

EXPLANATORY MEMORANDUM TO
THE BIODIESEL DUTY (BIODIESEL PRODUCED FROM WASTE
COOKING OIL) (RELIEF) REGULATIONS 2010

2010 No. 984

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the Statutory Instrument

- 2.1 This Statutory Instrument, which comes into force on 1 April 2010 and expires on 31 March 2012, provides for a relief scheme for biodiesel produced from waste cooking oil. In particular, the purpose of this instrument is to allow producers of biodiesel from waste cooking oil to off-set an allowance of 20 pence per litre (ppl) against duty that is payable. In other words, producers of biodiesel from waste cooking oil will account for duty at a rate that is 20 ppl less than the rate on biodiesel from other sources prescribed in section 6AA(3) of the Hydrocarbon Oil Duties Act 1979 (the Oil Act).

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

- 3.1 It has been necessary to breach the '21 day rule'. Final decisions on changes to rates of duty only announced on Budget Day precluded the earlier laying of this instrument. The instrument is required to come into force on 1 April 2010 in order for the relief scheme to be implemented from the date that the duty differential for biofuels is withdrawn.

4. Legislative Context

- 4.1 Section 6AA of the Oil Act provides that a duty of excise shall be charged on the setting aside for a chargeable use or on the chargeable use by any person of biodiesel. Biodiesel is defined in section 2AA of the Oil Act as diesel quality fuel that is produced from biomass or waste cooking oil, the ester content of which is not less than 96.5% by weight, and the sulphur content of which does not exceed 0.005% by weight or is nil.
- 4.2 Pre-Budget Report 2009 announced that the duty differential for biofuels would cease from 1 April 2010 but that the duty differential would continue for biodiesel produced from waste cooking oil for two years. These regulations provide a mechanism whereby producers of biodiesel produced from waste cooking oil can continue to benefit from the 20 ppl duty differential.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- *What is being done and why*

7.1 Budget 2008 announced that the 20 ppl duty differential for biofuels would cease in 2010-11, as the tax discount could not distinguish between sustainable biofuels and those that increased greenhouse gas emissions or raised wider sustainability concerns. Support for biofuels will continue through the Renewable Transport Fuels Obligation, which provides a guaranteed demand for biofuels, with a sharper environmental focus through its carbon and sustainability reporting criteria.

7.2 Pre-Budget Report 2009 confirmed that the duty differential would cease from 1 April 2010, but that it would continue for biodiesel from waste cooking oil for a period of two years.

7.3 Public interest is likely to be minimal. Interest from the biofuels industry will be greater.

7.4 The change is not seen as politically or legally important.

- *Consolidation*

7.5 None.

8. Consultation Outcome

8.1 An informal consultation has been undertaken in relation to the form of the regulations.

9. Guidance

9.1 The Public Notice 179E (Biofuels and other fuel substitutes), available on www.hmrc.gov.uk, will be updated in due course.

10. Impact

10.1 An Impact Assessment has not been produced for this instrument as it has a negligible impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

11. Regulating Small Business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to keep to a minimum any new regulatory requirements as part of this change.

12. Monitoring and Review

12.1 Reviews of compliance with the practical application of the new regulations will form part of the compliance review programme of the Excise, Customs, Stamps and Money Businesses Directorate of HMRC.

13. Contact

Cathy Mawer at HM Revenue and Customs

Tel: 020 7147 0655

E-mail: Catherine.Mawer@hmrc.gsi.gov.uk