
Changes to legislation: Finance Act 2008, SCHEDULE 5 is up to date with all changes known to be in force on or before 29 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 5

Section 14

FUEL DUTY: BIODIESEL AND BIOBLEND

- 1 HODA 1979 is amended as follows.
- 2 (1) Section 1 (hydrocarbon oil) is amended as follows.
 - (2) In subsection (1), for “Subsections (2) to (7) below” substitute “ The following provisions ”.
 - (3) After subsection (7) insert—

“(8) “Kerosene” means heavy oil of which more than 50% by volume distils at a temperature of 240oC or less.”
- 3 (1) Section 2A (power to amend definitions) is amended as follows.
 - (2) In subsection (1), for paragraphs (a) to (e) substitute—

“(a) biodiesel;
(b) bioethanol;
(c) unleaded petrol.”
 - (3) Omit subsections (1A) and (1B).
- 4 In section 6AA (excise duty on biodiesel), after subsection (3) insert—

“(4) See section 14A (biodiesel used other than as fuel for road vehicles) for rebates on duty charged under this section.”
- 5 In section 6AB (excise duty on bioblend), for subsections (3) and (4) substitute—

“(3) The rate per litre of duty under this section on any bioblend is the sum of—
 - (a) HO% of the rate per litre of duty under section 6 in the case of heavy oil, and
 - (b) BD% of the rate per litre of duty under section 6AA.

(4) In subsection (3)—

“HO%” means the percentage of the bioblend that is heavy oil,
and
“BD%” means the percentage of the bioblend that is biodiesel,
where the percentages are by volume to the nearest 0.001%.

(4A) See section 14B (bioblend used other than as fuel for road vehicles) for rebates on duty charged under this section.”
- 6 In section 8 (excise duty on road fuel gas)—
 - (a) in subsection (2), for “in” substitute “ for ”, and
 - (b) omit subsection (6).
- 7 In section 10 (restrictions on use of duty-free oil), omit subsection (8).

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- 8 In section 12 (rebate not allowed on fuel for road vehicles), omit subsection (3).
- 9 In section 13 (penalties for misuse of rebated heavy oil), omit subsection (7).
- 10 In section 13AA (restrictions on use of rebated kerosene), omit subsection (5).
- 11 In section 13AB (penalties for misuse of kerosene), omit subsections (3) and (4).
- 12 In section 14 (rebate on light oil for use as furnace fuel), omit subsection (9).
- 13 After that section insert—

“14A Rebate on biodiesel used other than as fuel for road vehicles

- (1) This section applies if, at the excise duty point, it is intended that biodiesel on which duty under section 6AA is charged will not be—
 - (a) used as fuel for a road vehicle, or
 - (b) used as an additive or extender in any substance so used.
- (2) A rebate of duty is to be allowed on the biodiesel at a rate of £0.0969 a litre less than the rate of duty under section 6AA.
- (3) In this section “the excise duty point” has the same meaning as in section 1 of the Finance (No.2) Act 1992.

14B Rebate on bioblend used other than as fuel for road vehicles

- (1) This section applies if, on the delivery for home use of bioblend on which duty under section 6AB is charged—
 - (a) it is intended that the bioblend will not be—
 - (i) used as fuel for a road vehicle, or
 - (ii) used as an additive or extender in any substance so used, and
 - (b) if the heavy oil used to produce the bioblend was kerosene, it is intended that the bioblend will not be—
 - (i) used as fuel for an engine within paragraph (a) or (b) of section 13AA(1), or
 - (ii) used as an additive or extender in any substance so used.
- (2) A rebate of duty is to be allowed on the bioblend.
- (3) The rate per litre of the rebate is the sum of—
 - (a) HO% of the relevant hydrocarbon rebate rate, and
 - (b) BD% of the relevant biodiesel rebate rate.
- (4) “The relevant hydrocarbon rebate rate” is the rate specified in section 11(1) for the kind of heavy oil used to produce the bioblend.
- (5) “The relevant biodiesel rebate rate” is—
 - (a) if the heavy oil used to produce the bioblend was kerosene, the rate of duty under section 6AA, and
 - (b) otherwise, the rate of the rebate under section 14A.
- (6) Section 6AB(4) (meaning of “HO%” and “BD%”) applies for the purposes of subsection (3).

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14C Restrictions on use of rebated biodiesel and bioblend

- (1) Rebated biodiesel or bioblend must not be—
 - (a) used as fuel for a road vehicle,
 - (b) used as an additive or extender in any substance so used, or
 - (c) taken into a road vehicle as fuel or as an additive or extender in any substance used as fuel.
- (2) Rebated bioblend that was produced by mixing kerosene and biodiesel must not be—
 - (a) used as fuel for an engine within paragraph (a) or (b) of section 13AA(1),
 - (b) used as an additive or extender in any substance so used, or
 - (c) taken into the fuel supply of such an engine.
- (3) Subsections (1) and (2) do not apply to a quantity of biodiesel or bioblend if the amount specified in subsection (4) has been paid to the Commissioners, in accordance with regulations, in respect of it.
- (4) The amount is—

$$Q \times R$$

where—

Q is the quantity (in litres) of the biodiesel or bioblend, and
R is the rate of the rebate under section 14A or 14B at the time of payment.

- (5) In subsection (3) “regulations” means regulations under section 24(1) made for the purposes of this section.

14D Penalties for misuse of rebated biodiesel or bioblend

- (1) If biodiesel or bioblend is used or taken into a road vehicle in contravention of section 14C(1) or (2), the Commissioners may assess the amount specified in section 14C(4) as being excise duty due from any person who—
 - (a) used the biodiesel or bioblend, or
 - (b) was liable for it being taken into the vehicle,and may notify the person or the person's representative accordingly.
- (2) Conduct within any of the following paragraphs attracts a penalty under section 9 of the Finance Act 1994 (civil penalties)—
 - (a) using biodiesel or bioblend in contravention of section 14C(1) or (2),
 - (b) becoming liable for biodiesel or bioblend being taken into a vehicle or the fuel supply of an engine in contravention of section 14C(1) or (2), and
 - (c) supplying biodiesel or bioblend, intending that it will be put to a particular use that is a prohibited use.
- (3) A person commits an offence if—
 - (a) the person intentionally uses biodiesel or bioblend in contravention of section 14C(1) or (2),

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- (b) the person is liable for biodiesel or bioblend being taken into a vehicle or the fuel supply of an engine in contravention of section 14C(1) or (2), and knows that the taking in is in contravention of that provision, or
 - (c) the person supplies biodiesel or bioblend, intending that it will be put to a particular use that is a prohibited use.
 - (4) “Prohibited use” means a use that would contravene section 14C(1) or (2) if no payment under section 14C(3) were made in respect of the biodiesel or bioblend.
 - (5) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to—
 - (i) a fine not exceeding the statutory maximum or (if it is greater) 3 times the value of the biodiesel or bioblend in question, or
 - (ii) imprisonment for a term not exceeding 12 months, or both, and
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 7 years or both.
 - (6) Subsection (5)(a)(ii) has effect as if the reference there to 12 months were to 6 months—
 - (a) in this section as it extends to England and Wales, in relation to offences committed before the commencement of section 282 of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way), and
 - (b) in this section as it extends to Northern Ireland.”
- 14 Omit section 17A (repayment of part of duty where biodiesel used otherwise than as road fuel).
- 15 (1) Section 20A (mixing: adjustment of duty) is amended as follows.
- (2) For subsections (1) to (4) substitute—
- “(1) Subsections (2) and (3) apply if—
- (a) a relevant substance upon which duty under this Act has been charged is mixed in a pipe-line with another kind of relevant substance upon which such duty has been charged, and
 - (b) the mixing is approved mixing (see subsection (5)).
- (2) If the Commissioners are of the opinion that—
- (a) the amount of duty that would be charged on the mixture (if duty were charged at the time of mixing), is greater than
 - (b) the total amount of duty charged as mentioned in subsection (1)(a),
- they may charge under this section a duty of excise on the mixture of an amount equal to the difference.
- (3) If the Commissioners are of the opinion that the amount mentioned in subsection (2)(a) is less than the amount mentioned in subsection (2)(b), they may make under this section an allowance of an amount equal to the difference.

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- (4) Where a charge or allowance is made under this section, any relief or rebate which was permitted or allowed in respect of the charges mentioned in subsection (1)(a) is for the purposes of this Act to be disregarded.
- (4A) In this section “relevant substance” means biodiesel, bioethanol, bioblend, bioethanol blend or hydrocarbon oil.
- (4B) The cases that fall within subsection (1)(a) include cases where one kind of hydrocarbon oil is mixed with another kind of hydrocarbon oil.”
- (3) In subsection (5)(a), for the words from “in a” to “only)” substitute “ relevant substances (or specified kinds of relevant substances) in a pipe-line ”.
- 16 (1) Section 20AAA (mixing of rebated oil) is amended as follows.
- (2) Omit subsections (3) and (5).
- (3) In subsection (9), for “, (2)(a) or (3)” substitute “ or (2)(a) ”.
- 17 In section 20AA(1) (power to allow reliefs), after “12(2)” (in both places) insert “ or 14C(3) ”.
- 18 Before section 21 (but after the heading “Administration and enforcement”) insert—

Determination by Commissioners of composition of substance

- “20A(1) The Commissioners may, for any prescribed purpose, determine in such way as they consider appropriate the proportion of any substance that is biodiesel or bioethanol.
- (2) In subsection (1) “prescribed purpose” means a purpose, prescribed by regulations made by the Commissioners, that relates to any duty under this Act.”
- 19 In section 23 (prohibition on use etc of road fuel gas on which duty has not been paid), omit subsection (2).
- 20 (1) Section 24 (control of duty-free and rebated oil) is amended as follows.
- (2) In subsection (1), for the words from “section 11,” to “section 14(1),” substitute “ any of sections 11 to 14C, ”.
- (3) In subsection (2)—
- (a) for the words from the beginning to “above” substitute “ The regulations ”, and
- (b) for the words from “subsection (2)” to the end substitute “ section 12(2), 13AA(3) or 14C(3) are to be effective for the purposes of those provisions. ”
- (4) In subsection (3)—
- (a) after “hydrocarbon oil” insert “ , biodiesel or bioblend ”, and
- (b) in paragraph (b), for “or rebated light oil” substitute “ , rebated light oil, rebated biodiesel or rebated bioblend ”.
- (5) In subsection (4A)(a), after “oil” insert “ , biodiesel or bioblend ”.
- (6) In subsection (5), after “oil” insert “ , biodiesel or bioblend ”.

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- 21 In section 24A (penalties for misuse of marked oil), omit subsection (4).
- 22 (1) Section 27 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) in the definition of “controlled oil”, after “13AA” insert “ or biodiesel or bioblend in respect of which a rebate has been allowed under section 14A or 14B ”,
 - (b) after that definition insert—

““excepted vehicle” means a vehicle that is an excepted vehicle within the meaning of Schedule 1;”,
 - (c) after the definition of “hydrocarbon oil” insert—

““kerosene” has the meaning given by section 1(8);”,
 - (d) in the definition of “rebate”, after “14” insert “ , 14A, 14B ”, and
 - (e) in the definition of “road vehicle”, for the words from “vehicle which” to the end substitute “ excepted vehicle; ”.
- (3) After that subsection insert—
- “(1ZA) For the purposes of this Act, a substance is used as fuel for a vehicle if (and only if) it is used as fuel for—
- (a) the engine provided for propelling the vehicle, or
 - (b) an engine which draws fuel from the same supply as that engine.
- (1ZB) For those purposes, a substance is taken into a vehicle as fuel, or as an additive or extender in any fuel, if (and only if) it is taken into the vehicle as part of the supply from which the engine provided for propelling the vehicle draws fuel.
- (1ZC) For those purposes, the following persons are liable for a substance being taken into a vehicle or into the fuel supply of an engine—
- (a) the person who has charge of the vehicle or engine at the time the substance is taken in, and
 - (b) the owner of the vehicle or engine at that time (or, if another person is entitled to possession of it at that time, that other person).
- (1ZD) Subsection (1ZC) applies in relation to appliances and storage tanks as it applies in relation to vehicles.”
- 23 In Schedule 4 (regulations under section 24), omit—
- (a) in paragraph 3, “17A,”, and
 - (b) in paragraph 22, the words from “and section 12(3)(a)” to the end.
- 24 In Schedule 5 (sampling), in paragraph 3(1), omit “of oil”.
- 25 In consequence of the amendments of HODA 1979, omit—
- (a) section 1(2) of FA 1987,
 - (b) section 5(5) of FA 1996,
 - (c) in FA 1997—
 - (i) section 7(7), and
 - (ii) in Schedule 6, paragraph 6(5),
 - (d) in FA 2002—
 - (i) section 5(3), and

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- (ii) in Schedule 2, paragraph 4, and
 - (e) in FA 2004—
 - (i) section 7(3), and
 - (ii) section 10(2).
- 26 The amendments made by this Schedule are treated as having come into force—
- (a) so far as they confer a power to make regulations, on 19 March 2008, and
 - (b) for all other purposes, on 1 April 2008.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)