

2016 No. 976

EXCISE

**The Biofuels and Hydrocarbon Oil Duties (Miscellaneous
Amendment) Regulations 2016**

<i>Made</i> - - - -	<i>19th October 2016</i>
<i>Laid before Parliament</i>	<i>21st October 2016</i>
<i>Coming into force</i> - -	<i>14th November 2016</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 6AH(1)(a), (b) and (2), 20AA(1)(a) and (2)(a), (b), (c), (d), (g), (h) and (i), 21(1)(a) and (2), 23C(2) and (3) and 24(1) of, and paragraphs 3 and 11 of Schedule 3 and paragraphs 17 and 21 of Schedule 4 to, the Hydrocarbon Oil Duties Act 1979(a), sections 93(1)(a), (b), (c), (2)(a), (ee) and (3), 100G(1), 100H(1)(b) and (2), 118A(1) and (2), and 127A(1) and (4) of the Customs and Excise Management Act 1979(b) and section 1(1), (3), (4)(a) and (6) of the Finance (No.2) Act 1992(c):

Citation and Commencement

1. These Regulations may be cited as the Biofuels and Hydrocarbon Oil Duties (Miscellaneous Amendment) Regulations 2016 and come into force on 14th November 2016.

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- (a) 1979 c.5; section 6AH was inserted by section 153 of, and Schedule 17 to, the Finance Act 2016 (c.24); section 20AA was inserted by section 2(1) of the Finance Act 1989 (c.26) and amended by the Finance Act 1993 (c.34), Schedule 23, Part 1(4), the Finance Act 1994 (c.9), Schedule 4, Part 3, paragraphs 49 and 54, the Finance Act 2000 (c.17), section 10(3), the Finance Act 2008 (c.9), Schedule 5, paragraph 17 and Schedule 6, paragraphs 24 and 30; section 23C was inserted by section 13 of the Finance Act 2004 (c.12) and amended by S.I. 2012/593 and paragraph 8 of Schedule 17 to the Finance Act 2016. The power to make regulations under sections 6AH, 21, 23C and 24(1) is conferred on "the Commissioners". By virtue of section 27(3) "the Commissioners" has the same meaning as given in the Customs and Excise Management Act 1979 (c.2). Section 1(1) of the Customs and Excise Management Act 1979 (as substituted by the Commissioners for Revenue and Customs Act 2005 (c.11), Schedule 4, paragraphs 20 and 22(b)) defines "the Commissioners" as "the Commissioners for Her Majesty's Revenue and Customs". Section 21 of the Hydrocarbon Oil Duties Act 1979 provides that the Commissioners may make regulations which relate to hydrocarbon oil. Section 6AH(1) of that Act provides that the Commissioners may by regulations provide for specified references in the Act to hydrocarbon oil to be construed as including references to aqua methanol. Regulation 3(2B) of the Biofuels and Other Fuel Substitute (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065) (as inserted by these Regulations) provides that references to hydrocarbon oil in sections 20AA(1)(a) and 21(2) of, and paragraphs 3 and 11 of Schedule 3 and paragraphs 17 and 21 of Schedule 4 to, the Hydrocarbon Oil Duties Act 1979 are to be construed as including reference to aqua methanol.
- (b) 1979 c.2; section 93(1) was substituted by the Finance (No.2) Act 1992 (c.48), Schedule 2, paragraph 2(1); section 93(2)(a) was amended by the Finance Act 1981 (c.35), Schedule 8, Part 1, paragraph 2(a); section 93(3) was amended by the Finance (No.2) Act 1992, Schedule 2, paragraph 2(4); sections 100G and 100H were inserted by the Finance Act 1991 (c.31), section 11(3) and Schedule 4; section 118A was inserted by the Finance Act 1991, Schedule 5 and amended by the Finance (No.3) Act 2010 (c.33), Schedule 13, Part 1, paragraph 1; section 127A was inserted by the Finance Act 1983 (c.28), section 6 and amended by the Finance (No.2) Act 1992, Schedule 1, paragraph 7.
- (c) 1992 c.48; Section 1(7) defines "the Commissioners" as "the Commissioners of Customs and Excise". 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. 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.

Amendments to the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004

2. The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004(a) are amended as follows.

3. In regulation 2 (interpretation)—

(a) after the definition of “approved person” insert—

““aqua methanol duty” means the duty charged on aqua methanol by section 6AG(b) of the Oil Act;”;

(b) in the definition of “biofuel” before “biodiesel” insert “aqua methanol;”;

(c) in the definition of “biofuels duty” before “bioethanol” insert “aqua methanol duty;”;

(d) in the definition of “chargeable use” before sub-paragraph (a) insert—

“(za) in relation to aqua methanol, means chargeable use within the meaning of section 6AG(2) of the Oil Act.”.

4. In regulation 3 (construction of references to hydrocarbon oil etc. in the Oil Act)—

(a) after paragraph (2A) insert—

“(2B) The references to hydrocarbon oil in the following provisions of the Oil Act are to be construed as including references to aqua methanol—

(a) section 15(1) (drawback of duty on exportation etc.);

(b) section 21(1) and (2) (regulations with respect to hydrocarbon oil);

(c) paragraphs 3 and 11 of Schedule 3 (subjects for regulations);

(d) paragraphs 17 and 21 of Schedule 4 (subjects for regulations);”;

(b) in paragraph (3), before sub-paragraph (a) insert—

“(za) aqua methanol duty;”;

(c) in paragraph (4), before “biodiesel” insert “aqua methanol duty,”.

5. In Part 4 (production premises)—

(a) in regulation 8—

(i) in paragraph (1)—

(aa) omit “either”;

(bb) for “or the second condition” substitute “, the second condition or the third condition”;

(ii) after paragraph (3) insert—

“(4) The third condition is that the producer has produced aqua methanol.”;

(b) in regulation 8A—

(i) at the end of paragraph 3(b) substitute “;” for “.”;

(ii) after paragraph 3(b) insert—

“(c) in the case of a producer with respect to whom the third condition is satisfied, the thirtieth day following the day on which aqua methanol is first produced.”;

(c) in regulation 8E (requirement to make entry of production premises used by several producers)—

(i) at the beginning of paragraph (1), for “This” substitute “Subject to paragraph (11), this”;

(ii) after paragraph (10) insert—

(a) S.I 2004/2065; amended by S.I. 2007/1640, 2007/3307, 2008/753, 2014/471

(b) Section 6AG was inserted by the Finance Act 2016 (c.24), section 153.

- “(11) This regulation does not apply to producers of biofuel that is aqua methanol.”;
- (d) in regulation 8F (cancellation of an entry of production premises), after paragraph (3) insert—
- “(4) This regulation does not apply to an entry made by a producer in respect of production premises used for the production of biofuel that is aqua methanol.”.
- 6.** In regulation 19 (returns, time and method of payment), in paragraph (1A)(a) before “biodiesel” insert “aqua methanol,”.
- 7.** In regulation 19A (large producers), in paragraph (4)(a) before “biodiesel” insert “aqua methanol,”.
- 8.** In the Schedule (particulars to be entered in the motor fuels record)—
- (a) Except in paragraph 1(bb), before “biodiesel” (wherever else it occurs) insert “aqua methanol,”;
- (b) In paragraph 1 (charge arising on setting aside), after sub-paragraph (bb) insert—
- “(bc) in the case of a consignment of aqua methanol, a description indicating that the aqua methanol has been charged with aqua methanol duty upon being set aside as—
- (i) suitable only as fuel for an engine, motor or other machinery powered by aqua methanol;
- (ii) suitable only as an additive or extender in fuel for an engine, motor or other machinery powered by diesel;
- (iii) suitable only as an additive or extender in fuel for an engine, motor or other machinery powered by light oil other than unleaded petrol;
- (iv) suitable only as an additive or extender in fuel for an engine, motor or other machinery powered by unleaded petrol;
- (v) suitable only as an additive or extender in fuel for an engine, motor or other machinery not falling within sub-paragraphs (ii) to (iv);”;
- (c) In paragraph 2 (charge arising on chargeable use), after sub-paragraph (b) insert—
- “(bb) in the case of aqua methanol, a description indicating that the aqua methanol has been charged with aqua methanol duty upon chargeable use as —
- (i) fuel for an engine, motor or other machinery powered by aqua methanol;
- (ii) an additive or extender in fuel for an engine, motor or other machinery powered by diesel;
- (iii) an additive or extender in fuel for an engine, motor or other machinery powered by unleaded petrol;
- (iv) an additive or extender in fuel for an engine, motor or other machinery powered by light oil other than unleaded petrol;
- (v) an additive or extender in fuel for an engine, motor or other machinery not falling within sub-paragraphs (ii) to (iv);”.

Amendment to the Excise Duties (Deferred Payment) Regulations 1992

- 9.** In regulation 2 (interpretation) of the Excise Goods (Deferred Payments) Regulations 1992(a) in the definition of “biofuels” after “(bioethanol)” insert “, 6AG(2) (aqua methanol)”.

(a) S.I. 1992/3152, amended by S.I. 2004/2065; there are other amending instruments but none is relevant.

Amendments to the Excise Warehousing (Energy Products) Regulations 2004

10.—(1) The Excise Warehousing (Energy Products) Regulations 2004^(a) are amended as follows.

(2) In regulation 2 (interpretation), in the definition of “special energy product”—

- (a) in sub-paragraph (e) omit “or”;
- (b) at the end of sub-paragraph (f) for “.” substitute “, or”; and
- (c) after sub-paragraph (f) insert—

“(g) aqua methanol.”;

(3) In regulation 5 (treatment of warehoused special energy products), after paragraph (3)(a) insert—

“(aa) aqua methanol shall be treated as charged by section 6AG of the Oil Act (aqua methanol);”.

Jim Harra
Nick Lodge

19th October 2016

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 6AG of the Hydrocarbon Oil Duties Act 1979 (c. 5) (“HODA”)^(b) provides for a charge to excise duty on aqua methanol that is set aside for use, or used, as fuel for any engine, motor or other machinery or as an additive or extender in any substance so used (“chargeable use”). These Regulations amend the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065) (“the principal Regulations”) so that they apply to aqua methanol that is put to a chargeable use and make consequential amendments to the Excise Duties (Deferred Payment) Regulations 1992 (S.I. 1992/3152) (“the Deferment Regulations”) and the Excise Warehousing (Energy Products) Regulations 2004 (S.I. 2004/2064) (“the Energy Products Regulations”).

Regulation 3 amends regulation 2 of the principal Regulations so that it includes references to “aqua methanol” and “aqua methanol duty”.

Regulation 4 amends regulation 3 of the principal Regulations so that certain references to hydrocarbon oil, or to the duty on hydrocarbon oil, in HODA are to be construed as including references to aqua methanol and aqua methanol duty.

Regulation 5 amends regulation 8 of the principal Regulations to make provision requiring the entry of premises at which biofuel that is aqua methanol is produced if they have not already been entered under section 108 of the Customs and Excise Management Act 1979 (c. 2) and to disapply regulations 8E and 8F of the principal Regulations in relation to producers of aqua methanol and premises entered for the production of aqua methanol.

Regulations 6 and 7 amend regulations 19 and 19A of the principal Regulations so that they apply to aqua methanol.

Regulation 8 amends the particulars to be entered in the motor fuels record in the Schedule to the principal Regulations to include a description indicating that aqua methanol has been charged with aqua methanol duty upon chargeable use as fuel for an engine, motor or other machinery powered

(a) S.I. 2004/2064, amended by S.I. 2010/593.

(b) Section 6AG was inserted by the Finance Act 2016 (c.24), section 153.

by aqua methanol or as an additive or extender in fuels for engines, motors and other machinery powered by other fuels.

Regulation 9 amends the Deferment Regulations so that those Regulations provide for the deferment of duty in respect of aqua methanol.

Regulation 10 amends the Energy Products Regulations so that aqua methanol falls within the definition of “special energy product” and, for the purposes of regulation 5 of those Regulations (treatment of warehoused special energy products), is treated as charged with duty under section 6AG of HODA.

A Tax Information and Impact Note (TIIN) covering this instrument was published on 16th March 2016 alongside draft clauses of the Finance Bill 2016 and this is available on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

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