
STATUTORY INSTRUMENTS

1996 No. 2537

CUSTOMS AND EXCISE

The Hydrocarbon Oil Duties (Marine Voyages Reliefs) Regulations 1996

<i>Made</i>	- - - -	<i>4th October 1996</i>
<i>Laid before Parliament</i>		<i>8th October 1996</i>
<i>Coming into force</i>	- -	<i>1st November 1996</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by section 127A of the Customs and Excise Management Act 1979(1), sections 20AA and 21(1)(a) and (2) of, and Part I of Schedule 3 to, the Hydrocarbon Oil Duties Act 1979(2), section 1 of the Finance (No. 2) Act 1992(3) and of all other powers enabling them in that behalf, hereby make the following Regulations:

PART I
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Hydrocarbon Oil Duties (Marine Voyages Reliefs) Regulations 1996 and shall come into force on 1st November 1996.

Interpretation

2. In these Regulations—

“approved person” means a person approved under regulation 4 of the deferment Regulations in respect of heavy oil for use by ships making marine voyages;

“contravention” includes a failure to comply;

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- (1) 1979 c. 2; section 127A was inserted by the Finance Act 1983 (c. 28), section 6 and amended by the Finance (No. 2) Act 1992 (c. 48), section 1(8) and Schedule 1, paragraph 7; section 1(1) defines “the Commissioners”.
- (2) 1979 c. 5; section 20AA was inserted by the Finance Act 1989 (c. 26), section 2(1) and amended by the Finance Act 1994 (c. 9), section 9(9) and Schedule 4, paragraph 54; there are amendments to Schedule 3 not relevant to these Regulations; section 27(3) applies the definition of “the Commissioners” in section 1(1) of the Customs and Excise Management Act 1979 (c. 2).
- (3) 1992 c. 48.

“the deferment Regulations” means the Excise Duties (Deferred Payment) Regulations 1992(4);

“marine voyage” means a voyage in which the ship is at all times—

- (a) within the limits of a port, or
- (b) outside the United Kingdom.

“private pleasure craft” has the meaning given in Article 8(1) of Council Directive 92/81/EEC(5);

“qualified claimant” means—

- (a) the owner of the ship on which the hydrocarbon oil was, or will be, used;
- (b) the charterer to whom that ship is, or was at the time of the marine voyage, demised;
- (c) a person appointed by the person mentioned in sub-paragraph (a) or (b) above to act as sole agent for that ship;
- (d) if he is authorised to do so by the person mentioned in sub-paragraph (a) or (b) above, the master of that ship; and
- (e) where the claim relates to hydrocarbon oil used on that ship while undergoing trials for the purpose of testing her hull or machinery, the builder or other person conducting the trials.

PART II

RELIEFS FROM EXCISE DUTY

Reliefs

3.—(1) Subject to the provisions of these Regulations—

- (a) where hydrocarbon oil has been used as fuel for the machinery of a ship that has been engaged on a marine voyage the Commissioners shall, in respect of that fuel, repay any excise duty that has been charged and paid; or
- (b) where heavy oil is delivered for use as fuel for the machinery of a ship that will be engaged on a marine voyage the Commissioners shall, in respect of that fuel, repay any excise duty that has been charged and paid; or
- (c) where heavy oil is delivered for use as fuel for the machinery of a ship that will be engaged on a marine voyage the Commissioners shall, in respect of that fuel, remit the payment of any excise duty that has been charged.

(2) No relief shall be allowed in the case of a ship that is a private pleasure craft.

(3) No relief shall be allowed otherwise than upon the written application of a qualified claimant.

(4) No relief shall be allowed by paragraph (1)(a) or (b) above in the case of drawback goods.

(5) No relief shall be allowed by paragraph (1)(b) above unless the heavy oil is supplied by an approved person.

(6) No relief shall be allowed by paragraph (1)(b) or (c) above unless the heavy oil is delivered directly from a warehouse or refinery to the ship that will be engaged on a marine voyage.

(4) S.I. 1992/3152.

(5) OJ No. L316, 31.10.92, p. 12.

Amount

4.—(1) Where the relief is allowed by regulation 3(1)(a) or (b) above the amount that may be repaid shall be the amount of duty charged and paid less any rebate or other repayment that has been allowed.

(2) Where the relief is allowed by regulation 3(1)(c) above the amount that may be remitted shall be the amount of duty charged.

PART III

REPAYMENT OF DUTY

Application of Part III

5. This Part applies to relief allowed by regulation 3(1)(a) or (b) above.

Repayment

6.—(1) Except where paragraph (2) below applies repayment shall be made to the qualified claimant.

(2) Where the relief is allowed by regulation 3(1)(b) above and an approved person supplied the heavy oil at a price reduced by an amount equal to the duty on that oil that approved person shall be treated as entitled to the repayment.

(3) If in relation to any application for relief it appears to the Commissioners that the relief applied for exceeds the amount repayable under regulation 4(1) above they may, in such circumstances as they see fit and notwithstanding the provisions of regulations 8(1) and 11(2) below, repay such lesser sum as appears to them to be repayable.

(4) If two or more qualified claimants make application for relief relating to the same hydrocarbon oil the Commissioners may make repayment to any of them (or, where paragraph (2) above applies, to the approved person) and that repayment shall be deemed to satisfy all the applications.

Set-off

7.—(1) Except where paragraph (2) below applies the Commissioners may set-off the amount of any repayment against any other debt then due to them from any person who is a qualified claimant in relation to the application.

(2) Where regulation 6(2) above applies the approved person shall set-off the repayment in accordance with regulation 6 of the deferment Regulations.

Cancellation of relief

8.—(1) Where there is a contravention of any condition imposed by or under Part V below the relief allowed shall be cancelled.

(2) Where any relief is cancelled any person who is a qualified claimant in relation to the application for relief shall, on demand, be liable to repay the amount of the repayment.

PART IV

REMISSION OF PAYMENT

Application of Part IV

9. This Part applies to relief allowed by regulation 3(1)(c) above.

Excise duty point

10.—(1) Where there is a contravention of any condition imposed by or under Part V below the excise duty point shall be the time of that contravention.

(2) The following persons shall be jointly and severally liable to pay the duty at the excise duty point—

- (a) any person who is a qualified claimant in relation to the application for relief, and
- (b) any person who supplied the heavy oil to the qualified claimant.

PART V

CONDITIONS SUBJECT TO WHICH RELIEF IS ALLOWED

General conditions

11.—(1) Relief is allowed subject to the following conditions.

(2) The amount of relief applied for shall not exceed the amount of relief that may be allowed by regulation 4 above.

(3) Where relief is allowed by regulation 3(1)(a) above—

- (a) the qualified claimant must, on being so required by the Commissioners, furnish to their satisfaction evidence that the duty that is the subject of the application for relief has been paid and has not been repaid, remitted or drawn back,
- (b) the hydrocarbon oil must not have been used otherwise than as fuel for the machinery of the ship specified in the application for relief while engaged on a marine voyage, and
- (c) the duty that is the subject of the application for relief must not be the subject of any other application or claim for repayment, remission or drawback.

(4) Where relief is allowed by regulation 3(1)(b) or (c) above—

- (a) the qualified claimant (or someone authorised to act on his behalf) shall, upon delivery of the hydrocarbon oil to the ship, provide the supplier of that oil with an acknowledgement of receipt in such form as the supplier may require,
- (b) the hydrocarbon oil must not be used otherwise than as fuel for the machinery of the ship to which it was delivered while that ship is engaged on a marine voyage,
- (c) the hydrocarbon oil must not be relanded at any place in the United Kingdom, and
- (d) the duty that is the subject of the application for relief must not be the subject of any other application or claim for repayment, remission or drawback.

(5) The master of a ship on which there is hydrocarbon oil in respect of which relief has been or may be allowed must, at any time that the ship is within the limits of a port—

- (a) permit an officer to board the ship for the purpose of taking samples of hydrocarbon oil in order to ascertain whether relief should be allowed or has been properly allowed,

- (b) give such assistance as the officer may reasonably require to enable him to safely take such samples of hydrocarbon oil, and
- (c) provide such equipment (and if the case so requires conversion tables) as the officer may reasonably require to enable him to ascertain the volume, at a temperature of 15°C, of the hydrocarbon oil on board the ship.

Conditions imposed by the Commissioners

12. Relief is allowed subject to such conditions (if any) as the Commissioners impose on qualified claimants in a notice published by the Commissioners and not withdrawn by a further notice.

PART VI

AMENDMENTS TO OTHER REGULATIONS

Amendment of the Hydrocarbon Oil Regulations 1973

- 13.** The Hydrocarbon Oil Regulations 1973(6) shall be amended as follows—
- (a) in regulation 4,
 - (i) for the words “regulation 8 of the Warehousing Regulations 1975(7)” there shall be substituted “regulations 15, 16 and 17 of the Excise Warehousing (Etc.) Regulations 1988(8)”, and
 - (ii) for the words “section 80 of the Act of 1952(9)” there shall be substituted “section 92 of the Customs and Excise Management Act 1979(10)”; and
 - (b) regulations 34, 35 and 36 shall be omitted.

Amendment of the Hydrocarbon Oil (Amendment) Regulations 1981

- 14.** The Hydrocarbon Oil (Amendment) Regulations 1981(11) shall be amended as follows—
- (a) in regulation 7(1), the words “section 18(1) (fuel for certain ships in home waters)” shall be omitted, and
 - (b) in regulation 7(2), the word “18(1),” shall be omitted.

Amendment of the deferment Regulations

- 15.** The deferment Regulations shall be amended as follows—
- (a) in regulation 6(1), after the words “that Act” there shall be inserted “, regulation 3(1)(b) of the Hydrocarbon Oil Duties (Marine Voyages Reliefs) Regulations 1996”,
 - (b) in regulation 11(a), for the word “43(1)(a)” there shall be substituted “43(1), 49(1)(a)”,
 - (c) in regulation 11(d), the word “18(1),” shall be omitted, and
 - (d) after regulation 11(d), there shall be inserted—

(6) S.I. 1973/1311, relevant amending instrument is S.I. 1976/443.

(7) S.I. 1975/1789, revoked by S.I. 1979/208.

(8) S.I. 1988/809, relevant amending instrument is S.I. 1995/1046.

(9) 15 & 16 Geo. 6 & 1 Eliz. 2. c.44; section 80 was repealed by the Customs and Excise Management Act 1979 (c. 2), section 177(3) and Schedule 6.

(10) 1979 c. 2; section 92 was amended by the Isle of Man Act 1979 (c. 58), section 13 and Schedule 1, paragraph 21, S.I. 1991/2725, regulation 3, and the Finance Act 1994 (c. 9), section 9(9) and Schedule 4, paragraph 2.

(11) S.I. 1981/1134, to which there are amendments not relevant to these Regulations.

“(e) regulation 3(1)(b) of the Hydrocarbon Oil Duties (Marine Voyages Reliefs) Regulations 1996.”

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4th October 1996

D. J. Howard
Commissioner of Customs and Excise

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1 November 1996, implement the provisions of Article 8(1)(c) of Council Directive [92/81/EEC](#) (OJ No L316, 31.10.92, p. 12). They afford relief from excise duty on all oil used as fuel for the machinery of ships (excluding private pleasure craft) engaged on marine voyages.

Regulation 2 is concerned with interpretation of terms used in these Regulations.

Regulation 3 allows relief and prescribes the scope and form of that relief.

Regulation 4 specifies the amount of relief.

Regulations 5—8 relate to relief by repayment; they establish the person entitled to repayment and the circumstances in which repayment may be restricted, set off or cancelled, and specify the liable person in the event of cancellation of relief.

Regulations 9—10 relate to relief by remission; they establish the duty point and liable person(s) in the event of contravention of conditions of relief.

Regulation 11 sets out general conditions for relief.

Regulation 12 provides for the imposition of conditions specifically on qualified claimants.

Regulations 13—15 amend the Hydrocarbon Oil Regulations 1973 (S.I. [1973/1311](#)), the Hydrocarbon Oil (Amendment) Regulations 1981 (S.I. [1981/1134](#)), and the Excise Duties (Deferred Payment) Regulations 1992 (S.I. [1992/3152](#)).