



Hydrocarbon Oil Duties Act 1979

1979 CHAPTER 5

The dutiable commodities

1 Hydrocarbon oil

- (1) Subsections (2) to (4) below define the various descriptions of oil referred to in this Act.
- (2) " Hydrocarbon oil" means petroleum oil, coal tar, and oil produced from coal, shale, peat or any other bituminous substance, and all liquid hydrocarbons, but does not include such hydrocarbons or bituminous or asphaltic substances as are—
 - (a) solid or semi-solid at a temperature of 15° C, or
 - (b) gaseous at a temperature of 15 °C and under a pressure of 1013.25 millibars.
- (3) " Light oil " means hydrocarbon oil—
 - (a) of which not less than 90 per cent. by volume distils at a temperature not exceeding 210°C, or
 - (b) which gives off an inflammable vapour at a temperature of less than 23 °C when tested in the manner prescribed by the Acts relating to petroleum.
- (4) " Heavy oil" means hydrocarbon oil other than light oil.

2 Provisions supplementing s. 1

- (1) The method of testing oil for the purpose of ascertaining its classification in accordance with section 1 above shall, subject to subsection (3)(b) of that section, be such as the Commissioners may direct.
- (2) Subject to subsection (3) below, the Treasury may from time to time direct that, for the purposes of any duty of excise for the time being chargeable on hydrocarbon oil, any specified description of light oil shall be treated as being heavy oil.
- (3) The Treasury shall not give a direction under subsection (2) above in relation to any description of oil unless they are satisfied that the description is one which should, according to its use, be classed with heavy oil.

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- (4) For the purposes of the Customs and Excise Acts 1979, the production of hydrocarbon oil includes—
- (a) the obtaining of one description of hydrocarbon oil from another description of hydrocarbon oil; and
 - (b) the subjecting of hydrocarbon oil to any process of purification or blending, as well as the obtaining of hydrocarbon oil from other substances or from any natural source.
- (5) Where heavy oil having a temperature exceeding 15°C is measured for the purpose of ascertaining the amount of any duty of excise chargeable, or of any rebate or drawback allowable, on the oil and the Commissioners are satisfied that the oil is artificially heated, the duty shall be charged or the rebate or drawback shall be allowed on the number of litres which, in the opinion of the Commissioners, the oil would have measured if its temperature had been 15°C.

3 Hydrocarbon oil as ingredient of imported goods

Where imported goods contain hydrocarbon oil as a part or ingredient thereof, the oil shall be disregarded in the application to the goods of section 126 of the Management Act (charge of duty on manufactured or composite imported articles) unless in the opinion of the Commissioners the goods should, according to their use, be classed with hydrocarbon oil.

4 Petrol substitutes and power methylated spirits

- (1) In this Act " petrol substitute" means any liquid intended to take the place of petrol as fuel for internal combustion piston engines, being neither hydrocarbon oil nor power methylated spirits.
- (2) In subsection (1) above, " liquid" does not include a substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars.
- (3) In this Act " power methylated spirits" means spirits methylated in such manner as may be prescribed by regulations made under section 77 of the Alcoholic Liquor Duties Act 1979 for methylated spirits of that class.

5 Road fuel gas

In this Act " road fuel gas " means any substance which is gaseous at a temperature of 15 °C and under a pressure of 1013.25 millibars, and which is for use as fuel in road vehicles.

Charging provisions

6 Excise duty on hydrocarbon oil

- (1) Subject to subsection (2) below, there shall be charged on hydrocarbon oil—
- (a) imported into the United Kingdom; or
 - (b) produced in the United Kingdom and delivered for home use from a refinery or from other premises used for the production of hydrocarbon oil or from

any bonded storage for hydrocarbon oil, not being hydrocarbon oil chargeable with duty under paragraph (a) above,
a duty of excise at the rate of £0.0660 a litre in the case of light oil and £0.0770 a litre in the case of heavy oil.

- (2) Where imported hydrocarbon oil is removed to a refinery, the duty chargeable under subsection (1) above shall, instead of being charged at the time of the importation of that oil, be charged on the delivery of any goods from the refinery for home use and shall be the same as that which would be payable on the importation of like goods.

7 Excise duty on petrol substitutes and power methylated spirits

A duty of excise at the same rate as the duty of excise on light oil shall be charged—

- (a) on any petrol substitute which is sent out from the premises of a person producing or dealing in petrol substitutes and which was not acquired by him duty paid under this paragraph ; and
(b) on spirits used for making power methylated spirits (payable by the methylator immediately after the spirits have been so used).

8 Excise duty on road fuel gas

- (1) A duty of excise shall be charged on road fuel gas which is sent out from the premises of a person producing or dealing in road fuel gas and on which the duty charged by this section has not been paid.
- (2) The like duty of excise shall be charged on the setting aside for use, or on the use, by any person, as fuel in a road vehicle, of road fuel gas on which the duty charged by this section has not been paid.
- (3) The rate of the duty under this section shall be prescribed by order made by the Treasury, and in exercising their power under this subsection the Treasury shall select the rate (whether for all road fuel gas or for a particular kind of road fuel gas) which in their opinion is for the time being the nearest convenient and suitable rate corresponding with the rate of excise duty on light oil.

In comparing the excise duty chargeable under this section with that on light oil account shall be taken of relative average calorific values and of other relevant factors.

- (4) An order made under subsection (3) above—
- (a) may express the rate of duty by reference to any method of measuring the road fuel gas ;
(b) may prescribe different rates for different kinds of road fuel gas; and
(c) may prescribe a rate which depends in whole or in part on the rate for the time being of excise duty charged on light oil.
- (5) The power to make orders under subsection (3) above shall be exercisable by statutory instrument, and any statutory instrument by which the power is exercised shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (6) For the purposes of this Act, so far as it relates to the excise duty chargeable under this section, road fuel gas shall be deemed to be used as fuel in a road vehicle if, but only if, it is used as fuel for the engine provided for propelling the vehicle, or for an engine which draws its fuel from the same supply as that engine.

- (7) Subsection (2) above shall not apply to road fuel gas delivered to, or in the stock of, the person otherwise chargeable if it was delivered to, or stocked by, him before 3rd July 1972.

Delivery of oil without payment of duty

9 Oil delivered for home use for certain industrial purposes

- (1) The Commissioners may permit hydrocarbon oil to be delivered for home use to an approved person, without payment of excise duty on the oil, where—
- (a) it is to be put by him to a use qualifying for relief under this section; or
 - (b) it is to be supplied by him in the course of a trade of supplying oil for any such use.
- (2) The uses of hydrocarbon oil qualifying for relief under this section are—
- (a) use in the manufacture or preparation of any article, not being hydrocarbon oil or an article which in the opinion of the Commissioners should, according to its use, be classed with hydrocarbon oil; and
 - (b) use for cleaning plant, in connection with the use of the plant in the manufacture or preparation of such an article,
- but do not include the use of oil as fuel or, except as provided by subsection (3) below, as a lubricant.
- (3) Where, in the manufacture or preparation of an article described in subsection (2) above, hydrocarbon oil is used for preventing or reducing friction, adhesion or contact—
- (a) between parts or components of the article; or
 - (b) between the article or a part or component of the article and any plant used in the manufacture or preparation, or any part or component of plant so used,
- that use of the oil is to be included among the uses qualifying for relief under this section.
- (4) Where the Commissioners are authorised to give permission under subsection (1) above in the case of any oil, but the permission is for any reason not given, they shall, if satisfied that the oil has been put by an approved person to a use qualifying for relief under this section, repay to him the amount of the excise duty paid on the oil, less any rebate allowed in respect of the duty.
- (5) In this section—
- (a) " an approved person " means a person for the time being approved in accordance with regulations made for any of the purposes of subsection (1) or (4) above under section 24(1) below ; and
 - (b) " plant" means any machinery, apparatus, equipment or vessel.

10 Restrictions on the use of duty-free oil

- (1) Except with the consent of the Commissioners, no oil in whose case delivery without payment of duty has been permitted under section 9 above shall—
- (a) be put to a use not qualifying for relief under that section; or

- (b) be acquired or taken into any vehicle, appliance or storage tank in order to be put to such a use.
- (2) In giving their consent for the purposes of subsection (1) above, the Commissioners may impose such conditions as they think fit.
- (3) A person who—
 - (a) uses or acquires oil in contravention of subsection (1) above; or
 - (b) is liable for oil being taken into a vehicle, appliance or storage tank in contravention of that subsection,shall be liable on summary conviction to a penalty of three times the value of the oil or £100, whichever is the greater; and the Commissioners may recover from him an amount equal to the excise duty on like oil at the rate in force at the time of the contravention.
- (4) A person who supplies oil having reason to believe that it will be put to a use not qualifying for relief under section 9 above shall be liable on summary conviction to a penalty of three times the value of the oil or £100, whichever is the greater, if that use without the consent of the Commissioners would contravene subsection (1) above.
- (5) A person who, with the intent that the restrictions imposed by subsection (1) above should be contravened.—
 - (a) uses or acquires oil in contravention of that subsection; or
 - (b) supplies oil having reason to believe that it will be put to a use not qualifying for relief under section 9 above, being a use which, without the consent of the Commissioners, would contravene that subsection,shall be guilty of an offence under this subsection.
- (6) A person who is liable for oil being taken into a vehicle, appliance or storage tank in contravention of subsection (1) above shall be guilty of an offence under this subsection where the oil was taken in with the intent by him that the restrictions imposed by that subsection should be contravened.
- (7) A person guilty of an offence under subsection (5) or (6) above shall be liable—
 - (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the oil in question, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both ; or
 - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 2 years, or to both.
- (8) For the purposes of this section, a person is liable for oil being taken into a vehicle, appliance or storage tank in contravention of subsection (1) above if he is at the time the person having the charge of the vehicle, appliance or tank, or is its owner, except that if a person other than the owner is, or is for the time being, entitled to possession of it, that person and not the owner is liable.
- (9) Any oil acquired, or taken into a vehicle, appliance or storage tank as mentioned in subsection (1) above, or supplied as mentioned in subsection (4) or (5) above, shall be liable to forfeiture.

Rebate of duty

11 Rebate on heavy oil

- (1) Subject to sections 12 and 13 below, where heavy oil charged with the excise duty on hydrocarbon oil is delivered for home use, there shall be allowed on the oil at the time of delivery a rebate of duty at a rate—
 - (a) in the case of kerosene other than aviation turbine fuel, of £0.0022 a litre less than the rate at which the duty is for the time being chargeable ;
 - (b) in the case of aviation turbine fuel, and heavy oil other than kerosene, of £0.0055 a litre less than the rate at which the duty is for the time being chargeable.
- (2) In this section—
 - (a) " aviation turbine fuel" means kerosene which is intended to be used as fuel for aircraft engines and is allowed to be delivered for that purpose without being marked in accordance with the regulations made for the purposes of this section ;
 - (b) " kerosene " means heavy oil of which more than 50 per cent. by volume distils at a temperature not exceeding 240°C.

12 Rebate not allowed on fuel for road vehicles

- (1) If, on the delivery of heavy oil for home use, it is intended to use the oil as fuel for a road vehicle, a declaration shall be made to that effect in the entry for home use and thereupon no rebate shall be allowed in respect of that oil.
- (2) No heavy oil on whose delivery for home use rebate has been allowed shall—
 - (a) be used as fuel for a road vehicle ; or
 - (b) be taken into a road vehicle as fuel,unless an amount equal to the amount for the time being allowable in respect of rebate on like oil has been paid to the Commissioners in accordance with regulations made under section 24(1) below for the purposes of this section.
- (3) For the purposes of this section and section 13 below—
 - (a) heavy oil shall be deemed to be used as fuel for a road vehicle if, but only if, it is used as fuel for the engine provided for propelling the vehicle or for an engine which draws its fuel from the same supply as that engine; and
 - (b) heavy oil shall be deemed to be taken into a road vehicle as fuel if, but only if, it is taken into it as part of that supply.

13 Penalties for misuse of rebated heavy oil

- (1) A person who—
 - (a) uses heavy oil in contravention of section 12(2) above; or
 - (b) is liable for heavy oil being taken into a road vehicle in contravention of that subsection,shall be liable on summary conviction to a penalty of three times the value of the oil or £100, whichever is the greater ; and the Commissioners may recover from him an amount equal to the rebate on like oil at the rate in force at the time of the contravention.

- (2) A person who supplies heavy oil having reason to believe that it will be put to a particular use shall be liable on summary conviction to a penalty of three times the value of the oil or £100, whichever is the greater, where that use would, if a payment under subsection (2) of section 12 above were not made in respect of the oil, contravene that subsection.
- (3) A person who, with the intent that the restrictions imposed by section 12 above should be contravened.—
- (a) uses heavy oil in contravention of subsection (2) of that section; or
 - (b) supplies heavy oil having reason to believe that it will be put to a particular use, being a use which would, if a payment under that subsection were not made in respect of the oil, contravene that subsection,
- shall be guilty of an offence under this subsection.
- (4) A person who is liable for heavy oil being taken into a road vehicle in contravention of subsection (2) of section 12 above shall be guilty of an offence under this subsection where the oil was taken in with the intent by him that the restrictions imposed by that section should be contravened.
- (5) A person guilty of an offence under subsection (3) or (4) above shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the oil in question, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both ; or
 - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.
- (6) Any heavy oil—
- (a) taken into a road vehicle as mentioned in section 12(2) above or supplied as mentioned in subsection (2) or (3) above; or
 - (b) taken as fuel into a vehicle at a time when it is not a road vehicle and remaining in the vehicle as part of its fuel supply at a later time when it becomes a road vehicle,
- shall be liable to forfeiture.
- (7) For the purposes of this section, a person is liable for heavy oil being taken into a road vehicle in contravention of section 12(2) above if he is at the time the person having the charge of the vehicle or is its owner, except that if a person other than the owner is, or is for the time being, entitled to possession of it, that person and not the owner is liable.

14 Rebate on light oil for use as furnace fuel

- (1) On light oil charged with the excise duty on hydrocarbon oil, and delivered for home use as furnace fuel for burning in vaporised or atomised form by a person for the time being approved in accordance with regulations made for the purposes of this subsection under section 24(1) below, there shall be allowed at the time of delivery a rebate of duty at a rate of £0.0055 a litre less than the rate at which the duty is charged.
- (2) Except with the consent of the Commissioners, no oil in whose case rebate has been allowed under this section shall—
- (a) be put to a use otherwise than as mentioned in subsection (1) above; or

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- (b) be acquired or taken into any vehicle, appliance or storage tank in order to be put to such a use.
- (3) In giving their consent for the purposes of subsection (2) above, the Commissioners may impose such conditions as they think fit.
- (4) A person who—
- (a) uses or acquires oil in contravention of subsection (2) above; or
 - (b) is liable for oil being taken into a vehicle, appliance or storage tank in contravention of that subsection,
- shall be liable on summary conviction to a penalty of three times the value of the oil or £100, whichever is the greater; and the Commissioners may recover from him the amount of the rebate allowed on the oil.
- (5) A person who supplies oil having reason to believe that it will be used otherwise than as mentioned in subsection (1) above shall be liable on summary conviction to a penalty of three times the value of the oil or £100, whichever is the greater, if that use without the consent of the Commissioners would contravene subsection (2) above.
- (6) A person who, with the intent that the restrictions imposed by subsection (2) above should be contravened.—
- (a) uses or acquires oil in contravention of that subsection ; or
 - (b) supplies oil having reason to believe that it will be put to a use otherwise than as mentioned in subsection (1) above, being a use which, without the consent of the Commissioners, would contravene subsection (2) above,
- shall be guilty of an offence under this subsection.
- (7) A person who is liable for oil being taken into a vehicle, appliance or storage tank in contravention of subsection (2) above shall be guilty of an offence under this subsection where the oil was taken in with the intent by him that the restrictions imposed by that subsection should be contravened.
- (8) A person guilty of an offence under subsection (6) or (7) above shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the oil in question, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both ; or
 - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.
- (9) For the purposes of this section, a person is liable for oil being taken into a vehicle, appliance or storage tank in contravention of subsection (2) above if he is at the time the person having the charge of the vehicle, appliance or tank, or is its owner, except that if a person other than the owner is, or is for the time being, entitled to possession of it, that person and not the owner is liable.
- (10) Any oil acquired, or taken into a vehicle, appliance or storage tank, as mentioned in subsection (2) above, or supplied as mentioned in subsection (5) or (6) above, shall be liable to forfeiture.

Drawback

15 Drawback of duty on exportation etc. of certain goods

- (1) A drawback equal to any amount shown to the satisfaction of the Commissioners to have been paid in respect of the goods in question by way of the excise duty on hydrocarbon oil shall be allowed on the exportation, shipment as stores or warehousing in an excise warehouse for use as stores of—
 - (a) any hydrocarbon oil; or
 - (b) any article in which there is contained any hydrocarbon oil which was used, or which formed a component of any article used, as an ingredient in the manufacture or preparation of the article.
- (2) The Treasury may by order direct as respects articles of any class or description specified in the order that, subject to the provisions of the order, drawback shall be allowed under subsection (1) above in respect of hydrocarbon oil (or goods containing it) used as a material, solvent, extractant, preservative or finish in the manufacture or preparation of the articles.
- (3) On the making of an order under subsection (2) above this Act shall have effect, subject to the provisions of the order and of this section, as if the reference in subsection (1) (b) above to an article in which there is contained any hydrocarbon oil used as an ingredient in the manufacture or preparation of the article included a reference to an article of the class or description specified in the order.
- (4) An order made under subsection (2) above as respects articles of any class or description—
 - (a) may provide for drawback to be allowed in respect of hydrocarbon oil (or goods containing it) used as a material, solvent, extractant, preservative or finish in the manufacture or preparation not directly of articles of that class or description but of articles incorporated in them; and
 - (b) may provide that the quantity of hydrocarbon oil as respects duty on which drawback is to be allowed shall be determined by reference to average quantities or otherwise.
- (5) The power to make orders under subsection (2) above shall be exercisable by statutory instrument, and any statutory instrument by which the power is exercised shall be subject to annulment in pursuance of a resolution of the House of Commons.

16 Drawback of duty on exportation etc. of power methylated spirits

On power methylated spirits which are exported, shipped as stores or warehoused in an excise warehouse for use as stores there shall be allowed a drawback equal to the amount of excise duty shown to the satisfaction of the Commissioners to have been paid in respect of those spirits.

Miscellaneous reliefs

17 Heavy oil used by horticultural producers

- (1) If, on an application made for the purposes of this section by a horticultural producer, it is shown to the satisfaction of the Commissioners that within the period for which

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the application is made any quantity of heavy oil has been used by the applicant as mentioned in subsection (2) below, then, subject as provided below, the applicant shall be entitled to obtain from the Commissioners repayment of the amount of any excise duty which has been paid in respect of the quantity so used, unless that amount is less than £2.50.

- (2) A horticultural producer shall be entitled to repayment under this section in respect of oil used by him—
- (a) in the heating, for the growth of horticultural produce primarily with a view to the production of horticultural produce for sale, of any building or structure, or of the earth or other growing medium in it; or
 - (b) in the sterilisation of the earth or other growing medium to be used for the growth of horticultural produce as mentioned in paragraph (a) above in any building or structure.
- (3) Where any quantity of oil is used partly for any such purpose as is mentioned in subsection (2) above and partly for another purpose, such part of that quantity shall be treated as used for each purpose as may be determined by the Commissioners.
- (4) An application under this section shall be made for a period of 6 months ending with June or December and within 3 months following that period, unless the Commissioners otherwise allow, and shall be made in such manner as the Commissioners may direct.
- (5) The Commissioners may require an applicant for repayment under this section—
- (a) to state such facts concerning the hydrocarbon oil delivered to or used by him, or concerning the production of horticultural produce by him, as they may think necessary to deal with the application;
 - (b) to furnish them in such form as they may require with proof of any statement so made ; and
 - (c) to permit an officer to inspect any premises or plant used by him for the production of horticultural produce or in or for which any such oil was used.
- (6) If—
- (a) the facts required by the Commissioners under subsection (5)(a) above are not stated ; or
 - (b) proof of the matters referred to in subsection (5)(b) above is not furnished to the satisfaction of the Commissioners ; or
 - (c) an applicant fails to permit inspection of premises or plant as required under the subsection (5)(c) above,
- the facts shall be deemed for the purposes of this section to be such as the Commissioners may determine.
- (7) In this section—
- (a) " horticultural produce " has the meaning assigned to it by Schedule 2 to this Act; and
 - (b) " horticultural producer " means a person growing horticultural produce primarily for sale.

18 Fuel for ships in home waters

- (1) if, on an application made for the purposes of this subsection in such manner as the Commissioners may direct by the owner of a ship specified in the application, not being a pleasure yacht, it is shown to the satisfaction of the Commissioners—
- (a) that at any time within the period of 6 months preceding the date of the application (or within such longer period preceding that date as the Commissioners may in any special case allow) any quantity of heavy oil has been used as fuel for the machinery of the ship while engaged on a voyage in home waters; and
 - (b) that no drawback was allowable on the shipment of the oil,
- the applicant shall be entitled to obtain from the Commissioners repayment of the amount of any excise duty which has been paid in respect of the quantity so used, unless that amount is less than £5.
- (2) Subject to subsections (3) and (4) below, heavy oil in a warehouse or refinery may, on an application made for the purposes of this subsection in such manner as the Commissioners may direct by the owner of a ship specified in the application, not being a pleasure yacht, and on the prescribed security being given, be delivered without payment of excise duty to the applicant for use as fuel for the machinery of the ship while engaged on a voyage in home waters.
- (3) At any time not later than 12 months after any oil has been delivered as mentioned in subsection (2) above the Commissioners may require the applicant to prove in the prescribed manner that the whole of the oil, or such part of it as is not on board the ship or has not been relanded with the sanction of the proper officer, has been used as so mentioned.
- (4) If proof of any matter relating to the use of any oil, required by the Commissioners under subsection (3) above is not furnished to their satisfaction, any duty which but for the provisions of subsection (2) above would have been payable on the delivery of the oil shall become payable by the applicant on demand made by the Commissioners in the prescribed manner.
- (5) If, where oil has been delivered from a warehouse or refinery without payment of duty on an application under subsection (2) above, a person—
- (a) uses the oil or any part of it otherwise than as fuel for the machinery of the ship specified in the application while engaged on a voyage in home waters; or
 - (b) relands the whole or any part of the oil at any place in the United Kingdom without the sanction of the proper officer,
- he shall be liable on summary conviction to a penalty of three times the value of the whole of the oil so delivered or £100, whichever is the greater; and in the case of an offence under paragraph (b) of this subsection the oil relanded shall be liable to forfeiture.
- (6) In this section—
- (a) "owner", in relation to an application, includes a charterer to whom the specified ship is demised, or, in a case where the application relates to oil used, or for use, on a ship while undergoing trials for the purpose of testing her hull or machinery, the builder or other person conducting the trials ;
 - (b) "prescribed" means prescribed by regulations made by the Commissioners; and

(c) "voyage in home waters", in relation to a ship, means a voyage in which the ship is at all times either at sea or within the limits of a port.

(7) This section shall apply as if references to ships included references to hovercraft (and "pleasure yacht", "voyage", "reland" and other expressions shall be construed accordingly).

19 Fuel used in fishing boats, etc.

(1) Subsection (3) below shall have effect in the case of—

- (a) any fishing boat entered in the fishing boat register under the Merchant Shipping Act 1894 and used for the purposes of fishing by a person gaining a substantial part of his livelihood by fishing, whether he is the owner of the boat or not; or
- (b) any lifeboat owned by the Royal National Lifeboat Institution (in this subsection called "the Institution"); or
- (c) any tractor or gear owned by the Institution and used for the purpose of launching or hauling in any lifeboat owned by it,

in respect of which an application is made to the Commissioners for the purposes of this section by the owner or master of the fishing boat or, as the case may be, by the Institution.

- (2) Paragraphs (b) and (c) of subsection (1) above shall apply to hovercraft as if hovercraft were boats or vessels.
- (3) Subject to the provisions of this section, if it appears to the satisfaction of the Commissioners that the applicant has at any time within the period of 6 months preceding the date of the application or within such longer period preceding that date as the Commissioners may in any special case allow, used any quantity of hydrocarbon oil on board that boat or for the purposes of that tractor or gear, the applicant shall be entitled to obtain from the Commissioners repayment of any excise duty which has been paid in respect of the oil so used.
- (4) An application for the purposes of this section shall be made in such manner as the Commissioners may direct.
- (5) No person who has previously made application under this section for repayment of duty shall be entitled to make a further application until the expiration of at least 3 months from the date on which the last preceding application was made.
- (6) This section shall have effect in relation to excise duty paid in respect of power methylated spirits as it has effect in relation to excise duty paid in respect of hydrocarbon oil.

20 Oil contaminated or accidentally mixed in warehouse

(1) Where in the case of hydrocarbon oil which has been delivered for home use it is shown to the satisfaction of the Commissioners—

- (a) that since it was so delivered the oil has been deposited unused in an oil warehouse ; and
- (b) that it has been so deposited by reason of having become contaminated or by reason of its consisting of different descriptions of hydrocarbon oil which have accidentally become mixed ; and

- (c) that at the time when it was so deposited it was oil or, as the case may be, was a mixture of oils, on which the appropriate duty of excise had been paid and not repaid and on which drawback had not been allowed,
- then, subject to any conditions which the Commissioners see fit to impose for the protection of the revenue, the Commissioners may make to the occupier of that warehouse a payment in accordance with subsection (2) below.
- (2) The payment referred to in subsection (1) above shall be a payment of an amount appearing to the Commissioners to be equal to the excise duty which would have been payable if—
- (a) the oil had not become contaminated or mixed; and
 - (b) it had first been delivered for home use at the time when it was deposited in the warehouse and the duty had first become chargeable on that delivery.
- (3) In this section " oil warehouse " means a place of security approved by the Commissioners under section 92 of the Management Act for the depositing, keeping and securing of hydrocarbon oil, and includes a refinery.

Administration and enforcement

21 Regulations with respect to hydrocarbon oil, petrol substitutes and road fuel gas

- (1) The Commissioners may, with a view to the protection of the revenue, make regulations—
- (a) for any of the purposes specified in Part I of Schedule 3 to this Act (which relates to hydrocarbon oil);
 - (b) for any of the purposes specified in Part II of that Schedule (which relates to petrol substitutes);
 - (c) for any of the purposes specified in Part III of that Schedule (which relates to road fuel gas).
- (2) In the case of regulations made for the purposes mentioned in subsection (1)(a) above, different regulations may be made for different classes of hydrocarbon oil; and the power to make such regulations shall include power to make regulations—
- (a) regulating the allowance and payment of drawback under or by virtue of section 15 above; and
 - (b) for making the allowance and payment of drawback by virtue of an order under subsection (2) of that section subject to such conditions as the Commissioners see fit to impose for the protection of the revenue.
- (3) A person who contravenes or fails to comply with any regulation made under this section shall be liable on summary conviction to a penalty of three times the value of any goods in respect of which the offence was committed or £100, whichever is the greater ; and the goods shall be liable to forfeiture.

22 Prohibition on use of petrol substitutes on which duty has not been paid

- (1) A person who uses as fuel for an internal combustion piston engine any liquid which is neither hydrocarbon oil nor power methylated spirits and on which he knows or has reasonable cause to believe that the excise duty on petrol substitutes has not been paid shall be liable on summary conviction to a penalty of three times the value of

the goods in respect of which the offence was committed or £100, whichever is the greater; and the goods shall be liable to forfeiture.

- (2) In subsection (1) above, " liquid " does not include any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars.

23 Prohibition on use etc. of road fuel gas on which duty has not been paid

- (1) A person who—

- (a) uses as fuel in ; or
(b) takes as fuel into,

a road vehicle any road fuel gas on which he knows or has reasonable cause to believe that the excise duty chargeable under section 8 above has not been paid shall be liable on summary conviction to a penalty of three times the value of the goods in respect of which the offence was committed or £100, whichever is the greater ; and the goods shall be liable to forfeiture.

- (2) For the purposes of subsection (1)(b) above, road fuel gas shall be deemed to be taken into a road vehicle as fuel if, but only if, it is taken into it as part of the supply of fuel for the engine provided for propelling the vehicle or for an engine which draws its fuel from the same supply as that engine.

24 Control of use of duty-free and rebated oil

- (1) The Commissioners may make regulations for any of the purposes of section 9(1) or (4), section 12 or section 14(1) above, and in particular for the purposes specified in Schedule 4 to this Act.
- (2) Regulations made for the purposes of section 12 above may provide for restricting (whether by reference to locality, the obtaining of a licence from the Commissioners or other matters) the cases in which payments to the Commissioners under subsection (2) of that section are to be effective for the purposes of that subsection.
- (3) For the purposes of the Customs and Excise Acts 1979, the presence in any hydrocarbon oil of a marker which, in regulations made under this section, is prescribed in relation to—
- (a) oil delivered without payment of duty under section 9 above; or
(b) rebated heavy oil or rebated light oil,
- shall be conclusive evidence that that oil has been so delivered or, as the case may be, that the rebate in question has been allowed.
- (4) A person who contravenes or fails to comply with any regulation made under this section shall be liable on summary conviction to a penalty of three times the value of any goods in respect of which the offence was committed or £100, whichever is the greater; and the goods shall be liable to forfeiture.
- (5) Schedule 5 to this Act shall have effect with respect to any sample of hydrocarbon oil taken in pursuance of regulations made under this section.

Supplementary

25 Regulations

Any power to make regulations under this Act shall be exercisable by statutory instrument, and any statutory instrument by which the power is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.

26 Directions

Directions given under any provision of this Act may make different provision for different circumstances and may be varied or revoked by subsequent directions thereunder.

27 Interpretation

(1) In this Act—

" heavy oil " has the meaning given by section 1(4) above ;

" hydrocarbon oil " has the meaning given by section 1(2) above;

" light oil " has the meaning given by section 1(3) above;

" the Management Act " means the Customs and Excise Management Act 1979;

" petrol substitute " shall be construed in accordance with section 4(1) and (2) above ;

" power methylated spirits " has the meaning given by section 4(3) above;

" the prescribed sum ", in relation to the penalty provided for an offence, means—

(a) if the offence was committed in England, Wales or Northern Ireland, the prescribed sum within the meaning of section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act);

(b) if the offence was committed in Scotland, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (£1,000 or other sum substituted by order under section 289D(1) of that Act);

" rebate " means rebate of duty under section 11 or 14 above, and " rebated " has a corresponding meaning ;

" refinery " means any premises approved by the Commissioners for the treatment of hydrocarbon oil;

" road fuel gas " has the meaning given by section 5 above ; and

" road vehicle " means a vehicle constructed or adapted for use on roads, but does not include any vehicle of a kind specified in Schedule 1 to this Act.

(2) This Act and the other Acts included in the Customs and Excise Acts 1979 shall be construed as one Act but where a provision of this Act refers to this Act that reference is not to be construed as including a reference to any of the others.

(3) Any expression used in this Act or in any instrument made under this Act to which a meaning is given by any other Act included in the Customs and Excise Acts 1979 has, except where the context otherwise requires, the same meaning in this Act or in any

Status: This is the original version (as it was originally enacted).

such instrument as in that Act; and for ease of reference the Table below indicates the expressions used in this Act to which a meaning is given by any other such Act—

Management Act

" the Commissioners "

" container "

" the Customs and Excise Acts 1979 "

" excise warehouse "

" goods "

" hovercraft "

" occupier "

" officer " and " proper " in relation to an officer

" port "

" ship "

" shipment "

" stores "

" warehouse "

Alcoholic Liquor Duties Act 1979

" methylated spirits "

" spirits ".

28 Consequential amendments, repeals, savings and transitional provisions

- (1) The enactments and order specified in Schedule 6 to this Act shall be amended in accordance with the provisions of that Schedule.
- (2) The enactments specified in Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Any provision of this Act relating to anything done or required or authorised to be done under or by reference to that provision or any other provision of this Act shall have effect as if any reference to that provision, or that other provision, as the case may be, included a reference to the corresponding provision of the enactments repealed by this Act.
- (4) The repeal by subsection (2) above of the Hydrocarbon Oil (Customs & Excise) Act 1971 shall not affect the operation of the saving in paragraph 2 in Part I of Schedule 14 to the Finance (No. 2) Act 1975 in relation to the provisions of the said Act of 1971 repealed by section 75(5) of the said Act of 1975 and specified in that Part.
- (5) The Amendment of Units of Measurement (Hydrocarbon Oil, etc) Order 1977 is hereby revoked.
- (6) Nothing in this section shall be taken as prejudicing the operation of sections 15 to 17 of the Interpretation Act 1978 (which relate to the effect of repeals).

29 Citation and commencement

- (1) This Act may be cited as the Hydrocarbon Oil Duties Act 1979 and is included in the Acts which may be cited as the Customs and Excise Acts 1979.
- (2) This Act shall come into operation on 1st April 1979.