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STATUTORY INSTRUMENTS

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**2007 No. 1416**

**EXCISE**

**The Hydrocarbon Oil (Marking)  
(Amendment) Regulations 2007**

<i>Made</i>	- - - -	<i>9th May 2007</i>
<i>Laid before Parliament</i>		<i>10th May 2007</i>
<i>Coming into force</i>	- -	<i>1st June 2007</i>

The Commissioners for Her Majesty's Revenue and Customs make the following regulations in exercise of the powers conferred by section 24(1) of, and Schedule 4 to, the Hydrocarbon Oil Duties Act 1979(1):

1. These Regulations may be cited as the Hydrocarbon Oil (Marking) (Amendment) Regulations 2007 and come into force on 1st June 2007.
2. Amend the Hydrocarbon Oil (Marking) Regulations 2002(2) as follows.
3. In regulation 3(2)(a) after "6 kilograms" insert " , and not more than 9 kilograms,".
4. In regulation 4 for "in the case of gas oil" substitute "except in the case of kerosene".
5. In regulation 13(1)(b) omit the word "not".

*Paul Gray  
Mike Hanson*

Two of the Commissioners for Her Majesty's  
Revenue and Customs

9th May 2007

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(1) 1979 c.5; relevant amendments to section 24(1) were made by the [Finance Act 1996 \(c.8\)](#), section 5(5) and the [Finance Act 1997 \(c.16\)](#), section 7(7); section 27(2) provides for the Hydrocarbon Oil Duties Act 1979 to be construed as one with the [Customs and Excise Management Act 1979 \(c.2\)](#) and section 27(3) applies the definition of "the Commissioners" in that Act. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the [Commissioners for Revenue and Customs Act 2005 \(c.11\)](#). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(2) [S.I. 2002/1773](#).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1st June 2007, amend the Hydrocarbon Oil (Marking) Regulations 2002 (S.I. 2002/1773) (“the principal Regulations”). In part, those Regulations implement Council Directive 95/60/EC(3) on the fiscal marking of gas oil and kerosene. A Transposition Note setting out how the Directive has been implemented may be obtained at [www.hmrc.gsi.gov.uk](http://www.hmrc.gsi.gov.uk).

The principal Regulations require the marking of gas oil, kerosene and light oil with one or more chemical markers and a colouring substance as a condition of allowing specified rebates of, and in the case of gas oil and kerosene, relief from, excise duty on that oil under specified provisions of the Hydrocarbon Oil Duties Act 1979 (c.5).

Regulation 3 of these Regulations amends regulation 3(2)(a) of the principal Regulations to prescribe an upper limit of 9 kilograms per 1,000,000 litres of oil for the proportion of the common fiscal marker (as defined in the principal Regulations) to be added to the relevant oil. This implements Article 1 of Commission Decision 2001/574/EC(4) establishing a common fiscal marker for gas oils and kerosene, as amended by Commission Decision 2003/900/EC(5), which fixes the marking levels of the common fiscal marker as not less than 6 mg and no more than 9 mg per litre of mineral oil.

Regulation 4 corrects a drafting error in regulation 4 of the principal Regulations so that the requirement to add a colouring agent as a condition of allowing the specified rebates of duty applies not only to gas oil but also to light oil.

Regulation 5 corrects a drafting error in regulation 13(1)(b) of the principal Regulations so that the requirement to record the specified particulars on a delivery note applies to a person who supplies a quantity of kerosene *exceeding* 250 litres and not, as stated in the principal Regulations, to a person who supplies a quantity which does not exceed that amount.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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(3) OJ No L 291, 6.12.1995, p 46.

(4) OJ No L 203, 28.7.2001, p 20.

(5) OJ No L 336, 23.12.2003, p107.