SCHEDULES

SCHEDULE 11

Section 89

PRIVATE PLEASURE CRAFT

Amendments of HODA 1979

1 HODA 1979 is amended as follows.

2 In section 6AB(4A) after "vehicles" insert "etc".

3 (1) Section 12 is amended as follows.

(2) In subsection (1) after "vehicle" insert "or as fuel for propelling a private pleasure craft".

(3) After subsection (2) insert—

"(2A) For provision relating to private pleasure craft that corresponds to subsection (2), and for the meaning of "private pleasure craft", see section 14E."

(4) In the heading at the end insert "etc".

4 In section 13ZB(5), in paragraph (b) of the definition of "prohibited use" after "vehicle" insert "or as fuel for a private pleasure craft".

5 In section 14A for subsection (4) substitute—

"(4) For the meaning of "private pleasure craft", see section 14E."

6 (1) Section 14B is amended as follows.

(2) In subsection (1)(a)—

(a) at the end of sub-paragraph (i) (but before the "or") insert—

"(ia) used as fuel for propelling a private pleasure craft,";

(b) in sub-paragraph (ii) for "so used" substitute "used as mentioned in sub-paragraph (i) or (ia)".

(3) In the heading at the end insert "etc".

7 (1) Section 14C is amended as follows.

(2) In subsection (1)—

(a) at the end of paragraph (b) insert "or";

(b) omit the "or" at the end of paragraph (c);

(c) omit paragraph (d).

(3) Omit subsection (4A).

8 For section 14E substitute—

"**14E Restrictions on use of certain fuel for private pleasure craft**

(1) Restricted fuel must not—

(a) be used as fuel for propelling a private pleasure craft,

(b) be used as an additive or extender in any substance so used, or

(c) be taken into the fuel supply of an engine provided for propelling a vessel that is being used as a private pleasure craft.

(2) "Restricted fuel" means—

(a) rebated fuel, or

(b) marked oil that is not rebated fuel.

(3) "Rebated fuel" means rebated heavy oil, rebated biodiesel or rebated bioblend.

(4) "Marked oil" means any hydrocarbon oil in which a marker is present which is for the time being designated by regulations made by the Commissioners under subsection (5) below, other than marked oil which is in the fuel supply of an engine provided for propelling a vessel having been taken in to that supply in accordance with the law of the place where it was taken in.

(5) The Commissioners may for the purposes of this section designate any marker which appears to them to be used for the purposes of the law of any place (whether within or outside the United Kingdom) for identifying hydrocarbon oil that is not to be used as fuel for propelling private pleasure craft.

(6) In this Act "private pleasure craft" has the same meaning as in Article 14(1)(c) of Council Directive 2003/96/EC (taxation of energy products etc).

(7) The Treasury may by regulations provide for cases in which a vessel is treated as not being a private pleasure craft for the purposes of this Act (which may include cases in which the vessel is used in accordance with instructions given by an officer of HMRC for the purposes of removing restricted fuel from the vessel)."

9 For section 14F substitute—

"**14F Penalties for contravention of section 14E**

(1) Conduct within any of the following paragraphs attracts a penalty under section 9 of the Finance Act 1994 (civil penalties)—

(a) using restricted fuel in contravention of section 14E(1);

(b) becoming liable for restricted fuel being taken into the fuel supply of an engine—

(i) in contravention of section 14E(1), or

(ii) having reason to believe that it will be put to a particular use that is a prohibited use;

(c) supplying restricted fuel, having reason to believe that it will be put to a particular use that is a prohibited use.

(2) An offence is committed if—

(a) a person intentionally uses restricted fuel in contravention of section 14E(1),

(b) a person is liable for restricted fuel being taken into the fuel supply of an engine, and the restricted fuel was taken in with the intention by the person that restrictions imposed by section 14E(1) should be contravened, or

(c) a person supplies restricted fuel, intending that it will be put to a particular use that is a prohibited use.

(3) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding the maximum fine or imprisonment for a term not exceeding the maximum term (or both);

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 7 years (or both).

(4) For the purposes of subsection (3)(a) the "maximum fine" is—

(a) in England and Wales, £20,000 or (if greater) 3 times the value of the heavy oil, biodiesel or bioblend in question;

(b) in Scotland or Northern Ireland, the statutory maximum or (if greater) 3 times the value of the heavy oil, biodiesel or bioblend in question.

(5) For the purposes of subsection (3)(a) the "maximum term" is—

(a) in England or Wales (subject to subsection (6)) or Scotland, 12 months;

(b) in Northern Ireland, 6 months.

(6) In relation to an offence 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), subsection (5)(a) has effect in England and Wales as if for "12 months" there were substituted "6 months".

(7) Restricted fuel is liable to forfeiture if it is—

(a) taken into the fuel supply of an engine as mentioned in section 14E(1),

(b) supplied as mentioned in subsection (1)(c) or (2)(c) above, or

(c) taken into the fuel supply of an engine provided for propelling a vessel at a time when it is not a private pleasure craft and remains in the vessel as part of that fuel supply at a later time when it becomes a private pleasure craft.

(8) If rebated fuel is used or taken into the fuel supply of an engine in contravention of section 14E(1), the Commissioners may—

(a) assess an amount equal to the rebate on like fuel at the rate in force at the time of the contravention as being excise duty due from any person who—

(i) used the rebated fuel, or

(ii) was liable for it being taken into the fuel supply, and

(b) notify the person or the person's representative accordingly.

(9) In this section—

"prohibited use" means a use that contravenes section 14E(1);

"rebated fuel" has the meaning given by section 14E(3);

"restricted fuel" has the meaning given by section 14E(2)."

10 In section 20AAA(4)(a) after "vehicle" insert "or as fuel for propelling a private pleasure craft".

11 In section 24 (control of use of duty-free and rebated oil) after subsection (3) insert—

"(3A) Subsection (3) does not apply to heavy oil, biodiesel or bioblend used for propelling a private pleasure craft if it is proved to the satisfaction of the Commissioners that the heavy oil, biodiesel or bioblend was taken into the vessel in accordance with the laws of the place where it was taken in."

12 In section 27(1) at the appropriate place insert—

""private pleasure craft" has the meaning given by section 14E;".

13 (1) Schedule 4 (regulations under section 24) is amended as follows.

(2) In paragraph 19 after "vehicle" insert "or a vessel".

(3) In paragraph 20 after "vehicle" insert "or a vessel".

(4) In paragraph 21—

(a) the existing provision becomes sub-paragraph (1) of that paragraph;

(b) in that sub-paragraph—

(i) after "vehicles" insert "or vessels";

(ii) after "vehicle" insert "or vessel";

(c) after that sub-paragraph insert—

"(2) In this paragraph "premises" includes any floating structure.

(3) Nothing in sub-paragraph (1) enables regulations to be made authorising the examination of the interior of part of a vessel if that part is used as a dwelling."

14 (1) Schedule 5 (sampling) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (a)—

(i) for "motor vehicle" substitute "vehicle or a vessel";

(ii) after "the vehicle" insert "or the vessel";

(b) in sub-paragraph (b) for "motor vehicle" substitute "vehicle or a vessel".

(3) In paragraph 2(3) after "vehicle" insert "or the vessel".

(4) In paragraph 4 after sub-paragraph (6) insert—

"(6A) In sub-paragraphs (5) and (6) "land" includes any floating structure."

(5) In paragraph 7 after "vehicle" insert "or a vessel".

Other amendments

15 In Schedule 7A to VATA 1994, in Group 1, in Note 1(3) omit paragraph (b) (and the "or" immediately before it).

16 In Schedule 41 to FA 2008, in the table in paragraph 3(1) for the entry relating to section 14F(2) of HODA 1979 substitute—

"HODA 1979 section 14F(8)	Rebated heavy oil, biodiesel or bioblend".

17 In Schedule 9 to TCTA 2018, in paragraph 6 omit sub-paragraphs (3) and (4).

General

18 Paragraphs 1 to 17 of this Schedule come into force on such day or days as the Treasury may by regulations appoint.

19 Different days may be appointed for different purposes or different areas.

20 The Treasury may by regulations make such transitional, transitory or saving provision as they consider appropriate in connection with the coming into force of any of those paragraphs (including provision conferring functions on the Commissioners for Her Majesty's Revenue and Customs).

21 The Treasury may by regulations make such amendments of any enactment as they consider appropriate in consequence of the coming into force of any of paragraphs 1 to 17.

22 A statutory instrument containing regulations under paragraph 21 is subject to annulment in pursuance of a resolution of the House of Commons.

23 Any power to make regulations under this Schedule is exercisable by statutory instrument.