

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- (2) [<sup>F81</sup>Where any person] supplies heavy oil having reason to believe that it will be put to a particular use [<sup>F81</sup>and] that use would, if a payment under subsection (2) of section 12 above were not made in respect of the oil, contravene that subsection [<sup>F82</sup>his supplying the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)].
- (3) A person who, with the intent that the restrictions imposed by section 12 above should be contravened,—
- (a) uses heavy oil in contravention of subsection (2) of that section; or
  - (b) supplies heavy oil having reason to believe that it will be put to a particular use, being a use which would, if a payment under that subsection were not made in respect of the oil, contravene that subsection,
- shall be guilty of an offence under this subsection.
- (4) A person who is liable for heavy oil being taken into a road vehicle in contravention of subsection (2) of section 12 above shall be guilty of an offence under this subsection where the oil was taken in with the intent by him that the restrictions imposed by that section should be contravened.
- (5) A person guilty of an offence under subsection (3) or (4) above shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the oil in question, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding [<sup>F83</sup>7 years], or to both.
- (6) Any heavy oil—
- (a) taken into a road vehicle as mentioned in section 12(2) above or supplied as mentioned in subsection (2) or (3) above; or
  - (b) taken as fuel into a vehicle at a time when it is not a road vehicle and remaining in the vehicle as part of its fuel supply at a later time when it becomes a road vehicle,
- shall be liable to forfeiture.
- (7) For the purposes of this section, a person is liable for heavy oil being taken into a road vehicle in contravention of section 12(2) above if he is at the time the person having the charge of the vehicle or is its owner, except that if a person other than the owner is, or is for the time being, entitled to possession of it, that person and not the owner is liable.

#### Textual Amendments

- F77** Words in s. 13(1) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 51(1)(a)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F78** Words in s. 13(1) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 51(1)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F79** Words in s. 13(1) substituted (28.7.2000 with effect in relation to liability arising on or after 1.5.2000) by 2000 c. 17, s. **8(2)(a)(4)**
- F80** S. 13(1A) inserted (28.7.2000 with effect in relation to liability arising on or after 1.5.2000) by 2000 c. 17, s. **8(3)(4)**
- F81** Words in s. 13(2) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 51(2)(a)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**

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**F82** Words in s. 13(2) inserted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 51(2)(c)** (with s. 19(3)); **S.I. 1994/2679, art. 3**

**F83** Words substituted by **Finance Act 1988 (c. 39, SIF 40:1), s. 12(1)(b)(6)**

**Modifications etc. (not altering text)**

**C15** S. 13 restricted (1.6.1997) by 1994 c. 9, **s. 12A(3)(c)** (as inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 1(1)**; **S.I. 1997/1305, art. 2**)

**[<sup>F84</sup>13A Rebate on unleaded petrol**

- (1) On unleaded petrol, other than ultra low sulphur petrol [<sup>F85</sup>and sulphur-free petrol] , charged with the excise duty on hydrocarbon oil and delivered for home use there shall be allowed at the time of delivery a rebate of duty at the rate of [<sup>F86</sup>£0.0601] a litre.
- (2) Rebate is not allowed under this section in a case where a rebate is allowed under section 14 below.]

**Textual Amendments**

**F84** S. 13A substituted (*retrospective* to 7.3.2001 at 6pm) by 2001 c. 9, **s. 2(1)(5)**

**F85** Words in s. 13A(1) inserted (1.9.2004) by **Finance Act 2004 (c. 12), s. 7(7)(9)**

**F86** Word in s. 13A(1) substituted (19.7.2006) by **Finance Act 2006 (c. 25), s. 6(6)**

**<sup>F87</sup>[13AA Restrictions on use of rebated kerosene.**

- (1) If, on the delivery of kerosene for home use, it is intended to use the kerosene as fuel for—
  - (a) an engine provided for propelling an excepted vehicle, or
  - (b) an engine which is used neither for propelling a vehicle nor for heating,
 a declaration shall be made to that effect and thereupon rebate shall be allowed at the rate for [<sup>F88</sup>then in force under paragraph (b) of subsection (1) of section 11, instead of at the rate then in force under paragraph (c) of that subsection] .
- (2) Subject to subsection (3) below, no kerosene on whose delivery for home use a rebate at the rate given by section 11(1)(c) above has been allowed shall—
  - (a) be used as fuel for an engine provided for propelling an excepted vehicle;
  - (b) be used as fuel for an engine which is used neither for propelling a vehicle nor for heating; or
  - (c) be taken into the fuel supply of an engine falling within paragraph (a) or (b) above.
- (3) Subsection (2) above does not apply to any quantity of kerosene in respect of which there has been paid to the Commissioners an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the payment.
- (4) A payment under subsection (3) above shall be made in accordance with regulations made under section 24(1) below for the purposes of this section.
- (5) For the purposes of this section and section 13AB below—
 

“excepted vehicle” means a vehicle which is an excepted vehicle under any provision of Schedule 1 to this Act; and

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“kerosene” means heavy oil of which more than 50 per cent. by volume distils at a temperature of 240°C or less.

- (6) For the purposes of this section and section 13AB below the rate for rebated gas oil which is in force at any time is the rate of duty which at that time is in force under [F89 section 6(1A) above in the case of heavy oil which is not ultra low sulphur diesel, [F90 or sulphur-free diesel]]] as reduced by the rate of rebate allowable at that time under section 11(1)(b) above.

[F91(7) Nothing in this section has the effect of allowing a rebate on bioblend or bioethanol blend.]

#### Textual Amendments

- F87** S. 13AA inserted (1.10.1996) by 1996 c. 8, s. 5(4); S.I. 1996/2314, art. 2  
**F88** Words in s. 13AA(1) substituted (7.4.2005) by Finance Act 2005 (c. 7), s. 4(8)(12)  
**F89** Words in s. 13AA(6) substituted (15.8.1997) by 1997 c. 16, s. 7(6); S.I. 1997/1960, art. 2  
**F90** Words in s. 13AA(6) inserted (1.9.2004) by Finance Act 2004 (c. 12), s. 7(6)(9)  
**F91** S. 13AA(7) added (1.1.2005) by Finance Act 2004 (c. 12), s. 10(6)(10)

#### Modifications etc. (not altering text)

- C16** S. 13AA(1) restricted (1.8.2002) by S.I. 2002/1773, regs. 4, 6

### [F92] 13AB Penalties for misuse of kerosene.

- (1) If a person uses kerosene in contravention of section 13AA(2) above—
- [F93(a) in respect of the quantity of kerosene used the Commissioners may assess as being excise duty due from him an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the contravention, and they may notify him or his representative accordingly;]]
- (b) his use of the kerosene shall attract a penalty under section 9 of the <sup>M1</sup>Finance Act 1994 (civil penalties); and
- (c) if he uses the kerosene with the relevant intent, he shall be guilty of an offence.
- (2) If a person is liable for kerosene being taken into a fuel supply of an engine in contravention of section 13AA(2) above—
- [F93(a) in respect of the quantity of kerosene taken into the fuel supply the Commissioners may assess as being excise duty due from him an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the contravention, and they may notify him or his representative accordingly;]]
- (b) his becoming so liable shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties); and
- (c) if he has the relevant intent in relation to the kerosene being taken into the fuel supply, he shall be guilty of an offence.
- (3) For the purposes of subsection (2) above, a person is liable for kerosene being taken into a fuel supply of an engine if at the time—
- (a) he has the charge of the engine; or
- (b) subject to subsection (4) below, he is the owner of the engine.

*Status: Point in time view as at 19/07/2006.*

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- (4) If a person other than the owner is for the time being entitled to possession of the engine, that other person and not the owner is liable.
- (5) If—
- (a) a person supplies kerosene having reason to believe that it will be put to a particular use, and
  - (b) that use is one which, if a payment is not made under subsection (3) of section 13AA above, will contravene subsection (2) of that section,
- his supplying the kerosene shall attract a penalty under section 9 of the <sup>M2</sup>Finance Act 1994 (civil penalties) and, if he makes the supply with the relevant intent, he shall be guilty of an offence.
- (6) In this section “the relevant intent” means the intent that the restrictions imposed by section 13AA(2) above shall be contravened.
- (7) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a penalty of the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both;
  - (b) on conviction on indictment, to a penalty of any amount, or to a term of imprisonment not exceeding 7 years, or to both.
- (8) Any kerosene falling within subsection (9) or (10) below is liable to forfeiture.
- (9) Kerosene falls within this subsection if it is taken into a fuel supply in contravention of section 13AA(2) above.
- (10) Kerosene falls within this subsection if—
- (a) it has been supplied in circumstances in which there is reason to believe that it will be put to a particular use; and
  - (b) that use is one which, if payment is not made under subsection (3) of section 13AA above, will contravene subsection (2) of that section.

#### Textual Amendments

**F92** S. 13AB inserted (1.10.1998) by 1996 c. 8, s. 5(4); S.I. 1996/2314, art. 2

**F93** S. 13AB(1)(a)(2)(a) substituted (1.10.1998) by 1998 c. 36, s. 20, Sch. 2 para. 4(2)(3); S.I. 1998/2243, art. 2

#### Marginal Citations

**M1** 1994 c. 9.

**M2** 1994 c. 9.

## 14 Rebate on light oil for use as furnace fuel.

- (1) On light oil charged with the excise duty on hydrocarbon oil, and delivered for home use as furnace fuel for burning in vaporised or atomised form by a person for the time being approved in accordance with regulations made for the purposes of this subsection under section 24(1) below, there shall be allowed at the time of delivery a rebate of duty at a rate of [<sup>F94</sup>£0.0604] a litre less than the rate at which the duty is charged.

[<sup>F95</sup>(1A) No rebate shall be allowed under this section in respect of bioethanol blend.]

*Status: Point in time view as at 19/07/2006.*

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- (2) Except with the consent of the Commissioners, no oil in whose case rebate has been allowed under this section shall—
  - (a) be put to a use otherwise than as mentioned in subsection (1) above; or
  - (b) be acquired or taken into any vehicle, appliance or storage tank in order to be put to such a use.
- (3) In giving their consent for the purposes of subsection (2) above, the Commissioners may impose such conditions as they think fit.
- (4) [<sup>F96</sup>Where any person]—
  - (a) uses or acquires oil in contravention of subsection (2) above; or
  - (b) is liable for oil being taken into a vehicle, appliance or storage tank in contravention of that subsection,  
[<sup>F96</sup>his use or acquisition of the oil or, as the case may be, his becoming so liable shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)]; and the Commissioners may [<sup>F97</sup>assess the amount of rebate allowed on the oil as being excise duty due from him, and notify him or his representative accordingly.]
- (5) [<sup>F98</sup>Where any person] supplies oil having reason to believe that it will be used otherwise than as mentioned in subsection (1) above [<sup>F98</sup>and] that use without the consent of the Commissioners would contravene subsection (2) above [<sup>F99</sup>his supplying the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)].
- (6) A person who, with the intent that the restrictions imposed by subsection (2) above should be contravened,—
  - (a) uses or acquires oil in contravention of that subsection; or
  - (b) supplies oil having reason to believe that it will be put to a use otherwise than as mentioned in subsection (1) above, being a use which, without the consent of the Commissioners, would contravene subsection (2) above,shall be guilty of an offence under this subsection.
- (7) A person who is liable for oil being taken into a vehicle, appliance or storage tank in contravention of subsection (2) above shall be guilty of an offence under this subsection where the oil was taken in with the intent by him that the restrictions imposed by that subsection should be contravened.
- (8) A person guilty of an offence under subsection (6) or (7) above shall be liable—
  - (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the oil in question, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding [<sup>F100</sup>7 years], or to both.
- (9) For the purposes of this section, a person is liable for oil being taken into a vehicle, appliance or storage tank in contravention of subsection (2) above if he is at the time the person having the charge of the vehicle, appliance or tank, or is its owner, except that if a person other than the owner is, or is for the time being, entitled to possession of it, that person and not the owner is liable.
- (10) Any oil acquired, or taken into a vehicle, appliance or storage tank, as mentioned in subsection (2) above, or supplied as mentioned in subsection (5) or (6) above, shall be liable to forfeiture.

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### Textual Amendments

- F94** Word in s. 14(1) substituted (1.9.2005) by Finance Act 2005 (c. 7), s. 5(8)(9)
- F95** S. 14(1A) inserted (1.1.2005) by Finance Act 2004 (c. 12), s. 10(7)(10)
- F96** Words in s. 14(4) substituted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. III para. 52(1)(a)(b) (with s. 19(3)); S.I. 1994/2679, art. 3
- F97** Words in s. 14(4) substituted (1.6.1997) by 1997 c. 16, s. 50(2), Sch. 6 paras. 6(3); S.I. 1997/1305, art. 2
- F98** Words in s. 14(5) substituted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. III para. 52(2)(a)(b) (with s. 19(3)); S.I. 1994/2679, art. 3
- F99** Words in s. 14(5) inserted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. III para. 52(2)(c); (with s. 19(3)); S.I. 1994/2679, art. 3
- F100** Words substituted by Finance Act 1988 (c. 39, SIF 40:1), s. 12(1)(b)(6)

### Modifications etc. (not altering text)

- C17** S. 14 restricted (1.6.1997) by 1994 c. 9, s. 12A(3)(c) (as inserted (1.6.1997) by 1997 c. 16, s. 50(2), Sch. 6 paras. 1(1); S.I. 1997/1305, art. 2)
- C18** S. 14(1) restricted (1.8.2002) by S.I. 2002/1773, regs. 4, 6

## Drawback

### 15 Drawback of duty on exportation etc. of certain goods.

- (1) A drawback equal to any amount <sup>F101</sup> . . . paid in respect of the goods in question by way of the excise duty on hydrocarbon oil shall be allowed on the <sup>F102</sup> . . . , shipment as stores or warehousing in an excise warehouse for use as stores of—
  - (a) any hydrocarbon oil; or
  - (b) any article in which there is contained any hydrocarbon oil which was used, or which formed a component of any article used, as an ingredient in the manufacture or preparation of the article.
- (2) The Treasury may by order direct as respects articles of any class or description specified in the order that, subject to the provisions of the order, drawback shall be allowed under subsection (1) above in respect of hydrocarbon oil (or goods containing it) used as a material, solvent, extractant, preservative or finish in the manufacture or preparation of the articles.
- (3) On the making of an order under subsection (2) above this Act shall have effect, subject to the provisions of the order and of this section, as if the reference in subsection (1) (b) above to an article in which there is contained any hydrocarbon oil used as an ingredient in the manufacture or preparation of the article included a reference to an article of the class or description specified in the order.
- (4) An order made under subsection (2) above as respects articles of any class or description—
  - (a) may provide for drawback to be allowed in respect of hydrocarbon oil (or goods containing it) used as a material, solvent, extractant, preservative or finish in the manufacture or preparation not directly of articles of that class or description but of articles incorporated in them; and



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- (b) may provide that the quantity of hydrocarbon oil as respects duty on which drawback is to be allowed shall be determined by reference to average quantities or otherwise.
- (5) The power to make orders under subsection (2) above shall be exercisable by statutory instrument, and any statutory instrument by which the power is exercised shall be subject to annulment in pursuance of a resolution of the House of Commons.

**Textual Amendments**

**F101** Words in s. 12(1) repealed (15.10.1993) by 1993 c. 34, ss. 12(7)(b)(8), 213, **Sch. 23 Pt. I(5)** Note; S.I. 1993/2215, **art. 3**

**F102** Word in s. 15(1) repealed (27.7.1999 with effect as mentioned in s. 4(2) of the amending Act) by 1999 c. 16, s. 4(1), 139, **Sch. 20 Pt. I(1)** Note.

**Modifications etc. (not altering text)**

**C19** S. 15 amended (15.10.1993) by 1993 c. 34, s. 12(3); S.I. 1993/2215, art. 3

**C20** S. 15 excluded (20.10.1995) by S.I. 1995/2518, **reg. 118(b)**

**C21** S. 15(1) modified (26.7.2002) by S.I. 2002/1928, **reg. 3(1)(a)(2)(b)(3)**

**C22** S. 15(1) amended by S.I. 1985/1032, **reg. 11(c)**

**C23** S. 15(1) amended (1.1.1993) by S.I. 1992/3152, **reg. 11(d)** (with reg. 12)

**C24** S. 15(1) modified (1.9.2004) by The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065), regs. 1(1), **3(1)(a)**, (3)

**C25** S. 15(1) modified (1.9.2004) by The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065), regs. 1(1), **3(2)(b)**

<sup>F103</sup>16 .....

**Textual Amendments**

**F103** S. 16 repealed (1.12.1995) by 1993 c. 34, ss. 11(2), 213, **Sch. 23 Pt. I**; S.I. 1995/2715, **art. 2**

*Miscellaneous reliefs*

**17 Heavy oil used by horticultural producers.**

- (1) If, on an application made for the purposes of this section by a horticultural producer, it is shown to the satisfaction of the Commissioners that within the period for which the application is made any quantity of heavy oil has been used by the applicant as mentioned in subsection (2) below, then, subject as provided below, the applicant shall be entitled to obtain from the Commissioners repayment of the amount of any excise duty which has been paid in respect of the quantity so used [<sup>F104</sup>less any rebate allowed in respect of the duty], <sup>F105</sup> ... .
- (2) A horticultural producer shall be entitled to repayment under this section in respect of oil used by him—
  - (a) in the heating, for the growth of horticultural produce primarily with a view to the production of horticultural produce for sale, of any building or structure, or of the earth or other growing medium in it; or

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- (b) in the sterilisation of the earth or other growing medium to be used for the growth of horticultural produce as mentioned in paragraph (a) above in any building or structure.
- (3) Where any quantity of oil is used partly for any such purpose as is mentioned in subsection (2) above and partly for another purpose, such part of that quantity shall be treated as used for each purpose as may be determined by the Commissioners.
- <sup>F106</sup>(4) . . . . .
- (5) The Commissioners may require an applicant for repayment under this section—
- (a) to state such facts concerning the hydrocarbon oil delivered to or used by him, or concerning the production of horticultural produce by him, as they may think necessary to deal with the application;
  - (b) to furnish them in such form as they may require with proof of any statement so made; and
  - (c) to permit an officer to inspect any premises or plant used by him for the production of horticultural produce or in or for which any such oil was used.
- (6) If—
- (a) the facts required by the Commissioners under subsection (5)(a) above are not stated; or
  - (b) proof of the matters referred to in subsection (5)(b) above is not furnished to the satisfaction of the Commissioners; or
  - (c) an applicant fails to permit inspection of premises or plant as required under the subsection (5)(c) above,
- the facts shall be deemed for the purposes of this section to be such as the Commissioners may determine.
- (7) In this section—
- (a) “horticultural produce” has the meaning assigned to it by Schedule 2 to this Act; and
  - (b) “horticultural producer” means a person growing horticultural produce primarily for sale.

#### Textual Amendments

**F104** Words inserted (*retrospectively*) by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), 6(4)

**F105** Words repealed by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 139(6), [Sch. 19 Pt. III](#) Note 4 (by Note 4 it is provided that the repeal has effect in relation to oil used on or after 1.1.1982)

**F106** S. 17(4) repealed by [Finance Act 1981 \(c.35, SIF 40:1\)](#), s. 139(6), [Sch. 19 Pt. III](#) Note 4 (by Note 4 it is provided that the repeal has effect in relation to oil used on or after 1.1.1982)

#### Modifications etc. (not altering text)

**C26** Ss. 17-19A amended (15.10.1993) by [1993 c. 34, s. 12\(3\)](#); S.I. 1993/2215, [art. 3](#)

**C27** S. 17 excluded (20.10.1995) by S.I. 1995/2518, [reg. 118\(b\)](#)

**C28** S. 17 modified by [S.I. 2004/2065, reg. 3\(3A\)](#) (as inserted (1.4.2008) by [The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes \(Determination of Composition of a Substance and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/753\)](#), [regs. 1\(2\)](#), 8(2)(e)

**C29** S. 17(1) explained by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 6(4)

**C30** S. 17(1) amended by [S.I. 1985/1032, reg. 11\(c\)](#)

**C31** S. 17(1) amended (1.1.1993) by [S.I. 1992/3152, reg. 11\(d\)](#) (with [reg. 12](#))

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[<sup>F107</sup> **17A Biodiesel used otherwise than as road fuel**

- (1) If, on an application made for the purposes of this section, it is shown to the satisfaction of the Commissioners that within the period for which the application is made any quantity of biodiesel has been used by the applicant as mentioned in subsection (2) below, then, subject as provided below, the applicant shall be entitled to obtain from the Commissioners repayment of the amount specified below.
- (2) A person is entitled to repayment under this section in respect of biodiesel used by him—
  - (a) otherwise than as road fuel,
  - (b) otherwise than by mixing the biodiesel with—
    - (i) hydrocarbon oil, or
    - (ii) a mixture containing hydrocarbon oil, and
  - (c) otherwise than in the form of a mixture containing biodiesel and hydrocarbon oil.
- (3) For the purposes of subsection (2)(a) above, use “as road fuel” means use—
  - (a) as fuel for the engine provided for propelling a road vehicle or for an engine that draws its fuel from the same supply as such an engine, or
  - (b) as an additive or extender in any substance so used.
- (4) The amount of the repayment is the amount of the excise duty which has been paid in respect of the quantity of biodiesel used less the amount of £0.0313 a litre.
- (5) The Commissioners may require an applicant for repayment under this section—
  - (a) to state such facts concerning the biodiesel that is the subject of the claim, or the use to which it was put, as they may think necessary to deal with the application;
  - (b) to furnish them in such form as they may require with proof of any statement so made;
  - (c) to retain such records as the Commissioners may require relating to the use of biodiesel; and
  - (d) to permit an officer to inspect any premises, plant or vehicle on or in which the biodiesel in respect of which repayment is claimed is used.
- (6) If the applicant fails to comply with any such requirement, the Commissioners may reject the claim.]

**Textual Amendments**

**F107** S. 17A inserted (24.7.2002 with effect as mentioned in s. 5(6) of the amending Act) by 2002 c. 23, s. 5, Sch. 2 para. 4(1)

<sup>F108</sup> **18** .....

**Textual Amendments**

**F108** S. 18 repealed (1.11.1996) by 1996 c. 8, ss. 8(1)(a), 205, Sch. 41 Pt. I; S.I. 1996/2536, art. 2

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## 19 Fuel used in fishing boats, etc.

- (1) Subsection (3) below shall have effect in the case of—
- <sup>F109</sup>(a) . . . . .
- (b) any lifeboat owned by the Royal National Lifeboat Institution (in this subsection called “the Institution”); or
- (c) any tractor or gear owned by the Institution and used for the purpose of launching or hauling in any lifeboat owned by it,
- in respect of which an application is made to the Commissioners for the purposes of this section <sup>F110</sup> . . . , by the Institution.
- (2) Paragraphs (b) and (c) of subsection (1) above shall apply to hovercraft as if hovercraft were boats or vessels.
- (3) Subject to the provisions of this section, if it appears to the satisfaction of the Commissioners that the applicant has . . . <sup>F111</sup> used any quantity of hydrocarbon oil on board that boat or for the purposes of that tractor or gear, the applicant shall be entitled to obtain from the Commissioners repayment of any excise duty which has been paid in respect of the oil so used [<sup>F112</sup>less any rebate allowed in respect of the duty].
- (4) . . . . . <sup>F113</sup>
- <sup>F114</sup>(6) . . . . .

### Textual Amendments

- F109** s. 19(1)(a) repealed (1.11.1996) by 1996 c. 8, ss. 8(1)(b), 205, **Sch. 41 Pt. I**; S.I. 1996/2536, **art. 2**
- F110** Words in s. 19(1) repealed (1.11.1996) by 1996 c. 8, ss. 8(1)(b), 205, **Sch. 41 Pt. I**; S.I. 1996/2536, **art. 2**
- F111** Words repealed by **Finance Act 1981 (c. 35, SIF 40:1)**, **Sch. 19 Pt. III** Note 4 (by Note 4 it is provided that the repeal has effect in relation to oil used on or after 1.1.1982)
- F112** Words inserted (*retrospectively*) by **Finance Act 1981 (c. 35, SIF 40:1)**, **s. 6(4)**
- F113** S. 19(4)(5) repealed by **Finance Act 1981 (c. 35, SIF 40:1)**, **Sch. 19 Pt. III** Note 4 (by Note 4 it is provided that the repeal has effect in relation to oil used on or after 1.1.1982)
- F114** S. 19(6) repealed (1.12.1995) by 1993 c. 34, ss. 11(5), 213, **Sch. 23 Pt. I**; S.I. 1995/2715, **art. 2**

### Modifications etc. (not altering text)

- C32** Ss. 17-19A amended (15.10.1993) by 1993 c. 34, **s. 12(3)**; S.I. 1993/2215, **art. 3**
- C33** S. 19 excluded (20.10.1995) by S.I. 1995/2518, **reg. 118(b)**
- C34** S. 19(3) modified (26.7.2002) by S.I. 2002/1928, **reg. 3(1)(b)(2)(c)**
- C35** S. 19(3) amended by S.I. 1985/1032, **reg. 11(c)**
- C36** S. 19(3) explained by **Finance Act 1981 (c. 35, SIF 40:1)**, **s. 6(4)**
- C37** S. 19(3) amended (1.1.1993) by S.I. 1992/3152, **reg. 11(d)** (with reg. 12)
- C38** S. 19(3) modified (1.9.2004) by **The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065)**, regs. 1(1), **3(1)(b)**
- C39** S. 19(3) modified (1.9.2004) by **The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065)**, regs. 1(1), **3(2)(c)**

## [<sup>F115</sup>19A Fuel for producing energy for refineries etc.

- (1) If on an application made for the purposes of this section by an approved person it is shown to the satisfaction of the Commissioners—

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- (a) that any quantity of rebated hydrocarbon oil has been used by him, otherwise than at a refinery or other premises used for the production of hydrocarbon oil, as fuel for producing energy; and
- (b) that not less than one-sixth or more than one-third of that energy was used in the treatment of hydrocarbon oil at a refinery or in the production of hydrocarbon oil at other premises used for the production of such oil,

the applicant shall be entitled to obtain from the Commissioners repayment of one-third of the amount of excise duty which has been paid in respect of the quantity so used less the rebate allowed in respect of the duty.

- (2) In this section “an approved person” means a person for the time being approved in accordance with regulations made for the purposes of this section under section 24(1) below.]

#### Textual Amendments

**F115** S. 19A inserted by Finance Act 1981 (c.35, SIF 40:1), s. 5(2)(5) (in relation to oil used on or after 1.9.1981)

#### Modifications etc. (not altering text)

**C40** Ss. 17-19A amended (15.10.1993) by 1993 c. 34, s. 12(3); S.I. 1993/2215, art. 3

**C41** S. 19A(1) amended by S.I. 1985/1032, reg. 11(c)

**C42** S. 19A(1) amended (1.1.1993) by S.I. 1992/3152, reg. 11(d) (with reg. 12)

### [<sup>F116</sup>20 Contaminated or accidentally mixed oil.

- (1) This section applies where it is shown to the satisfaction of the Commissioners—
  - (a) that hydrocarbon oil has been delivered for home use, that since it was so delivered it has become contaminated, and that at the time it became contaminated it was oil on which the appropriate duty of excise had been paid, or
  - (b) that hydrocarbon oils of different descriptions have been delivered for home use, that since they were so delivered they have become accidentally mixed with each other, and that at the time of mixing they were oils on which the appropriate duty of excise had been paid.
- (2) Subject to any conditions which the Commissioners see fit to impose for the protection of the revenue, they may make to such person as they see fit a payment in accordance with subsection (3) below.
- (3) The payment shall be of an amount appearing to the Commissioners to be equal to the excise duty which would have been payable if—
  - (a) the oil had been delivered for home use (uncontaminated) at the time it became contaminated (where subsection (1)(a) above applies), or
  - (b) the oils had been delivered for home use (un-mixed) at the time they became mixed (where subsection (1)(b) above applies).]

- [<sup>F117</sup>(4) The power to make a payment to a person under subsection (2) above in relation to oils that have become accidentally mixed does not apply in relation to a mixture in respect of which he is liable to pay duty under section 20AAA below.]

*Status: Point in time view as at 19/07/2006.*

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### Textual Amendments

**F116** S. 20 substituted by [Finance Act 1985 \(c. 54, SIF 40:1\)](#), s. 7, **Sch. 4 para. 1**

**F117** S. 20(4) inserted (15.11.1996) by [1996 c. 8, s. 6\(2\)](#); S.I. 1996/2751, **art. 2**

### Modifications etc. (not altering text)

**C43** S. 20 excluded (20.10.1995) by [S.I. 1995/2518, reg. 118\(b\)](#)

**C44** S. 20(1) amended by [S.I. 1985/1032, reg. 11\(c\)](#)

**C45** S. 20(1) amended (1.1.1993) by [S.I. 1992/3152, reg. 11\(d\)](#) (with [reg. 12](#))

**C46** S. 20(1)(a)(3)(a) modified (1.9.2004) by [The Biofuels and Other Fuel Substitutes \(Payment of Excise Duties etc.\) Regulations 2004 \(S.I. 2004/2065\)](#), regs. 1(1), **3(2)(d)**

**C47** S. 20(1)(a)(3)(a) modified (26.7.2002) by [S.I. 2002/1928, reg. 3\(2\)\(d\)](#)

### *f<sup>F118</sup>* Mixing: adjustment of duty

### Textual Amendments

**F118** Ss. 20A, 20AA inserted by [Finance Act 1985 \(c. 54, SIF 40:1\)](#), s. 7(2), **Sch. 4 para. 2** and [Finance Act 1989 \(c. 26, SIF 40:1\)](#), s. 2(1) respectively

### <sup>F119</sup>20A Mixing: adjustment of duty.

- (1) In this section “new oil” means hydrocarbon oil which after it has been charged under section 6 above as oil of one description becomes oil of a different description as a result of approved mixing in a pipe-line with other hydrocarbon oil which has been so charged; and “approved mixing” has the meaning given by subsection (5) below.
- (2) Where the Commissioners are of the opinion that, if the new oil had fallen to be charged under section 6 above as oil of the different description, the amount of duty would have been greater or less than that actually charged, then—
  - (a) if in their opinion the amount would have been greater, they may charge under this section a duty of excise on the oil of an amount equal to the difference, and
  - (b) if in their opinion the amount would have been less, they may make under this section an allowance equal to the difference.
- (3) In determining the amount of duty which would have been charged if the new oil had fallen to be charged under section 6 above as oil of the different description, the rates to be applied are those effective at the time when in the Commissioners’ opinion the oil became oil of the different description.
- (4) Where the Commissioners have made a charge or allowance under subsection (2) above, then, for the purposes of this Act, any relief or rebate which was permitted or allowed at the time of the charge under section 6 above shall be disregarded.
- (5) The Commissioners may make regulations—
  - (a) enabling them to grant to persons (whether individually or of a specified class) permission to mix in a pipe-line different descriptions of hydrocarbon oil (whether generally or in the case of specified descriptions only), and to withdraw permission for reasonable cause;
  - (b) enabling permission to be granted subject to conditions and conditions to be varied for reasonable cause,



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and in this section “approved mixing” means mixing in accordance with permission under the regulations.

- (6) The Commissioners may make regulations—
- (a) for prescribing the method of charging the duty under this section;
  - (b) for determining the form of the allowance under this section (which may be by way of repayment or otherwise) and the time the allowance may be made.
- (7) Regulations under this section may make different provision for different circumstances.

#### Textual Amendments

**F119** Ss. 20A, 20AA inserted by Finance Act 1985 (c. 54, SIF 40:1), s. 7(2), Sch. 4 para. 2 and Finance Act 1989 (c. 26, SIF 40:1), s. 2(1) respectively

#### **Mixing of rebated oil.**

**F120**<sup>F121</sup>**20AAA**

- (1) A duty of excise shall be charged on a mixture which is—
- (a) produced by mixing fully rebated heavy oil with heavy oil which is not fully rebated, and
  - (b) supplied for use as fuel for any engine, motor or other machinery.
- (2) A duty of excise shall be charged on a mixture which is—
- (a) produced by mixing partially rebated heavy oil with heavy oil which is not partially rebated, and
  - (b) supplied for use as fuel for any engine, motor or other machinery;
- but a mixture on which duty is charged under subsection (1) shall not be charged under this subsection.
- (3) A duty of excise shall be charged on a mixture which is produced by mixing—
- (a) fully or partially rebated heavy oil, with
  - (b) biodiesel or a substance containing biodiesel.
- (4) The rate of duty on a mixture under subsection (1) or (2) shall be—
- (a) in the case of a mixture supplied for use as fuel for a road vehicle, the rate of duty specified in section 6(1A)(d) (general rate for heavy oil), and
  - (b) in any other case, equivalent to the rate of rebate specified in section 11(1)(b) (general rate for gas oil).
- (5) The rate of duty on a mixture under subsection (3) shall be the rate of duty specified in section 6(1A)(d).
- (6) For the purposes of this section—
- (a) oil is fully rebated if a rebate has been allowed in respect of it under section 11(1)(c) (general rebate for heavy oil),
  - (b) oil is partially rebated if a rebate has been allowed in respect of it under any other provision of section 11 or under section 13AA, and
  - (c) a reference to mixing is a reference to non-approved mixing (within the meaning given by section 20A(5)).



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- (7) The person liable to pay duty charged under this section on supply or production of a mixture is the person supplying or producing the mixture.
- (8) Where duty under a provision of this Act has been paid on an ingredient of a mixture, the duty charged under this section shall be reduced by the amount of any duty that the Commissioners are satisfied has been paid on the ingredient (but not to a negative amount).
- (9) The Commissioners may exempt a person from liability to pay duty under any provision of this Act in respect of production or supply of a mixture of a kind described in subsection (1)(a), (2)(a) or (3) if satisfied that—
  - (a) the liability was incurred accidentally, and
  - (b) in the circumstances the person should be exempted.]]

#### Textual Amendments

**F120** Ss. 20AAA, 20AAB inserted (15.11.1996) by 1996 c. 8, s. 6(3); S.I. 1996/2751, art. 2

**F121** S. 20AAA substituted (with effect in accordance with s. 9(4)(5) of the amending Act) by Finance Act 2004 (c. 12), s. 9(1)

#### **F122** 20AA Mixing of rebated oil: supplementary.

- [<sup>F123</sup>(1) A person who supplies or produces a mixture on which duty is charged under section 20AAA above must notify the Commissioners of the supply or production—
- (a) in advance, or
  - (b) within the period of seven days beginning with the date of supply or production.]
- <sup>F123</sup>(2) .....
- (3) Notification under subsection (1) <sup>F124</sup>... above must be given in such form and in such manner, and must contain such particulars, as the Commissioners may direct.
  - (4) Subject to subsection (7) below, where it appears to the Commissioners—
    - (a) that a person has produced or supplied a mixture on which duty is charged under section 20AAA above, and
    - (b) that he is the person liable to pay the duty,
 they may assess the amount of duty due from him to the best of their judgement and notify that amount to him or his representative.
  - (5) An assessment under subsection (4) above shall be treated as if it were an assessment under section 12(1) of the <sup>M3</sup>Finance Act 1994.
  - (6) The Commissioners may give a direction that a person who is, or expects to be, liable to pay duty charged under section 20AAA above—
    - (a) shall account for duty charged under that section by reference to such periods (“accounting periods”) as may be determined by or under the direction;
    - (b) shall make, in relation to accounting periods, returns in such form and at such times and containing such particulars as may be so determined;
    - (c) shall pay duty charged under that section at such times and in such manner as may be so determined.

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- (7) The power to make an assessment under subsection (4) above does not apply in relation to a person who is for the time being subject to a direction under subsection (6) above.
- (8) Where any person—
- (a) fails to give a notification which he is required to give under subsection (1) above, or
  - (b) fails to comply with a direction under subsection (6) above,
- his failure shall attract a penalty under section 9 of the <sup>M4</sup>Finance Act 1994 (civil penalties).

#### Textual Amendments

**F122** Ss. 20AAA, 20AAB inserted (15.11.1996) by 1996 c. 8, s. 6(3); S.I. 1996/2751, art. 2

**F123** S. 20AAB(1) substituted for s. 20AAB(1)(2) (with effect in accordance with s. 9(4) of the amending Act) by Finance Act 2004 (c. 12), s. 9(2)(a)

**F124** Words in s. 20AAB(3) repealed (with effect in accordance with s. 9(4) of the amending Act) by Finance Act 2004 (c. 12), s. 9(2)(b), Sch. 42 Pt. 1(1)

#### Marginal Citations

**M3** 1994 c. 9.

**M4** 1994 c. 9.

#### <sup>F125</sup>20AAPower to allow reliefs.

- (1) The Commissioners may make regulations allowing reliefs as regards—
- (a) any duty of excise which has been charged in respect of hydrocarbon oil, <sup>F126</sup> . . . , or road fuel gas;
  - (b) any amount which has been paid to the Commissioners under section 12(2) above;
  - (c) any amount which would (apart from the regulations) be payable to the Commissioners under section 12(2) above.
- (2) The regulations may include such provision as the Commissioners think fit in connection with allowing reliefs, and in particular may—
- (a) provide for relief to take the form of a repayment or remission [<sup>F127</sup>or an allowance to be set off against duty payable to the Commissioners by the person claiming relief];
  - (b) provide for relief to be allowed in cases or classes of case set out in the regulations;
  - (c) provide for relief to be allowed to the extent set out in the regulations;
  - (d) provide for relief to be allowed subject to conditions imposed by the regulations;
  - (e) provide for relief to be allowed subject to such conditions as the Commissioners may impose on the person claiming relief;
  - (f) provide for the taking of samples of hydrocarbon oil in order to ascertain whether relief should be allowed or has been properly allowed;
  - (g) make provision as to administration (which may include provision requiring the making of applications for relief);

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- [ provide for oil on which relief is allowed to be treated for the purposes of this  
<sup>F128</sup>(ga) Act as oil on which a rebate has been allowed;]
- (h) make different provision in relation to different cases or classes of case;
- (i) include such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient.
- (3) The conditions which may be imposed as mentioned in subsection (2)(d) or (e) above may include conditions as to the physical security of premises, the provision (by bond or otherwise) of security for payment, or such other matters as the Commissioners think fit.
- (4) Where a person contravenes or fails to comply with any regulation made under this section or any condition imposed by or under such a regulation—
- [ his contravention or failure to comply shall attract a penalty under section 9  
<sup>F129</sup>(a) of the Finance Act 1994 (civil penalties); and]
- (b) any goods in respect of which the contravention or failure occurred shall be liable to forfeiture.
- (5) A reference in this section to a duty of excise includes a reference to any addition to such duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979.
- (6) Schedule 5 to this Act shall have effect with respect to any sample of hydrocarbon oil taken in pursuance of regulations made under this section.]

#### Textual Amendments

**F125** Ss. 20A and 20AA inserted by Finance Act 1985 (c. 54, SIF 40:1), s. 7(2), **Sch. 4 para. 2** and Finance Act 1989 (c. 26, SIF 40:1), **s. 2(1)** respectively

**F126** Words in s. 20AA(1)(a) repealed (1.12.1995) by 1993 c. 34, ss. 11(5), 213, **Sch. 23 Pt. I**; S.I. 1995/2715, **art. 2**

**F127** Words in s. 20AA(2)(a) inserted (28.7.2000) by 2000 c. 17, **s. 10(3)(a)**

**F128** S. 20AA(ga) inserted (28.7.2000) by 2000 c. 17, **s. 10(3)(b)**

**F129** S. 20AA(4)(a) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 54** (with s. 19(3)); S.I. 1994/2679, **art. 3**

#### Modifications etc. (not altering text)

**C48** S. 20AA(1)(a) modified (1.9.2004) by The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065), regs. 1(1), **3(1)(c)**, (3)

#### [<sup>F130</sup>**20A** Power to allow reliefs for fuel testing etc

- (1) The Commissioners may by regulations make provision allowing reliefs as regards excise duty charged in respect of experimental fuel where—
- (a) the fuel is, or is to be, used for the purposes of a fuel-testing project that is approved by the Commissioners,
- (b) the project is approved for the purposes of the development of the fuel (see subsection (8)(a) below), and
- (c) the use takes place, or is to take place, during the period that, for the purposes of the project, is the relief period for the fuel (see subsection (8)(b) below).
- (2) In this section “experimental fuel” means a substance of a description specified in regulations made by the Commissioners.

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- (3) For each experimental fuel, the Commissioners shall by regulations make provision specifying—
- (a) the beginning and end of the period that is the experimental period for that fuel; and
  - (b) the form that (subject to any directions under subsection (9)(a) below) is to be taken by relief under this section as regards excise duty chargeable on that fuel.
- (4) A form of relief specified under subsection (3)(b) above must be an authorised form; and for the purposes of this section “an authorised form” is—
- (a) a repayment, or
  - (b) a rebate (or extra rebate).
- (5) Relief under this section shall be allowed—
- (a) to the extent specified in, or determined in accordance with, regulations under subsection (1) above, and
  - (b) subject to—
    - (i) such conditions as the Commissioners may impose, and
    - (ii) any directions under subsection (9)(b) below.
- (6) The conditions that may be imposed under subsection (5)(b)(i) above include, in particular, conditions in connection with—
- (a) the collection, keeping, compilation or analysis, or
  - (b) the supply to the Commissioners or other persons,
- of data, or information, relating to the production, use or performance of an experimental fuel.
- (7) Subsections (8) and (9) below apply where the Commissioners have approved a fuel-testing project.
- (8) The Commissioners shall give directions specifying—
- (a) each experimental fuel for the purposes of whose development the project is approved;
  - (b) for each fuel specified under paragraph (a) above, the beginning and end of the period that, for the purposes of the project, is (in accordance with subsection (10) below) the relief period for the fuel; and
  - (c) any conditions imposed under subsection (5)(b)(i) above that apply to the allowance under this section of relief as regards excise duty chargeable in respect of an experimental fuel used, or to be used, for the purposes of the project.
- (9) The Commissioners may give directions—
- (a) providing for relief as regards excise duty chargeable in respect of an experimental fuel used, or to be used, for the purposes of the project to take an authorised form different to the form specified under subsection (3)(b) above;
  - (b) as to administration in connection with allowing reliefs under this section as regards excise duty chargeable in respect of an experimental fuel used, or to be used, for the purposes of the project.
- (10) For the purposes of subsection (8)(b) above—
- (a) the beginning of the relief period for a fuel may not be earlier than the beginning of the experimental period for that fuel; and

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- (b) the end of the relief period for a fuel may not be later than the end of the experimental period for that fuel.

(11) In this section—

“excise duty” means—

- (a) excise duty chargeable by virtue of this Act, or  
(b) any addition to such duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979 (c. 8);

“fuel-testing project” means a pilot project connected with the technological development of environment-friendly fuels.

(12) Regulations under this section may make different provision for different cases.]

#### Textual Amendments

**F130** S. 20AB inserted (11.5.2001) by 2001 c. 9, s. 3(1)

#### *Administration and enforcement*

### **21 Regulations with respect to hydrobarbon oil, petrol substitutes and road fuel gas.**

(1) The Commissioners may, with a view to the protection of the revenue, make regulations—

- (a) for any of the purposes specified in Part I of Schedule 3 to this Act (which relates to hydrocarbon oil);

<sup>F131</sup>(b) .....

- (c) for any of the purposes specified in Part III of that Schedule (which relates to road fuel gas).

(2) In the case of regulations made for the purposes mentioned in subsection (1)(a) above, different regulations may be made for different classes of hydrocarbon oil; and the power to make such regulations shall include power to make regulations—

- (a) regulating the allowance and payment of drawback under or by virtue of section 15 above; and

- (b) for making the allowance and payment of drawback by virtue of an order under subsection (2) of that section subject to such conditions as the Commissioners see fit to impose for the protection of the revenue.

[<sup>F132</sup>(2A) In the case of regulations made for the purposes mentioned in subsection (1)(c) above, different regulations may be made for different classes of road fuel gas.]

(3) [<sup>F133</sup>Where any person] contravenes or fails to comply with any regulation made under this section [<sup>F134</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture.]

#### Textual Amendments

**F131** S. 21(1)(b) repealed (1.12.1995) by 1993 c. 34, ss. 11(5), 213, Sch. 23 Pt. I; S.I. 1995/2715, art. 2

**F132** S. 21(2A) inserted (1.9.2004) by Finance Act 2004 (c. 12), s. 6(3)(4)

*Status: Point in time view as at 19/07/2006.*

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**F133** Words in s. 21(3) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 55(a)** (with s. 19(3)); S.I. 1994/2670, **art. 3**

**F134** Words in s. 21(3) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 55(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**

**Modifications etc. (not altering text)**

**C49** S. 21(1)(a)(2) modified (26.7.2002) by S.I. 2002/1928, **reg. 3(1)(c)**

**C50** S. 21(2) modified (1.9.2004) by **The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004** (S.I. 2004/2065), regs. 1(1), **3(1)(d)**

**C51** S. 21(2) modified by S.I. 2004/2065, **reg. 3(2)(f)** (as inserted (1.4.2008) by **The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008** (S.I. 2008/753), **regs. 1(2), 8(2)(c)**)

**22 Prohibition on use of petrol substitutes on which duty has not been paid.**

(1) [<sup>F135</sup>A person who—

- (a) puts to a chargeable use (within the meaning of section 6A above) any liquid which is not hydrocarbon oil; and
- (b) knows or has reasonable cause to believe that there is duty charged under section 6A above on that liquid which has not been paid and is not lawfully deferred,

shall][<sup>F136</sup>attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes this subsection shall be liable to forfeiture.]

[<sup>F137</sup>(1AA) Where any person—

- (a) puts any biodiesel to a chargeable use (within the meaning of section 6AA above), and
- (b) knows or has reasonable cause to believe that there is duty charged under section 6AA above on that biodiesel which has not been paid and is not lawfully deferred,

his putting the biodiesel to that use shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes this subsection shall be liable to forfeiture.]

[<sup>F138</sup>(1AB) Where any person—

- (a) puts any bioethanol to a chargeable use (within the meaning of section 6AD above), and
- (b) knows or has reasonable cause to believe that there is duty charged under section 6AD above on that bioethanol which has not been paid and is not lawfully deferred,

his putting the bioethanol to that use shall attract a penalty under section 9 of the Finance Act 1994 (c. 9) (civil penalties), and any goods in respect of which a person contravenes this section shall be liable to forfeiture.]

[<sup>F139</sup>(1A) Section 10 of the Finance Act 1994 (exception for cases of reasonable excuse) shall not apply in relation to conduct attracting a penalty by virtue of [<sup>F140</sup>subsection (1), (1AA) or (1AB) above.]]

(2) In subsection (1) above, “liquid” does not include any substance which is gaseous at a temperature of 15°C and under a pressure of 1013·25 millibars.

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#### Textual Amendments

- F135** Words in s. 22(1) substituted (1.12.1995) by 1993 c. 34, s. 11(3)(5); S.I. 1995/2715, art. 2
- F136** Words in s. 22(1) substituted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. III para. 56(1)(a)(b) (with s. 19(3)); S.I. 1994/2679, art. 3
- F137** S. 22(1AA) inserted (24.7.2002 with application as mentioned in s. 5(8)(b) of the amending Act) by 2002 c. 23, s. 5, Sch. 2, para.5(7)
- F138** S. 22(1AB) inserted (1.1.2005) by Finance Act 2004 (c. 12), s. 10(8)(a)(10)
- F139** S. 22(1A) inserted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. III para. 56(2) (with s. 19(3)); S.I. 1994/2679, art. 3
- F140** Words in s. 22(1A) substituted (1.1.2005) by Finance Act 2004 (c. 12), s. 10(8)(b)(10)

### 23 Prohibition on use etc. of road fuel gas on which duty has not been paid.

- (1) [<sup>F141</sup>Where any person]—
- (a) uses as fuel in; or
  - (b) takes as fuel into,

a road vehicle any road fuel gas on which he knows or has reasonable cause to believe that the excise duty chargeable under section 8 above has not been paid [<sup>F142</sup>his use of the road fuel gas or, as the case may be, his taking it as fuel into that vehicle shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which a person contravenes this subsection shall be liable to forfeiture.]

[<sup>F143</sup>(1A) Section 10 of the Finance Act 1994 (exception for cases of reasonable excuse) shall not apply in relation to conduct attracting a penalty by virtue of subsection (1) above.]

- [<sup>F144</sup>(1B) Where any person—
- (a) uses as fuel in, or
  - (b) takes as fuel into,

a road vehicle any road fuel gas on which the excise duty chargeable under section 8 above has not been paid, the Commissioners may assess the amount of that duty as being excise duty due from that person and notify him or his representative accordingly.]

- (2) For the purposes of [<sup>F145</sup>subsections (1)(b) and (1B)(b)] above, road fuel gas shall be deemed to be taken into a road vehicle as fuel if, but only if, it is taken into it as part of the supply of fuel for the engine provided for propelling the vehicle or for an engine which draws its fuel from the same supply as that engine.

#### Textual Amendments

- F141** Words in s. 23(1) substituted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. III para. 57(1)(a) (with s. 19(3)); S.I. 1994/2679, art. 3
- F142** Words in s. 23(1) substituted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. III para. 57(1)(b) (with s. 19(3)); S.I. 1994/2679, art. 3
- F143** S. 23(1A) inserted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. III para. 57(2) (with s. 19(3)); S.I. 1994/2679, art. 3
- F144** S. 23(1B) inserted (1.6.1997) by 1997 c. 16, s. 50(2), Sch. 6 para. 6(4); S.I. 1997/1305, art. 2
- F145** Words in s. 23(2) substituted (1.6.1997) by 1997 c. 16, s. 50(2), Sch. 6 para. 6(5); S.I. 1994/1305, art. 2



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**Modifications etc. (not altering text)**

**C52** S. 23 restricted (1.6.1997) by 1994 c. 9, s. 12A(3)(c) (as inserted (1.6.1997) by 1997 c. 16, s. 50(2), Sch. 6 para. 1(1); S.I. 1997/1305, art. 2)

[<sup>F146</sup>**23A Regulation of traders in controlled oil**

- (1) If a revenue trader who is not a registered excise dealer and shipper—
  - (a) buys or sells controlled oil in the course of a trade or business, or
  - (b) in the course of a trade or business deals in controlled oil,his buying or selling, or dealing in, the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).
- (2) Subsection (1) above does not apply to the buying of oil by a revenue trader if—
  - (a) the oil is for use by the trader, and
  - (b) that use does not involve selling or dealing in hydrocarbon oil.
- (3) Subsection (1) above does not apply to the selling of oil by a revenue trader if—
  - (a) that oil was for use by the trader,
  - (b) that use did not involve selling or dealing in hydrocarbon oil,
  - (c) that use came to an end before the oil was used, and
  - (d) the oil is sold after the use ends.
- (4) Where a revenue trader who is not a registered excise dealer and shipper is entitled to the possession of any controlled oil, the oil is liable to forfeiture.
- (5) Subsection (4) above does not apply to oil if—
  - (a) that oil is for use by the revenue trader, and
  - (b) that use does not involve selling or dealing in hydrocarbon oil.
- (6) Subsection (4) above does not apply to oil if—
  - (a) the oil was for use by the revenue trader,
  - (b) that use did not involve selling or dealing in hydrocarbon oil,
  - (c) that use has come to an end,
  - (d) that use came to an end before the oil was used, and
  - (e) the oil is being held pending sale or other disposal.
- (7) Where oil is liable to forfeiture by virtue of subsection (4) above—
  - (a) anything mixed with the oil,
  - (b) any container in which the oil (and anything mixed with it) is kept, and
  - (c) any equipment kept for dispensing the contents of any such container,is liable to forfeiture.]

**Textual Amendments**

**F146** Ss. 23A, 23B inserted (24.7.2002 for power to make regulations otherwise 1.4.2003) by 2002 c. 23, s. 6, Sch. 3 para. 1; S.I. 2002/3056, art. 2

*Status: Point in time view as at 19/07/2006.*

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#### Modifications etc. (not altering text)

- C53** S. 23A restricted in part by [S.I. 2002/3057, reg. 3\(1\)](#) (as substituted (1.4.2008) by [The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes \(Determination of Composition of a Substance and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2753\), regs. 1\(2\), 7\(2\)](#))
- C54** S. 23A(1)(4) excluded (1.1.2003) by [S.I. 2002/3057, regs. 3\(1\), 6\(3\)](#)

#### <sup>F147</sup>23B Power to provide for exceptions to section 23A

- (1) The Commissioners may by regulations make provision for—
- (a) exceptions to section 23A(1) above in addition to those allowed by section 23A(2) and (3) above;
  - (b) exceptions to section 23A(4) above in addition to those allowed by section 23A(5) and (6) above;
  - (c) exceptions to section 23A(7) above.
- (2) Regulations under subsection (1) above may provide for exceptions allowed by such regulations to have effect subject to conditions—
- (a) specified by such regulations;
  - (b) specified by the Commissioners under such regulations.

#### Textual Amendments

- F147** Ss. 23A, 23B inserted (24.7.2002 for power to make regulations otherwise 1.4.2003) by [2002 c. 23, s. 6, Sch. 3 para. 1; S.I. 2002/3056, art. 2](#)

#### <sup>F148</sup>23C Warehousing

- (1) For the purposes of Part VIII of the Customs and Excise Management Act 1979 (c. 2) (warehousing) the substances specified in subsection (4) shall be treated as if they were chargeable with duty (and therefore within the scope of section 92(1)(a) or (c) of that Act) whether or not duty is in fact chargeable.
- (2) The Commissioners may make regulations under section 93 of that Act (warehousing regulations) that relate to a substance specified in subsection (4).
- (3) In respect of a substance specified in subsection (4) which has been or is to be deposited in an excise warehouse by virtue of subsection (2), the Commissioners may—
- (a) treat the substance, or make provision by regulations for treating the substance, as if duty were chargeable in relation to it by virtue of a specified enactment;
  - (b) make any regulations, or do any other thing, of a kind that they could make or do (whether or not by virtue of a provision of Part VIII of that Act) in respect of a substance deposited in an excise warehouse under Part VIII of that Act.
- (4) The substances referred to in subsection (1) are—
- (a) petroleum gas,
  - (b) animal fat set aside for use as motor fuel or heating fuel,
  - (c) vegetable fat set aside for use as motor fuel or heating fuel,
  - (d) non-synthetic methanol set aside for use as motor fuel or heating fuel,

*Status: Point in time view as at 19/07/2006.*

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- (e) biodiesel,
  - (f) a mixture of two or more substances specified in paragraphs (a) to (e), and
  - (g) any other substance specified for the purposes of this section in regulations made by the Commissioners.
- (5) In subsection (4)—
- (a) “petroleum gas” means any hydrocarbon which—
    - (i) is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars, and
    - (ii) is not natural gas (as defined in paragraph (b) below),
  - (b) “natural gas” means gas with a methane content of not less than 80%,
  - (c) “animal fat” means a triglyceride of animal origin,
  - (d) “vegetable fat” means a triglyceride of vegetable origin, and
  - (e) “non-synthetic methanol” means methyl alcohol of non-synthetic origin.
- (6) Regulations under subsection (4)(g)—
- (a) may make provision only if the Commissioners think it necessary or expedient for a purpose connected with Council Directive [92/12/EEC](#) on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products,
  - (b) may, in particular, make provision by reference to that Directive or any other Community instrument, and
  - (c) may, in particular, make provision by reference to the purpose for which a substance is intended to be used.]

#### Textual Amendments

**F148** S. 23C inserted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 13](#)

## 24 Control of use of duty-free and rebated oil.

- (1) The Commissioners may make regulations for any of the purposes of [<sup>F149</sup>section 6(3)] section 9(1) or (4), [<sup>F150</sup>section 11,] section 12 [<sup>F151</sup>section 13A [<sup>F152</sup>section 13AA]] [<sup>F153</sup>, section 14(1), section 17, <sup>F154</sup> . . . section 19 [<sup>F155</sup>, section 19A [<sup>F156</sup>, section 20AB] or section 24A of this Act]], and in particular for the purposes specified in Schedule 4 to this Act.
- (2) Regulations made for the purposes of section 12 [<sup>F157</sup>or section 13AA] above may provide for restricting (whether by reference to locality, the obtaining of a licence from the Commissioners or other matters) the cases in which payments to the Commissioners [<sup>F158</sup>under subsection (2) of section 12, or subsection (3) of section 13AA,] are to be effective for the purposes of that subsection.
- (3) For the purposes of the Customs and Excise Acts 1979, the presence in any hydrocarbon oil of a marker which, in regulations made under this section, is prescribed in relation to—
- (a) oil delivered without payment of duty under section 9 above; or
  - (b) rebated heavy oil or rebated light oil,
- shall be conclusive evidence that that oil has been so delivered or, as the case may be, that the rebate in question has been allowed.

*Status: Point in time view as at 19/07/2006.*

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- (4) [<sup>F159</sup>Where any person] contravenes or fails to comply with any regulation made under this section [<sup>F160</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture.]

[<sup>F161</sup>(4A) Where—

- (a) a rebate of duty is allowed on any oil, and
- (b) a person contravenes or fails to comply with any requirement which, by virtue of any regulations made under this section, is a condition of allowing the rebate,

the Commissioners may assess an amount equal to the rebate as being excise duty due from that person, and notify him or his representative accordingly.

(4B) Where—

- (a) any oil is delivered without payment of duty, and
- (b) a person contravenes or fails to comply with any requirement which, by virtue of any regulations made under this section, is a condition of allowing the oil to be delivered without payment of duty,

the Commissioners may assess an amount equal to the excise duty on like oil at the rate in force at the time of the contravention or failure to comply as being excise duty due from that person, and notify him or his representative accordingly.]

<sup>F162</sup>[(4C) In a case where subsection (4D) below applies, the power of the Commissioners under subsection (4A) above includes power, if it appears to them to be appropriate, to assess (and notify) an amount less than the amount of the rebate concerned.

(4D) This subsection applies in any case where—

- (a) the Commissioners have power to assess (and notify) an amount under subsection (4A) above by virtue of a contravention of, or failure to comply with, a requirement such as is mentioned in paragraph 5 of Schedule 4 to this Act, and
- (b) the marker whose addition is required by the requirement is present at the time of the contravention or failure but in such a proportion that its presence falls to be disregarded by virtue of provision made by regulations under this section for the purpose mentioned in paragraph 7 of that Schedule.]

- (5) Schedule 5 to this Act shall have effect with respect to any sample of hydrocarbon oil taken in pursuance of regulations made under this section.

#### Textual Amendments

**F149** Words inserted by virtue of [Finance Act 1982 \(c. 39, SIF 40:1\)](#), [s. 4\(3\)](#)

**F150** Words in s. 24(1) inserted (15.8.1997) by 1997 c. 16, [s. 7\(7\)](#); S.I. 1997/1960, [art. 2](#)

**F151** Words inserted by [Finance Act 1987 \(c. 16, SIF 40:1\)](#), [s. 1\(2\)\(4\)](#)

**F152** Words in s. 24(1) inserted (1.10.1996) by 1996 c. 8, [s. 5\(5\)\(a\)\(6\)](#); S.I. 1996/2314, [art. 2](#)

**F153** Words substituted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), [s. 6\(1\)\(2\)](#)

**F154** Words in s. 24(1) repealed (1.11.1996) by 1996 c. 8, ss. 8, 205, [Sch. 41 Pt. I](#); S.I. 1996/2536, [art. 2](#)

**F155** Words in s. 24(1) substituted (29.4.1996) by virtue of 1996 c. 8, [s. 7\(2\)](#)

**F156** S. 24(1) inserted (5.11.2001) by 2001 c. 9, [s. 3\(2\)](#)

**F157** Words in s. 24(2) inserted (1.10.1996) by 1996 c. 8, [s. 5\(5\)\(b\)\(6\)](#); S.I. 1996/2314, [art. 2](#)

**F158** Words in s. 24(2) substituted (24.7.2002) by 2002 c. 23, s. 6, [Sch. 3 para. 8](#)

*Status: Point in time view as at 19/07/2006.*

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**F159** Words in s. 24(4) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 58(a)** (with s. 19(3)); S.I. 1994/2679, **art. 3**

**F160** Words in s. 24(4) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 58(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**

**F161** Ss. 4A, 4B inserted (1.6.1997) by 1997 c. 16, s. 50(2), Sch. 6 paras. 6(6), 7; S.I. 1997/1305, **art. 2**

**F162** S. 24(4C)(4D) inserted (28.7.2000) by 2000 c. 17, **s. 10(4)**

**Modifications etc. (not altering text)**

**C55** S. 24 restricted (1.6.1997) by 1994 c. 9, **s. 12A(3)(c)** (as inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 1(1)**); S.I. 1997/1305, **art. 2**

[<sup>F163</sup>**24A Registered excise dealers and shippers regulations: special provision for traders in controlled oil**

(1) For the purposes of section 100H(1)(p) of the Management Act (registered excise dealers and shippers regulations may, in particular, make provision authorised by this section), this section authorises provision—

- (a) requiring traders in controlled oil to notify prescribed information;
- (b) requiring traders in controlled oil to make prescribed returns;
- (c) authorising a trader in controlled oil to carry out or arrange for the carrying out of any prescribed activity falling within section 100H(1)(b) of the Management Act in relation to controlled oil, but subject to prescribed conditions or restrictions;
- (d) requiring a trader in controlled oil to give security by prescribed means for amounts that may become due from him by way of repayment of rebate;
- (e) for taking into account, in determining whether a trader in controlled oil has—
  - (i) contravened any provision of registered excise dealers and shippers regulations, or
  - (ii) failed to comply with any prescribed condition, restriction or requirement,

the extent to which the trader has followed guidance issued by the Commissioners (including guidance issued after the making of provision under this paragraph referring to it).

(2) In this section—

“prescribed” has the meaning given by section 100H(3) of the Management Act;

“trader in controlled oil” means a registered excise dealer and shipper carrying on a trade or business that consists of or includes the dealing in, buying or selling of controlled oil.]

**Textual Amendments**

**F163** S. 24AA inserted (24.7.2002) by 2002 c. 23, s. 6, **Sch. 3 para. 3**

[<sup>F164</sup>**24A Penalties for misuse of marked oil.**

(1) Marked oil shall not be used as fuel for a road vehicle.

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- (2) For the purposes of this section marked oil is any hydrocarbon oil in which a marker is present which is for the time being designated by regulations made by the Commissioners under subsection (3) below.
- (3) The Commissioners may for the purposes of this section designate any marker which appears to them to be used for the purposes of the law of any place (whether within or outside the United Kingdom) for identifying hydrocarbon oil that is not to be used as fuel for road vehicles, or for road vehicles of a particular description.
- (4) For the purposes of this section marked oil shall be taken to be used as fuel for a road vehicle if, but only if, it is used as fuel for the engine provided for propelling the vehicle or for an engine which draws its fuel from the same supply as that engine.
- (5) Where a person uses any hydrocarbon oil in contravention of subsection (1) above, his use of the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).
- (6) If a person who uses any marked oil in contravention of subsection (1) above does so in the knowledge that the oil he is using is marked oil, he shall be guilty of an offence and liable—
  - (a) on summary conviction, to a penalty of the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both;
  - (b) on conviction on indictment, to a penalty of any amount, or to a term of imprisonment not exceeding 7 years, or to both.
- (7) Any marked oil which is in a road vehicle as part of the fuel supply for the engine which propels the vehicle shall be liable to forfeiture.
- (8) Where in any proceedings relating to this section a question arises as to the nature of any substance present at any time in any hydrocarbon oil—
  - (a) a certificate of the Commissioners to the effect that that substance is or was a marker designated for the purposes of this section shall be sufficient, unless the contrary is shown, for establishing that fact; and
  - (b) any document purporting to be such a certificate shall be taken to be one unless it is shown not to be.]

#### **Textual Amendments**

**F164** S. 24A inserted (29.4.1996) by 1996 c. 8, s. 7(1)

### *Supplementary*

## **25 Regulations.**

Any power to make regulations under this Act shall be exercisable by statutory instrument, and any statutory instrument by which the power is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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## 26 Directions.

Directions given under any provision of this Act may make different provision for different circumstances and may be varied or revoked by subsequent directions thereunder.

## 27 Interpretation.

(1) In this Act—

[<sup>F165</sup>“aviation gasoline” has the meaning given by section 6(4) above]

[<sup>F166</sup>“bioblend” has the meaning given by section 6AB(2) above;]

[<sup>F167</sup>“biodiesel” has the meaning given by section 2AA above;]

[<sup>F168</sup>“bioethanol” has the meaning given by section 2AB above;

“bioethanol blend” has the meaning given by section 6AE(2) above;]

[<sup>F169</sup>“controlled oil” means hydrocarbon oil in respect of which a rebate has been allowed under section 11(1)(b), (ba) or (c) or 13AA;]

[<sup>F170</sup>“gas oil” has the meaning given by section 1(5) above;]

“heavy oil” has the meaning given by section 1(4) above;

<sup>F171</sup>

“hydrocarbon oil” has the meaning given by section 1(2) above;

“light oil” has the meaning given by section 1(3) above;

“the Management Act” means the <sup>M5</sup>Customs and Excise Management Act 1979;

<sup>F172</sup>

<sup>F172</sup>

“the prescribed sum”, in relation to the penalty provided for an offence, means—

(a) if the offence was committed in England [<sup>F173</sup>or Wales], the prescribed sum within the meaning of [<sup>F174</sup>section 32 of the Magistrates’ Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)];

(b) if the offence was committed in Scotland, the prescribed sum within the meaning of [<sup>F175</sup>subsection (8) of section 225 of the Criminal Procedure (Scotland) Act 1995 (£5,000 or other sum substituted by order under subsection (4) of that section)];

[<sup>F176</sup>(c) if the offence was committed in Northern Ireland, the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984 (£1,000 or other sum substituted by order under Article 17 of that Order);]

“rebate” means rebate of duty under section 11, [<sup>F177</sup>13AA,][<sup>F178</sup>13A][<sup>F179</sup>, 14 or 20AB] above, and “rebated” has a corresponding meaning;

[<sup>F180</sup>“refinery” means any premises which—

(a) are approved by the Commissioners for the treatment of hydrocarbon oil; or

(b) are approved by them for the production of energy for use in the treatment of hydrocarbon oil at premises approved under paragraph (a) above or in the production of hydrocarbon oil at other premises used for the production of such oil;

and the Commissioners may approve any premises under paragraph (b) above if it appears to them that more than one-third of the energy will be produced for such use as is mentioned in that paragraph;]

“road fuel gas” has the meaning given by section 5 above; <sup>F181</sup>...



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“road vehicle” means a vehicle constructed or adapted for use on roads, but does not include any vehicle [<sup>F182</sup>which is an excepted vehicle within the meaning given by Schedule 1 to this Act.]

[<sup>F183cc</sup> sulphur-free diesel ” has the meaning given by section 1(7) above;]

[<sup>F183cc</sup> sulphur-free petrol ” has the meaning given by section 1(3B) above;]

[<sup>F184cc</sup>ultra low sulphur diesel” has the meaning given by section 1(6) above.]

[<sup>F185cc</sup>ultra low sulphur petrol” has the meaning given by section 1(3A) above;]

[<sup>F185</sup>“unleaded petrol” and “leaded petrol” have the meaning given by [<sup>F186</sup>section 1(3C) above.]]

[<sup>F187</sup>(1A) If in the case of any premises which the Commissioners can approve under paragraph (b) of the definition of ”refinery” in subsection (1) above it appears to them appropriate to do so, they may direct that the provisions of this Act (other than that definition) shall apply to them as if, instead of being a refinery, they were other premises used for the production of hydrocarbon oil.]

[<sup>F188</sup>(1B) The Treasury may by order made by statutory instrument amend Schedule 1 to this Act so as to—

- (a) add a class of excepted vehicle,
- (b) remove a class of excepted vehicle, or
- (c) redefine a class of excepted vehicle.

(1C) Section 2A(2) and (3) above shall apply to an order under subsection (1B).]

(2) This Act and the other Acts included in the Customs and Excise Acts 1979 shall be construed as one Act but where a provision of this Act refers to this Act that reference is not to be construed as including a reference to any of the others.

(3) Any expression used in this Act or in any instrument made under this Act to which a meaning is given by any other Act included in the Customs and Excise Acts 1979 has, except where the context otherwise requires, the same meaning in this Act or in any such instrument as in that Act; and for ease of reference the Table below indicates the expressions used in this Act to which a meaning is given by any other such Act—

*Management Act*

“the Commissioners”

“container”

“the Customs and Excise Acts 1979”

“excise warehouse”

“goods”

“hovercraft”

“occupier”

“officer” and “proper” in relation to an officer

[<sup>F189</sup>[<sup>F190cc</sup>“pipe-line”]]

“port”

[<sup>F190cc</sup>“registered excise dealer and shipper”]

[<sup>F191</sup>“representative”]

[<sup>F192</sup>“revenue trader”]

“ship”

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“shipment”  
“stores”  
“warehouse”

*Alcoholic Liquor Duties Act 1979*

F193

.....  
“spirits”.

**Textual Amendments**

- F165** Words inserted by [Finance Act 1982 \(c. 39, SIF 40:1\)](#), [s. 4\(4\)](#)
- F166** S. 27(1): Definition of “bioblend” inserted (24.7.2002) by [2002 c. 23, s. 5, Sch. 2 para. 6](#)
- F167** S. 27(1): Definition of “biodiesel” inserted (24.7.2002) by [2002 c. 23, s. 5, Sch. 2 para. 6](#)
- F168** Words in s. 27(1) inserted (1.1.2005) by [Finance Act 2004 \(c. 12\)](#), [s. 10\(9\)\(10\)](#)
- F169** S. 27(1): Definition of “controlled oil” inserted (24.7.2002) by [2002 c. 23, s. 6, Sch. 3 para. 4\(2\)](#)
- F170** S. 27(1): definition of “gas oil” inserted (15.8.1997) by [1997 c. 16, s. 7\(8\)\(a\)](#); [S.I. 1997/1960, art. 2](#)
- F171** Definition of “higher octane unleaded petrol” in s. 27(1) repealed (*retrospective to 7.3.2001 at 6pm*) by [2001 c. 9, ss. 2\(5\), 110, Sch. 33 Pt. 1\(1\)](#) Note
- F172** S. 27(1): definitions of “petrol substitute” and “power methylated spirits” repealed (1.12.1995) by [1993 c. 34, ss. 11\(5\), 213, Sch. 23 Pt. I](#); [S.I. 1995/2715, art. 2](#)
- F173** Words substituted by [S.I. 1984/703, \(N.I. 3\) Sch. 6 para. 10\(a\)](#)
- F174** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [s. 154, Sch. 7 para. 181](#)
- F175** Words in s. 27(1) substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\), Sch. 4 para. 21](#)
- F176** In the definition of “the prescribed sum” paragraph (c) inserted by [S.I. 1984/703, \(N.I. 3\) Sch. 6 para. 10\(b\)](#)
- F177** Words in s. 27(1) inserted (24.7.2002) by [2002 c. 23, s. 6, Sch. 3 para. 9](#)
- F178** Word inserted by [Finance Act 1987 \(c. 16, SIF 40:1\)](#), [s. 1\(3\)\(4\)](#)
- F179** S. 27(1): words in definition of “rebate” substituted (11.5.2001) by [2001 c. 9, s. 3\(3\)](#)
- F180** Definition substituted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), [s. 5\(3\)](#)
- F181** Word in s. 27(1) repealed (15.8.1997) by [1997 c. 16, s. 113, Sch. 18 Pt. I](#) Note; [S.I. 1997/1960, art. 2](#)
- F182** Words in s. 27(1) substituted (1.7.1995) by [1995 c. 4, s. 8\(1\)\(3\)](#)
- F183** Words in s. 27 inserted (1.9.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 7\(8\)\(a\)\(9\)](#)
- F184** Words in s. 27(1) inserted (15.8.1997) by [1997 c. 16, s. 7\(8\)\(b\)](#); [S.I. 1997/1960, art. 2](#)
- F185** Definitions of “ultra low sulphur petrol”, “unleaded petrol”, “leaded petrol” in s. 27(1) inserted (1.10.2000) by [2000 c. 17, s. 5\(5\)](#); [S.I. 2000/2674, art. 2](#)
- F186** Words in s. 27 substituted (1.9.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 7\(8\)\(b\)\(9\)](#)
- F187** S. 27(1A) inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), [s. 5\(4\)](#)
- F188** S. 27(1B)(1C) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [s. 8](#)
- F189** Word inserted by [Finance Act 1985 \(c. 54, SIF 40:1\)](#), [s. 7, Sch. 4 para. 3](#)
- F190** S. 27(3) Table: Words “registered excise dealer and shipper” inserted (24.7.2002) by [2002 c. 23, s. 6, Sch. 3 para. 4\(3\)](#)
- F191** Words in s. 27(3) Table inserted (1.6.1997) by [1997 c. 16, s. 50\(2\), Sch. 6 para. 6\(7\)](#); [S.I. 1997/1305, art. 2](#)
- F192** S. 27(3) Table: Words “revenue trader” inserted (24.7.2002) by [2002 c. 23, s. 6, Sch. 3 para. 4\(3\)](#)
- F193** Words in s. 27(3) repealed (1.7.2005) by [Finance Act 1995 \(c. 4\)](#), [s. 5\(6\), Sch. 29 Pt. 1\(3\)](#); [S.I. 2005/1523, art. 2 \(with art. 3\)](#)

**Marginal Citations**

**M5** [1979 c. 2.](#)

*Status: Point in time view as at 19/07/2006.*

*Changes to legislation: Hydrocarbon Oil Duties Act 1979 is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 28 Consequential amendments, repeals, savings and transitional provisions.

- (1) The enactments and order specified in Schedule 6 to this Act shall be amended in accordance with the provisions of that Schedule.
- (2) The enactments specified in Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Any provision of this Act relating to anything done or required or authorised to be done under or by reference to that provision or any other provision of this Act shall have effect as if any reference to that provision, or that other provision, as the case may be, included a reference to the corresponding provision of the enactments repealed by this Act.
- (4) The repeal by subsection (2) above of the <sup>M6</sup>Hydrocarbon Oil (Customs & Excise) Act 1971 shall not affect the operation of the saving in paragraph 2 in Part I of Schedule 14 to the <sup>M7</sup>Finance (No. 2) Act 1975 in relation to the provisions of the said Act of 1971 repealed by section 75(5) of the said Act of 1975 and specified in that Part.
- (5) The <sup>M8</sup>Amendment of Units of Measurement (Hydrocarbon Oil, etc) Order 1977 is hereby revoked.
- (6) Nothing in this section shall be taken as prejudicing the operation of sections 15 to 17 of the <sup>M9</sup>Interpretation Act 1978 (which relate to the effect of repeals).

### Modifications etc. (not altering text)

**C56** The text of s. 28(1)(2)(5), Sch. 6 paras. 1, 2 and 6, and Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### Marginal Citations

**M6** 1971 c. 12.  
**M7** 1975 c. 45.  
**M8** S.I. 1977/1866  
**M9** 1978 c. 30.

## 29 Citation and commencement.

- (1) This Act may be cited as the Hydrocarbon Oil Duties Act 1979 and is included in the Acts which may be cited as the Customs and Excise Acts 1979.
- (2) This Act shall come into operation on 1st April 1979.

*Status: Point in time view as at 19/07/2006.*

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## SCHEDULES

### [<sup>F194</sup>SCHEDULE 1

#### EXCEPTED VEHICLES

##### Textual Amendments

**F194** Sch. 1 substituted (1.7.1995) by 1995 c. 4, s. 8(2)(3)

##### *Unlicensed vehicles not used on public roads*

- 1 (1) A vehicle is an excepted vehicle while—
- (a) it is not used on a public road, and
  - (b) no licence under the <sup>M10</sup>Vehicle Excise and Registration Act 1994 is in force in respect of it.
- (2) A vehicle in respect of which there is current a certificate or document in the form of a licence issued under regulations under section 22(2) of the Vehicle Excise and Registration Act 1994 shall be treated for the purposes of sub-paragraph (1) above as a vehicle in respect of which a licence under that Act is in force.

##### Marginal Citations

**M10** 1994 c. 22.

##### *Tractors*

- 2 (1) A vehicle is an excepted vehicle if it is—
- (a) an agricultural tractor, <sup>F195</sup>...
  - <sup>F195</sup>(b) .....
- (2) In sub-paragraph (1) above “agricultural tractor” means a tractor used on public roads solely for purposes relating to agriculture, horticulture, forestry or activities falling within sub-paragraph (3) below.
- (3) The activities falling within this sub-paragraph are—
- (a) cutting verges bordering public roads;
  - (b) cutting hedges or trees bordering public roads or bordering verges which border public roads.
- <sup>F196</sup>(4) .....

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### Textual Amendments

- F195** Sch. 1 para. 2(1)(b) and the word “or” immediately preceding it repealed (28.7.2000 with effect in relation to the use of rebated heavy fuel on or after 1.5.2000) by 2000 c. 17, ss. 9(2)(a)(3), 156, **Sch. 40 Pt. I(1)** Note 3
- F196** Sch. 1 para. 2(4) repealed (28.7.2000 with effect in relation to the use of rebated heavy fuel on or after 1.5.2000) by 2000 c. 17, ss. 9(2)(b)(3), 156, **Sch. 40 Pt. I(1)** Note 3

### *Light agricultural vehicles*

- 3 (1) A vehicle is an excepted vehicle if it is a light agricultural vehicle.
- (2) In sub-paragraph (1) above “light agricultural vehicle” means a vehicle which—
- has a revenue weight not exceeding 1,000 kilograms,
  - is designed and constructed so as to seat only the driver,
  - is designed and constructed primarily for use otherwise than on roads, and
  - is used solely for purposes relating to agriculture, horticulture or forestry.
- (3) In sub-paragraph (2)(a) above “revenue weight” has the meaning given by section 60A of the <sup>M11</sup>Vehicle Excise and Registration Act 1994.

### Marginal Citations

- M11** 1994 c. 22.

### *Agricultural engines*

- 4 An agricultural engine is an excepted vehicle.

### *Vehicles used between different parts of land*

- 5 A vehicle is an excepted vehicle if—
- it is used only for purposes relating to agriculture, horticulture or forestry,
  - it is used on public roads only in passing between different areas of land occupied by the same person, and
  - the distance it travels on public roads in passing between any two such areas does not exceed 1.5 kilometres.

### *Mowing machines*

- 6 A mowing machine is an excepted vehicle.

### *Snow clearing vehicles*

- 7 A vehicle is an excepted vehicle when it is—
- being used, or
  - going to or from the place where it is to be or has been used,
- for the purpose of clearing snow from public roads by means of a snow plough or similar device (whether or not forming part of the vehicle).

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#### *Gritters*

- 8 A vehicle is an excepted vehicle if it is constructed or adapted, and used, solely for the conveyance of machinery for spreading material on roads to deal with frost, ice or snow (with or without articles or material used for the purposes of the machinery).

#### *Mobile cranes*

- 9 (1) A mobile crane is an excepted vehicle.
- (2) In sub-paragraph (1) above “mobile crane” means a vehicle which is designed and constructed as a mobile crane and which—
- (a) is used on public roads only as a crane in connection with work carried on at a site in the immediate vicinity or for the purpose of proceeding to and from a place where it is to be or has been used as a crane, and
  - (b) when so proceeding does not carry any load except such as is necessary for its propulsion or equipment.

#### *Digging machines*

- 10 (1) A digging machine is an excepted vehicle.
- (2) In sub-paragraph (1) above “digging machine” means a vehicle which is designed, constructed and used for the purpose of trench digging, or any kind of excavating or shovelling work, and which—
- (a) is used on public roads only for that purpose or for the purpose of proceeding to and from the place where it is to be or has been used for that purpose, and
  - (b) when so proceeding does not carry any load except such as is necessary for its propulsion or equipment.

#### *Works trucks*

- 11 (1) A works truck is an excepted vehicle.
- (2) In sub-paragraph (1) above “works truck” means a goods vehicle which is designed for use in private premises and is used on public roads only—
- (a) for carrying goods between private premises and a vehicle on a road within one kilometre of those premises,
  - (b) in passing from one part of private premises to another,
  - (c) in passing between private premises and other private premises in a case where the premises are within one kilometre of each other, or
  - (d) in connection with road works at the site of the works or within one kilometre of the site of the works.
- (3) In sub-paragraph (2) above “goods vehicle” means a vehicle constructed or adapted for use and used for the conveyance of goods or burden of any description, whether in the course of trade or not.

#### *Road construction vehicles*

- 12 (1) A vehicle is an excepted vehicle if it is—
- (a) a road construction vehicle, and

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- (b) used or kept solely for the conveyance of built-in road construction machinery (with or without articles or material used for the purposes of the machinery).
- (2) In sub-paragraph (1) above “road construction vehicle” means a vehicle—
  - (a) which is constructed or adapted for use for the conveyance of built-in road construction machinery, and
  - (b) which is not constructed or adapted for the conveyance of any other load except articles and material used for the purposes of such machinery.
- (3) In sub-paragraphs (1) and (2) above “built-in road construction machinery”, in relation to a vehicle, means road construction machinery built in as part of, or permanently attached to, the vehicle.
- (4) In sub-paragraph (3) above “road construction machinery” means a machine or device suitable for use for the construction or repair of roads and used for no purpose other than the construction or repair of roads.

*Road rollers*

- 13      A road roller is an excepted vehicle.

*Interpretation*

- 14      In this Schedule “public road” means a road which is repairable at the public expense.]

SCHEDULE 2

Section 17(7).

MEANING OF “HORTICULTURAL PRODUCE”  
FOR PURPOSES OF RELIEF UNDER SECTION 17

In section 17 of this Act “horticultural produce” means—

- (a) fruit;
  - (b) vegetables of a kind grown for human consumption, including fungi, but not including maincrop potatoes or peas grown for seed, for harvesting dry or for vining;
  - (c) flowers, pot plants and decorative foliage;
  - (d) herbs;
  - (e) seeds other than pea seeds, and bulbs and other material, being seeds, bulbs or material for sowing or planting for the production of—
    - (i) fruit,
    - (ii) vegetables falling within paragraph (b) above,
    - (iii) flowers, plants or foliage falling within paragraph (c) above, or
    - (iv) herbs,
 or for reproduction of the seeds, bulbs or other material planted; or
  - (f) trees and shrubs, other than trees grown for the purpose of afforestation;
- but does not include hops.



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F197 SCHEDULE 2A

**Textual Amendments**

F197 Sch. 2A repealed (with effect in accordance with s. 9(4) of the amending Act) by Finance Act 2004 (c. 12), s. 9(3), Sch. 42 Pt. 1(1)

SCHEDULE 3

Section 21(1).

SUBJECTS FOR REGULATIONS UNDER SECTION 21

**PART I**

HYDROCARBON OIL

- 1 Prohibiting the production of hydrocarbon oil or any description of hydrocarbon oil except by a person holding a licence.
- 2 [F198 Specifying the circumstances in which any such licence may be surrendered or revoked]

**Textual Amendments**

F198 Words substituted by Finance Act 1986 (c. 41, SIF 40:1), s. 8(6), Sch. 5 para. 4

- 3 Regulating the production, storage and warehousing of hydrocarbon oil or any description of hydrocarbon oil and the removal of any such oil to or from premises used for the production of any such oil.

**Modifications etc. (not altering text)**

- C57 Sch. 3 para. 3 modified (1.9.2004) by The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065), regs. 1(1), 3(1)(e)
- C58 Sch. 3 para. 3 modified by S.I. 2004/2065, reg. 3(2)(g) (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), regs. 1(2), 8(2)(c))

- 4 Prohibiting the refining of hydrocarbon oil elsewhere than in a refinery.
- 5 Prohibiting the incorporation of gas in hydrocarbon oil elsewhere than in a refinery.
- 6 Regulating the use and storage of hydrocarbon oil in a refinery.

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**Modifications etc. (not altering text)**

**C59** Sch. 3 paras. 6-11 modified by S.I. 2004/2065, **reg. 3(2)(g)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(c)**)

- 7 Regulating or prohibiting the removal to a refinery of hydrocarbon oil in respect of which any rebate has been allowed.

**Modifications etc. (not altering text)**

**C59** Sch. 3 paras. 6-11 modified by S.I. 2004/2065, **reg. 3(2)(g)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(c)**)

- 8 Regulating the removal of imported hydrocarbon oil to a refinery without payment of the excise duty on such oil.

**Modifications etc. (not altering text)**

**C59** Sch. 3 paras. 6-11 modified by S.I. 2004/2065, **reg. 3(2)(g)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(c)**)

- 9 Making provision for securing payment of the excise duty on any imported hydrocarbon oil received into a refinery.

**Modifications etc. (not altering text)**

**C59** Sch. 3 paras. 6-11 modified by S.I. 2004/2065, **reg. 3(2)(g)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(c)**)

- 10 Relieving from the excise duty chargeable on hydrocarbon oil produced in the United Kingdom any such oil intended for exportation or shipment as stores.

**Modifications etc. (not altering text)**

**C59** Sch. 3 paras. 6-11 modified by S.I. 2004/2065, **reg. 3(2)(g)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(c)**)

- [<sup>F199</sup>10A Amending the definition of “aviation gasoline” in subsection (4) of section 6 of  
<sup>F200</sup> this Act.]

**Textual Amendments**

**F199** Sch. 3 Pt. I para. 10A substituted by Finance Act 1990 (c. 29, SIF 40:1), **s. 3(5)(6)**

**F200** Sch. 3 Pt. I paras. 10A-10C inserted by Finance Act 1982 (c. 39), **s. 4(5)**

*Status: Point in time view as at 19/07/2006.*

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**Modifications etc. (not altering text)**

**C59** Sch. 3 paras. 6-11 modified by S.I. 2004/2065, **reg. 3(2)(g)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(c)**)

10B <sup>F201</sup> Conferring power to require information relating to the supply or use of aviation gasoline to be given by producers, dealers and users.

**Textual Amendments**

**F201** Sch. 3 Pt. I paras. 10A-C inserted by Finance Act 1992 (c. 39), **s. 4(5)**

**Modifications etc. (not altering text)**

**C59** Sch. 3 paras. 6-11 modified by S.I. 2004/2065, **reg. 3(2)(g)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(c)**)

10C <sup>F202</sup> Requiring producers and users of and dealers in aviation gasoline to keep and produce records relating to aviation gasoline.

**Textual Amendments**

**F202** Sch. 3 Pt. I paras. 10A-C inserted by Finance Act 1992 (c. 39), **s. 4(5)**

**Modifications etc. (not altering text)**

**C59** Sch. 3 paras. 6-11 modified by S.I. 2004/2065, **reg. 3(2)(g)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(c)**)

11 Generally for securing and collecting the excise duty chargeable on hydrocarbon oil . . . <sup>F203</sup> .

**Textual Amendments**

**F203** Words repealed by Finance Act 1985 (c. 54, SIF 40:1), s. 7, Sch. 4 para. 4, **Sch. 27 Pt. I** Note 2

**Modifications etc. (not altering text)**

**C59** Sch. 3 paras. 6-11 modified by S.I. 2004/2065, **reg. 3(2)(g)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(c)**)

**C60** Sch. 3 para. 11 modified (26.7.2002) by S.I. 2002/1928, **reg. 3(1)(d)**

**C61** Sch. 3 para. 11 modified (1.9.2004) by The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065), **regs. 1(1), 3(1)(e)**

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## F204 PART II

### Textual Amendments

**F204** Sch. 3 Pt. II repealed (1.12.1995) by 1993 c. 34, ss. 11(5), 213, **Sch. 23 Pt.I**; S.I. 1995/2715, **art. 2**

12 Prohibiting the production of petrol substitutes, and dealing in petrol substitutes on which the excise duty has not been paid, except by persons holding a licence.

13 Specifying the circumstances in which any such licence may be surrendered or revoked.

14 Regulating the production, dealing in, storage and warehousing of petrol substitutes and their removal to and from premises used therefor.

15 Relieving from the excise duty petrol substitutes intended for exportation or shipment as stores.

16 Generally for securing and collecting the excise duty.

In this Part of this Schedule “the excise duty” means the excise duty on petrol substitutes.

## PART III

### ROAD FUEL GAS

17 Prohibiting the production of gas, and dealing in gas on which the excise duty has not been paid, except by persons holding a licence.

18 [<sup>F206</sup>Specifying the circumstances in which any such licence may be surrendered or revoked].

### Textual Amendments

**F206** Words substituted by Finance Act 1986 (c. 41, SIF 40:1), s. 8(6), **Sch. 5 para. 4**

19 Regulating the production, dealing in, storage and warehousing of gas and the removal of gas to and from premises used therefor.

20 Requiring containers for gas to be marked in the manner prescribed by the regulations.

*Status: Point in time view as at 19/07/2006.*

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- 21 Conferring power to require information relating to the supply or use of gas and containers for gas to be given by producers of and dealers in gas, and by the person owning or possessing or for the time being in charge of any road vehicle which is constructed or adapted to use gas as fuel.
- 22 Requiring a person owning or possessing a road vehicle which is constructed or adapted to use gas as fuel to keep such accounts and records in such manner as may be prescribed by the regulations, and to preserve such books and documents relating to the supply of gas to or by him, or the use of gas by him, for such period as may be so prescribed.
- 23 Requiring the production of books or documents relating to the supply or use of gas or the use of any road vehicle.
- 24 Authorising the entry and inspection of premises (other than private dwelling-houses) and the examination of road vehicles, and authorising, or requiring the giving of facilities for, the inspection of gas found on any premises entered or on or in any road vehicle.
- 25 Generally for securing and collecting the excise duty.
- In this Part of this Schedule “the excise duty” means the excise duty chargeable under section 8 of this Act on gas, and “gas” means road fuel gas.

#### SCHEDULE 4

Section 24(1).

#### SUBJECTS FOR REGULATIONS UNDER SECTION 24

*As to grant of relief . . . <sup>F207</sup>*

##### Textual Amendments

**F207** Words repealed by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 139(6), [Sch. 19 Pt. III](#) Note 4 (by Note 4 it is provided that the repeal has effect in relation to oil used on or after 1.1.1982)

- 1 Regulating the approval of persons for purposes of section 9(1) or (4) or 14(1) of this Act, whether individually or by reference to a class, and whether in relation to particular descriptions of oil or generally; enabling approval to be granted subject to conditions and providing for the conditions to be varied, or the approval revoked, for reasonable cause.
- 2 Enabling permission under section 9(1) of this Act to be granted subject to conditions as to the giving of security and otherwise.
- [<sup>F208</sup>3 Requiring claims or applications for repayment under section 9(4), 17, [<sup>F209</sup>17A,]. . . 19 or 19A of this Act to be made at such times and in respect of such periods as are prescribed; providing that no such claim or application shall lie where the amount to be paid is less than the prescribed minimum; and preventing, where a claim or application can be made under section 9(4) or 19, the payment of drawback.]

##### Textual Amendments

**F208** [Sch. 4 Pt. II para. 3](#) substituted by [Finance Act 1981 \(c.35, SIF 40:1\)](#), s. **6(1)(3)**

*Status: Point in time view as at 19/07/2006.*

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**F209** Words in Sch. 4 para. 3 inserted (24.7.2002) by 2002 c. 23, s. 5, Sch. 2 para. 4(2)

*As to mixing of oil*

- 4 Imposing restrictions on the mixing with other oil of any rebated oil or oil delivered without payment of duty.

*As to marking of oil*

- 5 Requiring as a condition of allowing rebate on, or delivery without payment of duty of, any oil (subject to any exceptions provided by or under the regulations) that there shall have been added to that oil, at such times, in such manner and in such proportions as may be prescribed, one or more prescribed markers, with or without a prescribed colouring substance (not being a prescribed marker), and that a declaration to that effect is furnished.

**Modifications etc. (not altering text)**

- C62** Sch. 4 para 5 modified by S.I. 2004/2065, **reg. 3(1A)(b)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(a)**)
- C63** Sch. 4 para 5 modified by S.I. 2004/2065, **reg. 3(2A)(c)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(d)**)

- 6 Prescribing the substances which are to be used as markers.
- 7 Providing that the presence of a marker shall be disregarded if the proportion in which it is present is less than that prescribed for the purposes of this paragraph.
- 8 Prohibiting the addition to any oil of any prescribed marker or prescribed colouring substance except in such circumstances as may be prescribed.

**Modifications etc. (not altering text)**

- C64** Sch. 4 paras. 8-10 modified by S.I. 2004/2065, **reg. 3(1A)(b)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(a)**)
- C65** Sch. 4 paras. 8-10 modified by S.I. 2004/2065, **reg. 3(2A)(c)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(d)**)

- 9 Prohibiting the removal from any oil of any prescribed marker or prescribed colouring substance.

**Modifications etc. (not altering text)**

- C66** Sch. 4 paras. 8-10 modified by S.I. 2004/2065, **reg. 3(1A)(b)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(a)**)

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**C67** Sch. 4 paras. 8-10 modified by S.I. 2004/2065, **reg. 3(2A)(c)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(d)**)

10 Prohibiting the addition to oil of any substance, not being a prescribed marker, which is calculated to impede the identification of a prescribed marker.

**Modifications etc. (not altering text)**

**C68** Sch. 4 paras. 8-10 modified by S.I. 2004/2065, **reg. 3(1A)(b)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(a)**)

**C69** Sch. 4 paras. 8-10 modified by S.I. 2004/2065, **reg. 3(2A)(c)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(d)**)

11 Regulating the storage or movement of prescribed markers.

12 Requiring any person who adds a prescribed marker to any oil to keep in such manner and to preserve for such period as may be prescribed such accounts and records in connection with his use of that marker as may be prescribed, and requiring the production of the accounts and records.

**Modifications etc. (not altering text)**

**C70** Sch. 4 paras. 12-16 modified by S.I. 2004/2065, **reg. 3(1A)(b)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(a)**)

**C71** Sch. 4 paras. 12-17 modified by S.I. 2004/2065, **reg. 3(2A)(c)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(d)**)

13 Requiring, in such circumstances or subject to such exceptions as may be prescribed, that any drum, storage tank, delivery pump or other container or outlet which contains any oil in which a prescribed marker is present shall be marked in the prescribed manner to indicate that the oil is not to be used as road fuel or for any other prohibited purpose.

**Modifications etc. (not altering text)**

**C72** Sch. 4 paras. 12-16 modified by S.I. 2004/2065, **reg. 3(1A)(b)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(a)**)

**C73** Sch. 4 paras. 12-17 modified by S.I. 2004/2065, **reg. 3(2A)(c)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(d)**)

14 Requiring any person who supplies oil in which a prescribed marker is present to deliver to the recipient a document containing a statement in the prescribed form to the effect that the oil is not to be used as road fuel or for any other prohibited purpose.



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**Modifications etc. (not altering text)**

- C74** Sch. 4 paras. 12-16 modified by S.I. 2004/2065, **reg. 3(1A)(b)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2)**, 8(2)(a))
- C75** Sch. 4 paras. 12-17 modified by S.I. 2004/2065, **reg. 3(2A)(c)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2)**, 8(2)(d))

- 15 Prohibiting the sale of any oil the colour of which would prevent any prescribed colouring substance from being readily visible if present in the oil.

**Modifications etc. (not altering text)**

- C76** Sch. 4 paras. 12-16 modified by S.I. 2004/2065, **reg. 3(1A)(b)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2)**, 8(2)(a))
- C77** Sch. 4 paras. 12-17 modified by S.I. 2004/2065, **reg. 3(2A)(c)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2)**, 8(2)(d))

- 16 Prohibiting the importation of oil in which any prescribed marker, or any other substance which is calculated to impede the identification of a prescribed marker, is present.

**Modifications etc. (not altering text)**

- C78** Sch. 4 paras. 12-16 modified by S.I. 2004/2065, **reg. 3(1A)(b)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2)**, 8(2)(a))
- C79** Sch. 4 paras. 12-17 modified by S.I. 2004/2065, **reg. 3(2A)(c)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2)**, 8(2)(d))

*As to control of storage, supply etc. of oil, entry of premises etc.*

- 17 Regulating the storage or movement of oil.

**Modifications etc. (not altering text)**

- C80** Sch. 4 para. 17 modified (1.9.2004) by The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065), **regs. 1(1)**, **3(1)(f)**
- C81** Sch. 4 paras. 12-17 modified by S.I. 2004/2065, **reg. 3(2A)(c)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2)**, 8(2)(d))

- 18 Restricting the supplying of oil in respect of which rebate has been allowed and not repaid or on which excise duty has not been paid.

- [<sup>F210</sup>18A Prohibiting the use of aviation gasoline otherwise than as a fuel for aircraft.]

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#### Textual Amendments

**F210** Sch. 4 paras. 18A, 18B inserted by Finance Act 1982 (c. 39, SIF 40:1), s. 4(6)

<sup>F211</sup>18B Prohibiting the taking of aviation gasoline into fuel tanks for engines other than aircraft engines.

#### Textual Amendments

**F211** Sch. 4 paras. 18A, 18B inserted by Finance Act 1982 (c. 39, SIF 40:1), s. 4(6)

19 Requiring a person owning or possessing a road vehicle which is constructed or adapted to use heavy oil as fuel to keep such accounts and records in such manner as may be prescribed, and to preserve such books and documents relating to the supply of heavy oil to or by him, or the use of heavy oil by him, for such period as may be prescribed.

20 Requiring the production of books or documents relating to the supply or use of oil or the use of any vehicle.

21 Authorising the entry and inspection of premises (other than private dwelling-houses) and the examination of vehicles, and authorising, or requiring the giving of facilities for, the inspection of oil found on any premises entered or on or in any vehicle and the taking of samples of any oil inspected.

#### Modifications etc. (not altering text)

**C82** Sch. 4 para. 21 modified (1.9.2004) by The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065), regs. 1(1), **3(1)(f)**

**C83** Sch. 4 para. 21 modified by S.I. 2004/2065, **reg. 3(2A)(c)** (as inserted (1.4.2008) by The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), **regs. 1(2), 8(2)(d)**)

#### Interpretation

22 In this Schedule—  
“oil” means hydrocarbon oil;  
“prescribed” means prescribed by regulations made under section 24 of this Act;  
and section 12(3)(a) of this Act shall apply for the purposes of paragraph 19 above as it applies for the purposes of that section.

#### SCHEDULE 5

Section 24(5).

#### SAMPLING

1 The person taking a sample—  
(a) if he takes it from a motor vehicle, shall if practicable do so in the presence of a person appearing to him to be the owner or person for the time being in charge of the vehicle;

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- (b) if he takes the sample on any premises but not from a motor vehicle, shall if practicable take it in the presence of a person appearing to him to be the occupier of the premises or for the time being in charge of the part of the premises from which it is taken.
- 2
  - (1) The result of an analysis of a sample shall not be admissible—
    - (a) in criminal proceedings under the Customs and Excise Acts 1979; or
    - (b) on behalf of the Commissioners in any civil proceedings under those Acts, unless the analysis was made by an authorised analyst and the requirements of paragraph 1 above (where applicable) and of the following provisions of this paragraph have been complied with.
  - (2) The person taking a sample must at the time have divided it into three parts (including the part to be analysed), marked and sealed or fastened up each part, and—
    - (a) delivered one part to the person in whose presence the sample was taken in accordance with paragraph 1 above, if he requires it; and
    - (b) retained one part for future comparison.
  - (3) Where it was not practicable to comply with the relevant requirements of paragraph 1 above, the person taking the sample must have served notice on the owner or person in charge of the vehicle or, as the case may be, the occupier of the premises informing him that the sample has been taken and that one part of it is available for delivery to him, if he requires it, at such time and place as may be specified in the notice.
- 3
  - (1) Subject to sub-paragraph (2) below, in any such proceedings as are mentioned in paragraph 2(1) above a certificate purporting to be signed by an authorised analyst and certifying the presence of any substance in any such sample of oil as may be specified in the certificate shall be evidence, and in Scotland sufficient evidence, of the facts stated in it.
  - (2) Without prejudice to the admissibility of the evidence of the analyst (which shall be sufficient in Scotland as well as in England), such a certificate shall not be admissible as evidence—
    - (a) unless a copy of it has, not less than 7 days before the hearing, been served by the prosecutor or, in the case of civil proceedings, the Commissioners on all other parties to the proceedings; or
    - (b) if any of those other parties, not less than 3 days before the hearing or within such further time as the court may in special circumstances allow, serves notice on the prosecutor or, as the case may be, the Commissioners requiring the attendance at the hearing of the person by whom the analysis was made.
- 4
  - (1) Any notice required or authorised to be given under this Schedule shall be in writing.
  - (2) Any such notice shall be deemed, unless the contrary is shown, to have been received by a person if it is shown to have been left for him at his last-known residence or place of business in the United Kingdom.
  - (3) Any such notice may be given by post, and the letter containing the notice may be sent to the last-known residence or place of business in the United Kingdom of the person to whom it is directed.
  - (4) Any such notice given to the secretary or clerk of a company or body of persons (incorporated or unincorporated) on behalf of the company or body shall be deemed to have been given to the company or body; and for the purpose of the foregoing provisions of this paragraph any such company or body of persons having an office

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in the United Kingdom shall be treated as resident at that office or, if it has more than one, at the registered or principal office.

- (5) Where any such notice is to be given to any person as the occupier of any land, and it is not practicable after reasonable inquiry to ascertain—
- (a) what is the name of any person being the occupier of the land; or
  - (b) whether or not there is a person being the occupier of the land,
- the notice may be addressed to the person concerned by any sufficient description of the capacity in which it is given to him.
- (6) In any case to which sub-paragraph (5) above applies, and in any other case where it is not practicable after reasonable inquiry to ascertain an address in the United Kingdom for the service of a notice to be given to a person as being the occupier of any land, the notice shall be deemed to have been received by the person concerned on being left for him on the land, either in the hands of a responsible person or conspicuously affixed to some building or object on the land.
- (7) Sub-paragraphs (2) to (6) above shall not affect the validity of any notice duly given otherwise than in accordance with those sub-paragraphs.
- 5 In this Schedule “authorised analyst” means—
- (a) the Government Chemist or a person acting under his direction;
  - (b) the Government Chemist for Northern Ireland or a person acting under his direction;
  - (c) any chemist authorised by the Treasury to make analyses for the purposes of this Schedule; or
- (d) any other person appointed as a public analyst or deputy public analyst under—
- [<sup>F212</sup>section 27 of the Food Safety Act 1990], or
  - [<sup>F213</sup>Article 27(1) of the Food Safety (Northern Ireland) Order 1991].
- 6 References in this Schedule to the taking of a sample or to a sample shall be construed respectively as references to the taking of a sample in pursuance of regulations under section [<sup>F214</sup>20AA or] 24 of this Act and to a sample so taken.

#### Textual Amendments

**F214** Words inserted by [Finance Act 1989 \(c. 26, SIF 40:1\)](#), [s. 2\(2\)](#)

- 7 This Schedule shall have effect in its application to a vehicle of which a person other than the owner is, or is for the time being, entitled to possession as if for references to the owner there were substituted references to the person entitled to possession.

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## SCHEDULE 6

Section 28(1).

## CONSEQUENTIAL AMENDMENTS

*Finance Act 1965 and Finance Act (Northern Ireland) Act 1965*

- 1 In section 92(2) of the <sup>M12</sup>Finance Act 1965 and section 14(2) of the <sup>M13</sup>Finance Act (Northern Ireland) Act 1966 (grants towards duty on bus fuel) for the words “hydrocarbon oil” there shall be substituted the words “ heavy oil ”.

**Modifications etc. (not altering text)**

- C84** The text of s. 28(1)(2)(5), Sch. 6 paras. 1, 2 and 6, and Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

- M12** 1965 c. 25.  
**M13** 1966 c. 21(N.I.)

*Transport Act 1968*

F215<sub>2</sub> .....

**Textual Amendments**

- F215** Sch. 6 para. 2 repealed (1.1.1996) by 1995 c. 23, s. 60(2), **Sch. 8 Pt. I** (with ss. 54, 55); S.I. 1995/2181, art. 2

3, 4, 5. .... **F216**

**Textual Amendments**

- F216** Sch. 6 paras. 3, 4, 5 and 7 repealed by Value Added Tax Act 1983 (c. 55, SIF 40:2), s. 50(2), **Sch. 11**

*Excise Duties (Gas as Road Fuel) Order 1972*

- 6 In Article 3 of the <sup>M14</sup>Excise Duties (Gas as Road Fuel) Order 1972 for the words “hydrocarbon oil” there shall be substituted the words “ light oil ”.

**Modifications etc. (not altering text)**

- C85** The text of s. 28(1)(2)(5), Sch. 6 paras. 1, 2 and 6, and Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

- M14** S.I. 1972/567.

7 ..... **F217**

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### Textual Amendments

**F217** Sch. 6 paras. 3, 4, 5 and 7 repealed by Value Added Tax Act 1983 (c. 55, SIF 40:2), s. 50(2), **Sch. 11**

## SCHEDULE 7

Section 28(2)

### REPEALS

#### Modifications etc. (not altering text)

**C86** The text of s. 28(1)(2)(5), Sch. 6 paras. 1, 2 and 6, and Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### REPEALS

Chapter	Short title	Extent of repeal
1971 c. 12.	The Hydrocarbon Oil (Customs & Excise) Act 1971.	The whole Act, except section 22 and paragraphs 1 and 2 of Schedule 6.
1971 c. 68.	The Finance Act 1971.	Section 3, except subsection (5).
1972 c. 41.	The Finance Act 1972.	Section 6(2). In Schedule 4, in Note (4) to Group 7, the words "or is to be".
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 11. In Schedule 3, paragraphs 2 and 16 to 22.
1976 c. 40.	The Finance Act 1976.	Sections 9 and 10.
1977 c. 36.	The Finance Act 1977.	Section 4.
1978 c. 42.	The Finance Act 1978.	In Schedule 12, paragraph 8.

**Status:**

Point in time view as at 19/07/2006.

**Changes to legislation:**

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