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STATUTORY INSTRUMENTS

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**2022 No. 238**

**EXCISE**

**The Hydrocarbon Oil Duties (Miscellaneous  
Amendments) Regulations 2022**

<i>Made</i>	- - - -	<i>7th March 2022</i>
<i>Laid before Parliament</i>		<i>8th March 2022</i>
<i>Coming into force</i>	- -	<i>1st April 2022</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 20AA(1) and (2), 23B, 24(1) and 24A(3) of, and Schedule 4 to, the Hydrocarbon Oil Duties Act 1979(1) and section 100G(1) of the Customs and Excise Management Act 1979(2).

**Citation and commencement**

1. These Regulations may be cited as the Hydrocarbon Oil Duties (Miscellaneous Amendments) Regulations 2022 and come into force on 1st April 2022.

**Amendment of the Hydrocarbon Oil (Designated Markers) Regulations 1996**

- 2.—(1) The Hydrocarbon Oil (Designated Markers) Regulations 1996(3) are amended as follows.  
(2) In regulation 2(1) (designation of markers), after “hydrocarbon oil” insert “or biodiesel”.

**Amendment of the Hydrocarbon Oil (Payment of Rebates) Regulations 1996**

- 3.—(1) The Hydrocarbon Oil (Payment of Rebates) Regulations 1996(4) are amended as follows.

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(1) 1979 c. 5. Section 20AA was inserted by section 2 of the Finance Act (“FA”) 1989 (c. 26) and amended by Schedule 23 to FA 1993 (c. 34), Schedule 4 to FA 1994 (c. 9), section 10 of FA 2000 (c. 17), Schedules 5 and 6 to FA 2008 (c. 9) and Schedule 17 to FA 2016 (c. 24). Section 23B was inserted by Schedule 3 to FA 2002 (c. 23). Section 24(1) was amended by section 6 of FA 1981 (c. 35), section 4 of FA 1982 (c. 39), sections 5 and 7 of, and Schedule 41 to, FA 1996 (c. 8), section 7 of FA 1997 (c. 16), section 3 of FA 2001 (c. 9) and Schedules 5 and 6 to FA 2008. Section 24(3) was amended by Schedule 5 to FA 2008. Section 24A was inserted by section 7 of FA 1996 and subsection (3) was amended by Schedule 21 to FA 2021 (c. 26). Schedule 4 was amended by section 6 of, and Schedule 19 to, FA 1981, section 4 of FA 1982, Schedule 41 to FA 1996, Schedule 2 to FA 2002, Schedule 5 to FA 2008, Schedule 11 to FA 2020 (c. 14), Schedule 21 to FA 2021.

(2) 1979 c. 2. Section 100G was inserted by Schedule 4 to FA 1991 (c. 31).

(3) S.I. 1996/1251; amended by S.I. 2002/1773 and 2015/36.

(4) S.I. 1996/2313.

(2) In regulation 3(1) (interpretation), in the definition of “Collector for the Oils Accounting Centre” for “Collector of Customs and Excise responsible for the Oils Accounting Centre at HM Customs and Excise, Dorset House, Stamford Street, London SE1 9PY” substitute “Commissioners for Her Majesty’s Revenue and Customs at HM Revenue and Customs, Cumbernauld Accounting Team, Room B1-25, St Mungo’s Road, Cumbernauld, G70 5WY”.

### **Amendment of the Hydrocarbon Oil (Marking) Regulations 2002**

4.—(1) The Hydrocarbon Oil (Marking) Regulations 2002<sup>(5)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation), at the appropriate place insert—

““biodiesel excise duty point” means the excise duty point which applies for biodiesel by virtue of regulation 17 (excise duty points) of the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc) Regulations 2004<sup>(6)</sup>.”.

(3) In regulation 3(1)(a) (prescribed markers and colouring substance), after “gas oil” insert “, biodiesel”.

(4) For regulation 4 (marking required for rebate) substitute—

“4. Subject to Part III (exceptions to marking requirements), no rebate of duty shall be allowed—

(a) on the delivery for home use of—

(i) gas oil under section 11(1)(b)<sup>(7)</sup> of the Act;

(ii) kerosene under section 11(1)(c) or 13AA(1)<sup>(8)</sup> of the Act; or

(iii) light oil under section 14(1)<sup>(9)</sup> of the Act; or

(b) for biodiesel under section 14A<sup>(10)</sup> of the Act, at the biodiesel excise duty point,

unless there is added to the oil or biodiesel, in accordance with these Regulations, the markers and, except in the case of kerosene, the colouring substance, prescribed by regulation 3.”.

(5) In regulation 7 (application), after “oil” insert “, biodiesel”.

(6) For regulation 8 (time of marking) substitute—

“8. Except as otherwise provided in regulations made by the Commissioners—

(a) oil and bioblend must be marked before delivery for home use of that oil and bioblend; and

(b) biodiesel must be marked before the biodiesel excise duty point arises.”.

(7) In regulation 9 (use of composite solution), after “oil” insert “, biodiesel”.

(8) In regulation 11 (storage of marked oil or bioblend), after “oil” insert “, biodiesel or”.

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(5) [S.I. 2002/1773](#); amended by [S.I. 2007/1416](#), [2008/753](#) and [2015/36](#). [S.I. 2002/1773](#) is EU-derived domestic legislation (implementing Directive 95/60 on fiscal marking of gas oils and kerosene). Notwithstanding the repeal of the European Communities Act 1972, these Regulations shall continue in force (see the European Union (Withdrawal) Act 2018, section 2 subject to the provision in section 5 and Schedule 1).

(6) [S.I. 2004/2065](#); amended by [S.I. 2007/1640](#).

(7) Section 11(1) of the Hydrocarbon Oil Duties Act 1979 was amended by section 4 of FA [1996 \(c. 8\)](#), section 7 of FA [1997 \(c. 16\)](#), section 13 of, and paragraph 25 of Schedule 6 to, FA [2008 \(c. 9\)](#), section 121 of FA [2009 \(c. 10\)](#) and section 179 of FA [2013 \(c. 29\)](#).

(8) Section 13AA was inserted by section 5 of FA 1996 and amended by section 7 of FA 1997, section 10 of FA [2004 \(c. 12\)](#), section 4 of FA [2005 \(c. 7\)](#), section 13 of, and Schedule 5 to, FA 2008.

(9) Section 14(1) was amended by section 4 of FA 1996, sections 6 and 11 of FA 1997, section 7 of FA 1998, section 2 of FA [1999 \(c. 16\)](#), section 13 of FA [2010 \(c. 13\)](#).

(10) Section 14A was inserted by Schedule 5 to FA 2008 and amended by section 179 of FA [2013 \(c. 29\)](#).

(9) In regulation 12(a) (labelling of delivery points for marked oil), after “oil”, in both places it occurs, insert “, biodiesel”.

(10) In regulation 13(1) (particulars to be recorded on delivery notes)—

(a) in sub-paragraph (a), after “oil” insert “or biodiesel”;

(b) in the words after sub-paragraph (c), after “may be,” insert “biodiesel or”.

(11) In regulation 14 (prohibitions relating to prescribed markers), after “oil”, in each place it occurs, insert “, biodiesel”.

(12) In regulation 16 (prohibition on importation of certain oil or bioblend), after “oil” insert “, biodiesel”.

### **Amendment of the Hydrocarbon Oil (Registered Dealers in Controlled Oil) Regulations 2002**

**5.**—(1) The Hydrocarbon Oil (Registered Dealers in Controlled Oil) Regulations 2002(**11**) are amended as follows.

(2) In regulation 3(1) (unregulated controlled oil)(**12**)—

(a) at the end of sub-paragraph (a), omit “or”;

(b) omit sub-paragraph (b).

### **Amendment of the Hydrocarbon Oil (Registered Remote Markers) Regulations 2005**

**6.**—(1) The Hydrocarbon Oil (Registered Remote Markers) Regulations 2005(**13**) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “appropriate rebate”—

(i) from “the rebate” to the end becomes sub-paragraph (a);

(ii) after that sub-paragraph insert—

“(b) the rebate that would have been allowed in relation to biodiesel at the biodiesel excise duty point had it been marked as it is now marked;”;

(b) at the appropriate place insert—

““biodiesel excise duty point” means the excise duty point which applies for biodiesel by virtue of regulation 17 (excise duty points) of the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc) Regulations 2004;”;

(c) in the definition of “duty”—

(i) at the end of sub-paragraph (a), omit “and”;

(ii) at the end of sub-paragraph (b), after the semi-colon insert “and”;

(iii) after sub-paragraph (b) insert—

“(c) biodiesel by section 6AA(1) of that Act (excise duty on biodiesel);”;

(d) in the definition of “mark”, after “may be,” insert “biodiesel or”;

(e) in the definition of “the owner”, after “may be,” insert “biodiesel or”.

(3) In regulation 3 (approval and registration), after “oil” insert “, biodiesel”.

(4) In regulation 4(2) (certificates of registration)—

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(11) [S.I. 2002/3057](#); relevantly amended by [S.I. 2008/753](#).

(12) Paragraph (1) was substituted by [S.I. 2008/753](#).

(13) [S.I. 2005/3472](#); amended by [S.I. 2008/753](#) and [2009/56](#).

- (a) in sub-paragraph (d), after “may be,” insert “biodiesel or”;
  - (b) in sub-paragraph (e), after “oil” insert “, biodiesel”.
- (5) In regulation 6 (privileges of a registered remote marker), after “oil”, in each place it occurs, insert “, biodiesel or”.
- (6) In regulation 8(3) (general conditions and restrictions)—
- (a) after “oil”, in the first place it occurs, insert “, biodiesel”;
  - (b) after “may be,” insert “biodiesel or”.
- (7) In regulation 9 (conditions for relief to be allowed)—
- (a) in paragraph (2), after “oil” insert “, biodiesel”;
  - (b) in paragraph (4), after “may be,” insert “biodiesel or”;
  - (c) in paragraph (5), after “oil” insert “, biodiesel”;
  - (d) in paragraph (8), after “oil” insert “, biodiesel”.
- (8) In regulation 11 (relieved hydrocarbon to be treated as rebated oil)—
- (a) after “oil”, in the first place it occurs, insert “, biodiesel”;
  - (b) after “may be,” insert “biodiesel or”.
- (9) In regulation 12 (relief)—
- (a) in paragraph (1)—
    - (i) at the end of sub-paragraph (a), insert “or, in relation to biodiesel, at the biodiesel excise duty point no rebate of duty was allowed,”;
    - (ii) in sub-paragraphs (b) and (c) after “that”, in both places it occurs, insert “biodiesel or”;
  - (b) in paragraph (3) in the definitions of “the prescribed manner and proportions” and “the prescribed markers and colouring substances”, after “home use”, in both places it occurs, insert “or to biodiesel as a condition of allowing a rebate of duty at the biodiesel excise duty point”.
- (10) In regulation 13(3) (relief that is not allowed), after “oil”, in both places it occurs, insert “, biodiesel”.

### **Amendment of the Hydrocarbon Oil and Biofuels (Road Fuel in Defined Areas) (Reliefs) Regulations 2011**

7.—(1) The Hydrocarbon Oil and Biofuels (Road Fuel in Defined Areas) (Reliefs) Regulations 2011(14) are amended as follows.

- (2) In regulation 2 (interpretation), in the definition of “qualifying fuel”—
  - (a) paragraphs (v) to (viii) are renumbered (i) to (iv);
  - (b) after “in relation to which” insert “no rebate has been given and”.
- (3) For regulation 4 (relief) substitute—
 

“4. Relief is allowed in accordance with these Regulations in relation to qualifying fuel that has been purchased by a qualified claimant to be supplied by that person by retail sale from premises situated in a defined area.”
- (4) In regulation 7(2)(b) (conditions), for “for use in a road vehicle” substitute “by retail sale from premises situated in a defined area”.

7th March 2022

*Jim Harra*  
*Myrtle Lloyd*  
Two of the Commissioners for Her Majesty's  
Revenue and Customs

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations make miscellaneous provision relating to fuel duties principally under the Hydrocarbon Oil Duties Act 1979 (c. 5) (“HODA”).

Regulation 1 provides for citation and commencement.

Regulation 2 amends the Hydrocarbon Oil (Designated Markers) Regulations 1996 (S.I. 1996/1251) to provide for the designation of markers for the purposes of identifying biodiesel that is not to be used other than for an excepted machine (as defined by section 27 of HODA).

Regulation 3 amends the Hydrocarbon Oil (Payment of Rebates) Regulations 1996 (S.I. 1996/2313) to update the meaning of “Collector for the Oils Accounting Centre”.

Regulation 4 amends the Hydrocarbon Oil (Marking) Regulations 2002 (S.I. 2002/1773) to extend provision regulating the marking of fuel to biodiesel.

Regulation 5 amends the Hydrocarbon Oil (Registered Dealers in Controlled Oil) Regulations 2002 (S.I. 2002/3057) to extend the application of regulation of traders in controlled oil to biodiesel.

Regulation 6 amends the Hydrocarbon Oil (Registered Remote Markers) Regulations 2005 (S.I. 2005/3472) to extend the application of the provisions relating to registered remote markers to biodiesel.

Regulation 7 amends the Hydrocarbon Oil and Biofuels (Road Fuel in Defined Areas) (Reliefs) Regulations 2011 (S.I. 2011/2935) to clarify that relief does not extend to rebated fuel and makes further minor clarifications.

A Tax Information and Impact Note covering this instrument was published alongside Finance Bill 2021-22 and is available on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins> under the heading Autumn Budget 2021. It remains an accurate summary of the impacts that apply in relation to this instrument.