

## SCHEDULES

### SCHEDULE 17

Section 153

#### AQUA METHANOL ETC

#### PART 1

#### AQUA METHANOL

##### *Introductory*

- 1 HODA 1979 is amended as follows.

##### *Definition*

- 2 After section 2AB insert—

##### **“2AC Aqua methanol**

In this Act “aqua methanol” means a liquid fuel which meets each of the following conditions—

- (a) the amount of water it contains is not less than 4.7 per cent and not more than 5.3 per cent by volume,
  - (b) the amount of methanol it contains is not less than 96 per cent by volume of the remainder of the substance, and
  - (c) at a temperature of 15°C and under a pressure of 1013.25 millibars, it has a density of not less than 0.81 g/ml and not more than 0.82 g/ml.”
- 3 In section 2A (power to amend definitions), in subsection (1), after paragraph (b) insert—
- “(ba) aqua methanol;”.

##### *Charging of excise duty*

- 4 After section 6AF insert—

##### **“6AG Excise duty on aqua methanol**

- (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 aqua methanol.
- (2) In subsection (1) “chargeable use” means use—
  - (a) as fuel for any engine, motor or other machinery, or

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- (b) as an additive or extender in any substance so used.
- (3) The rate of duty under this section is—
  - (a) in the case of a chargeable use within subsection (2)(a), £0.079 a litre;
  - (b) in the case of a chargeable use within subsection (2)(b), the rate prescribed by order made by the Treasury.
- (4) In exercising their power under subsection (3)(b), the Treasury shall so far as practicable secure that aqua methanol set aside for use or used as an additive or extender in any substance is charged with duty at the same rate as the substance in which it is an additive or extender.
- (5) 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.
- (6) An order under this section—
  - (a) may make different provision for different cases, and
  - (b) may prescribe the rate of duty under subsection (3)(b) by reference to the rate of duty under this Act in respect of any other substance.

#### **6AH Application to aqua methanol 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 aqua methanol;
  - (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 section 6AG above;
  - (c) aqua methanol 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.”

- 5 In section 6A (fuel substitutes), in subsection (1)—
  - (a) omit the “or” after paragraph (d), and
  - (b) after paragraph (e) insert “, or
  - (f) aqua methanol.”

### *Mixing of aqua methanol*

- 6 (1) For the italic heading before section 20A substitute “Mixing”.
- (2) After section 20AAB insert—

#### **“20AAC Prohibition on mixing of aqua methanol**

- (1) Aqua methanol on which duty under section 6AG(3)(a) of this Act has been charged must not be mixed with any relevant substance.
- (2) In subsection (1) “relevant substance” means biodiesel, bioethanol, bioblend, bioethanol blend or hydrocarbon oil.
- (3) A person commits an offence under this subsection if—
- (a) the person intentionally uses aqua methanol in contravention of subsection (1) above, or
  - (b) the person supplies aqua methanol, intending that it will be used in contravention of subsection (1) above.
- (4) A person guilty of an offence under subsection (3) above shall be liable—
- (a) on summary conviction in England and Wales—
    - (i) to imprisonment for a term not exceeding 12 months (or 6 months, if the offence was committed before the commencement of section 154(1) of the Criminal Justice Act 2003), or
    - (ii) to a fine not exceeding £20,000 or (if greater) 3 times the value of the aqua methanol in question,or both;
  - (b) on summary conviction in Scotland—
    - (i) to imprisonment for a term not exceeding 12 months, or
    - (ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the value of the aqua methanol in question,or both;
  - (c) on summary conviction in Northern Ireland—
    - (i) to imprisonment for a term not exceeding 6 months, or
    - (ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the value of the aqua methanol in question,or both;
  - (d) on conviction on indictment, to imprisonment for a term not exceeding 7 years or a fine, or both.
- (5) Any aqua methanol, or any mixture containing aqua methanol, in respect of which an offence under subsection (3) above has been committed shall be liable to forfeiture.

#### **20AAD Mixing of aqua methanol in contravention of prohibition: adjustment of duty**

- (1) A duty of excise shall be charged on a mixture which is produced by mixing aqua methanol on which duty under section 6AG(3)(a) of this Act has been charged with a relevant substance.

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- (2) In subsection (1) “relevant substance” means biodiesel, bioethanol, bioblend, bioethanol blend or hydrocarbon oil.
- (3) The rate of duty on a mixture under subsection (1) shall be the rate of duty specified in section 6(1A)(c) (general rate for heavy oil).
- (4) The person liable to pay duty charged under this section on production of a mixture is the person producing the mixture.
- (5) Where it appears to the Commissioners—
  - (a) that a person (“P”) has produced a mixture on which duty is charged under this section, and
  - (b) that P is the person liable to pay the duty,
 they may assess the amount of duty due from P to the best of their judgment and notify that amount to P or P’s representative.
- (6) An assessment under subsection (5) above shall be treated as if it were an assessment under section 12(1) of the Finance Act 1994.
- (7) 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 which the Commissioners are satisfied has been paid on the ingredient (but not to a negative amount).
- (8) The Commissioners may exempt a person from liability to pay duty under this section in respect of production of a mixture of a kind described in subsection (1) if satisfied that—
  - (a) the liability was incurred accidentally, and
  - (b) in the circumstances the person should be exempted.

*Powers to allow reliefs”.*

### *Enforcement*

- 7 (1) Section 22 (prohibition on use of petrol substitutes on which duty has not been paid) is amended as follows.
  - (2) After subsection (1A) insert—
 

“(1AC) Where any person—

    - (a) puts any aqua methanol to a chargeable use (within the meaning of section 6AG above), and
    - (b) knows or has reasonable cause to believe that there is duty charged under section 6AG above on that aqua methanol which has not been paid and is not lawfully deferred,
 his putting the aqua methanol to that use 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 section shall be liable to forfeiture.”
  - (3) In subsection (1A), for “or (1A)” substitute “, (1A) or (1AC)”.
  - (4) For the heading substitute “Prohibition on use of fuel substitutes on which duty has not been paid”.

*Consequential amendments*

- 8 In section 23C (warehousing), in subsection (4), after paragraph (d) insert—  
“(da) aqua methanol,”.
- 9 In section 27(1) (interpretation), before the definition of “aviation gasoline” insert—  
““aqua methanol” has the meaning given by section 2AC above;”.
- 10 In section 16 of FA 1994 (appeals to a tribunal), in subsection (6)(c), before  
“section 23(1)” insert “or (1AC)”.
- 11 In paragraph 3 of Schedule 41 to FA 2008 (penalties for putting product to use that  
attracts higher duty), in the Table in sub-paragraph (1), at the appropriate place insert  
—  
“HODA 1979 section 20AAD(5) | Mixtures containing aqua methanol.”

**PART 2**

HYDROCARBON OILS: MISCELLANEOUS AMENDMENTS

*HODA 1979*

- 12 In section 20AAA of HODA 1979 (mixing of rebated oil), in subsection (4)(a), for  
“section 6A(1A)(c)” substitute “section 6(1A)(c)”.

*FA 1994*

- 13 In section 16 of FA 1994 (appeals to a tribunal), in subsection (6)(c), after  
“section 22(1)” insert “(1AA), (1AB)”.

**PART 3**

COMMENCEMENT

- 14 The amendments made by this Schedule come into force—  
(a) so far as they confer a power to make regulations or an order, on the day  
on which this Act is passed, and  
(b) for all other purposes, on 14 November 2016.