

EXPLANATORY MEMORANDUM TO
THE HYDROCARBON OIL DUTIES (RELIEFS FOR ELECTRICITY
GENERATION) (AMENDMENTS FOR CARBON PRICE SUPPORT)
REGULATIONS 2014

2014 No. 713

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005 (S.I. 2005/3320) ('the principal Regulations') which introduced a relief from excise duty for rebated oils used to produce electricity.

2.2 The purpose of the instrument is to set the carbon price support ('CPS') rates of fuel duty for the period on and after 1 April 2016 and to apply the CPS rates to duty paid kerosene used to produce electricity from 1 May 2014.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative context

4.1 The European Council Directive 2003/96/EC ('the Directive') on restructuring the Community framework for the taxation of energy products (gas, liquefied petroleum gas (LPG) oils and solid fossil fuels, such as coal) and of electricity establishes the general arrangements for the taxation of these products, including setting minimum tax rates for these products. While the Directive requires Member States to exempt energy products used in the generation of electricity from general taxation, it does allow them to tax such products in these circumstances for reasons of environmental policy. In addition, in the interests of protecting the environment, it authorises European Union countries to grant tax advantages to businesses that take specific measures to reduce their emissions.

4.2 From 1 April 2013, the United Kingdom ('UK') decided to take up the option in the Directive to allow Member States to subject energy products used in electricity generation to tax for reasons of environmental policy by introducing the carbon price floor. The carbon price floor is achieved by taxing fossil fuels used in electricity generation through CPS rates of climate change levy ('CCL') and the CPS rates of fuel duty.

4.3 In relation to fuel duty, the UK implements the Directive through excise duty on hydrocarbon oils, the primary legislation for which is contained in the Hydrocarbon Oil Duties Act 1979 ("HODA"), as amended. The principal Regulations enable

generators that use rebated heavy and light oils to generate electricity to reclaim the fuel duty paid on the oil when it leaves the refinery. They also contain details of the relief from fuel duty for oils used in a Combined Heat and Power station to generate electricity.

4.4 The principal Regulations were amended with effect from 1 April 2013 by S.I. 2013/657. The effect was to reduce the amount of relief from excise duty available on heavy and light oils and bioblend used to generate electricity so that the amount of duty payable reflects the CPS rates of fuel duty. The level of relief was also amended for the periods 1 April 2014 to 31 March 2015 and 1 April 2015 onwards.

4.5 This instrument amends the amount of relief from excise duty available on heavy and light oils used to generate electricity on and after 1 April 2016 to reflect revised CPS rates of fuel duty from that date (and re-affirms the CPS rates for the periods 1 April 2014 to 31 March 2015 and 1 April 2015 to 31 March 2016). It also provides for the CPS rates to apply to kerosene on which, under section 13AA of HODA, a rebate is allowed at the rate in force under section 11(1)(b) and which is used to generate electricity on and after 1 May 2014.

5. Territorial extent and application

5.1 This instrument extends to all of the UK, but Schedule 2 of the principal Regulations (as substituted by regulation 4 of this instrument) does not apply in relation to qualifying oil or qualifying bioblend used in generating stations or combined heat and power stations situated in Northern Ireland. This follows the decision that the carbon price floor would not apply in Northern Ireland.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The Government made a commitment to publish the CPS rates two years in advance. This is to provide certainty. The purpose of this legislative measure is to set the rates on and after 1 April 2016 and to make duty paid kerosene used to produce electricity a taxable CPS commodity on or after 1 May 2014.

Consolidation

7.2 There are currently no plans to consolidate the amendments that have been made to the principal regulations.

8. Consultation outcome

8.1 As this relates to the legislation on rates, no consultation is required.

9. Guidance

9.1 HMRC guidance will be amended to reflect the revised rates.

10. Impact

10.1 The impact on business is negligible.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument and other Budget announcements relating to the carbon price floor will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to keep to a minimum any new regulatory requirements as part of this change.

12. Monitoring and review

12.1 Reviews of compliance with the practical application of the new regulations will form part of the compliance review programme of the Indirect Tax Directorate of HMRC.

13. Contact

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