



# Hydrocarbon Oil Duties Act 1979

## 1979 CHAPTER 5

### *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>F1</sup>less any rebate allowed in respect of the duty], . . . <sup>F2</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
  - (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.
- (4) . . . . . <sup>F3</sup>
- (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

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(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.

**Annotations:**

**Amendments (Textual)**

- F1** Words inserted (*retrospectively*) by Finance Act 1981 (c. 35, SIF 40:1), 6(4)
- F2** 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)
- F3** 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)**

- C1** Ss. 17-19A amended (15.10.1993) by 1993 c. 34, s. 12(3); S.I. 1993/2215, art. 3
- C2** S. 17 excluded (20.10.1995) by S.I. 1995/2518, reg. 118(b)
- C3** S. 17(1) explained by Finance Act 1981 (c. 35, SIF 40:1), s. 6(4)
- C4** S. 17(1) amended by S.I. 1985/1032, reg. 11(c)
- C5** S. 17(1) amended (1.1.1993) by S.I. 1992/3152, reg. 11(d) (with reg. 12)

**<sup>F4</sup>17A Biodiesel used otherwise than as road fuel**

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**Annotations:**

**Amendments (Textual)**

- F4** S. 17A omitted (retrospective to 1.4.2008) by virtue of Finance Act 2008 (c. 9), Sch. 5 paras. 14, 26(b)

**<sup>F5</sup>18** .....

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**Annotations:**

**Amendments (Textual)**

**F5** 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**

**19 Fuel used in fishing boats, etc.**

- (1) Subsection (3) below shall have effect in the case of—
- <sup>F6</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>F7</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>F8</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>F9</sup>less any rebate allowed in respect of the duty].
- (4) ..... <sup>F10</sup>
- <sup>F11</sup>(6) .....

**Annotations:**

**Amendments (Textual)**

- F6** 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**
- F7** 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**
- F8** 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)
- F9** Words inserted (*retrospectively*) by **Finance Act 1981 (c. 35, SIF 40:1)**, **s. 6(4)**
- F10** 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)
- F11** 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)**

- C6** Ss. 17-19A amended (15.10.1993) by 1993 c. 34, **s. 12(3)**; S.I. 1993/2215, **art. 3**
- C7** S. 19 excluded (20.10.1995) by S.I. 1995/2518, **reg. 118(b)**
- C8** S. 19(3) modified (26.7.2002) by S.I. 2002/1928, **reg. 3(1)(b)(2)(c)**
- C9** S. 19(3) amended by S.I. 1985/1032, **reg. 11(c)**
- C10** S. 19(3) explained by **Finance Act 1981 (c. 35, SIF 40:1)**, **s. 6(4)**
- C11** S. 19(3) amended (1.1.1993) by S.I. 1992/3152, **reg. 11(d)** (with reg. 12)
- C12** 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)**

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**C13** 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>F12</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—
- (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.]

**Annotations:**

**Amendments (Textual)**

**F12** 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)**

**C14** Ss. 17-19A amended (15.10.1993) by [1993 c. 34, s. 12\(3\)](#); [S.I. 1993/2215, art. 3](#)

**C15** S. 19A(1) amended by [S.I. 1985/1032, reg. 11\(c\)](#)

**C16** S. 19A(1) amended (1.1.1993) by [S.I. 1992/3152, reg. 11\(d\)](#) (with [reg. 12](#))

**[<sup>F13</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—

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- (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>F14</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.]

**Annotations:**

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**Amendments (Textual)**

- F13** S. 20 substituted by [Finance Act 1985 \(c. 54, SIF 40:1\)](#), s. 7, [Sch. 4 para. 1](#)
- F14** S. 20(4) inserted (15.11.1996) by [1996 c. 8, s. 6\(2\)](#); [S.I. 1996/2751, art. 2](#)

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

- C17** S. 20 excluded (20.10.1995) by [S.I. 1995/2518, reg. 118\(b\)](#)
- C18** S. 20(1) amended by [S.I. 1985/1032, reg. 11\(c\)](#)
- C19** S. 20(1) amended (1.1.1993) by [S.I. 1992/3152, reg. 11\(d\)](#) (with [reg. 12](#))
- C20** 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\(2\)\(d\)](#)
- C21** S. 20(1)(a)(3)(a) modified (26.7.2002) by [S.I. 2002/1928, reg. 3\(2\)\(d\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act modified by [2012 c. 14 s. 188](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2A(1)(ba) inserted by [2016 c. 24 Sch. 17 para. 3](#)
- s. 2AC inserted by [2016 c. 24 Sch. 17 para. 2](#)
- s. 6A(1)(f) and word inserted by [2016 c. 24 Sch. 17 para. 5\(b\)](#)
- s. 6AB(6)-(8) substituted for s. 6AB(6) by [2002 c. 23 Sch. 2 para. 7\(2\)](#)
- s. 6AG 6AH inserted by [2016 c. 24 Sch. 17 para. 4](#)
- s. 14E(7A) inserted by [2012 c. 14 s. 189\(2\)](#)
- s. 20AAC 20AAD and cross-heading inserted by [2016 c. 24 Sch. 17 para. 6\(2\)](#)
- s. 22(1AC) inserted by [2016 c. 24 Sch. 17 para. 7\(2\)](#)
- s. 23C(4)(da) inserted by [2016 c. 24 Sch. 17 para. 8](#)
- Sch. 1 para. 2(2)(b)(iv)-(vi) inserted by [S.I. 2013/2799 art. 3\(c\)](#)
- Sch. 1 para. 3A(2)(c)(iv)-(vi) inserted by [S.I. 2013/2799 art. 5\(c\)](#)