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STATUTORY INSTRUMENTS

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**2007 No. 2191**

**EXCISE**

**The Hydrocarbon Oil Duties (Reliefs for Electricity Generation) (Amendment) Regulations 2007**

*Made* - - - - *26th July 2007*  
*Laid before Parliament* *26th July 2007*  
*Coming into force* - - *1st September 2007*

The Commissioners for Her Majesty's Revenue and Customs<sup>(1)</sup> make the following Regulations in exercise of the powers conferred by sections 20AA(1), 20AA(2) and 20AA(3) of the Hydrocarbon Oil Duties Act 1979<sup>(2)</sup>:

1. These Regulations may be cited as the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) (Amendment) Regulations 2007 and come into force on 1st September 2007.

2. In regulation 2 of the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005<sup>(3)</sup>—

(a) for everything from ““auto-generator”” to “paragraph 152 of Schedule 6 to the Finance Act 2000;”, substitute—

““auto-generator” carries the meaning it would for climate change levy if that levy's taxable commodities included qualifying oil (see the Finance Act 2000 Schedule 6 paragraphs 3(1), 14(3)(a), 147, 152(1) and 152(3), and the Climate Change Levy (Electricity and Gas) Regulations 2001<sup>(4)</sup> regulation 6);”;

(b) for everything from ““exempt unlicensed electricity supplier”” to “paragraph 14(4) of Schedule 6 to the Finance Act 2000;”, substitute—

““exempt unlicensed electricity supplier” carries the meaning it would for climate change levy if that levy's taxable commodities included qualifying oil (see the Finance Act 2000 Schedule 6 paragraphs 3(1), 14(2)(a) and 14(4), and the Climate Change Levy (Electricity and Gas) Regulations 2001 regulation 5);”;

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(1) Section 27(3) of the Hydrocarbon Oil Duties Act 1979 (c. 5) adopts the meaning given for “the Commissioners” in section 1(1) of the Customs and Excise Management Act 1979 (c. 2), namely, the Commissioners for Her Majesty's Revenue and Customs. Section 1(1) was so amended by the Commissioners for Revenue and Customs Act 2005 (c. 11) section 50(6) and Schedule 4 paragraph 22(b).

(2) 1979 c. 5; section 20AA was inserted by section 2(1) of the Finance Act 1989 (c. 26) and amended by Schedule 23 Part 1(4) to the Finance Act 1993 (c. 34), Schedule 4 paragraph 54 to the Finance Act 1994 (c. 9) and section 10(3) of the Finance Act 2000 (c. 17).

(3) S.I. 2005/3320.

(4) S.I. 2001/1136.

- (c) in the meaning given for “qualifying oil”—
  - (i) after “heavy” insert “or light”;
  - (ii) after “section 11(1)” insert “or 14(1)”;
- (d) in the meaning given for “relevant duty”, after “section 11(1)” insert “or 14(1)”.

**3.—**(1) In regulation 3(2) of those Regulations, after “paragraph 3” insert “or Part 4”.

(2) For regulation 3(3) of those Regulations, substitute—

“(3) This paragraph applies where the auto-generator or exempt unlicensed electricity supplier supplies that electricity to an electricity utility (or a person treated as such for climate change levy purposes).

In this context, “electricity utility” (or being treated as such) carries the meaning each has for climate change levy (see the Finance Act 2000 Schedule 6 paragraphs 147, 150(2), 150(4) and 151).”.

*Steve Lamey  
Dave Hartnett*

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

26th July 2007

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Hydrocarbon Oil Duties (Reliefs for Electricity) Generation Regulations 2005<sup>(5)</sup> which introduced a relief from excise duty for rebated heavy oils used to produce electricity.

Regulation 2(c) expands the definition of “qualifying oil” so that rebated light oil qualifies for relief<sup>(6)</sup>.

Regulations 2(a) and 2(b) align the excise rules with those for climate change levy (CCL) about when electricity production is primarily for the producer’s own consumption and about how to treat electricity producers who are suppliers exempt from requiring a supply licence<sup>(7)</sup>.

Regulation 3(2) preserves relief for such producers supplying the electricity to electricity utilities, aligning it with CCL’S structure. Regulation 3(1) opens to such producers the existing relief scheme for combined heat and power stations.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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(5) S.I. 2005/3320. That instrument gave effect to Articles 14(1)(a) and 15(1)(c) of Council Directive 2003/96/EC (OJ L 283, 31.10.03, p 51) in respect of certain energy products used to produce electricity. A transposition note for that directive is available at [www.hmrc.gov.uk](http://www.hmrc.gov.uk).

(6) Regulation 2(d) makes a consequential amendment to the definition of “relevant duty”.

(7) See the Finance Act 2000 (c. 17) Schedule 6 paragraph 14(4) about “exempt unlicensed electricity supplier”.