



Finance Act 2002

2002 CHAPTER 23

PART 1

EXCISE DUTIES

Hydrocarbon oil duties

5 Biodiesel

- (1) The Hydrocarbon Oil Duties Act 1979 (c. 5) is amended as follows.
- (2) After section 2 insert—

“2AA Biodiesel

- (1) In this Act “biodiesel” means diesel quality liquid fuel—
 - (a) that is produced from biomass or waste cooking oil,
 - (b) the ester content of which is not less than 96.5% by weight, and
 - (c) the sulphur content of which does not exceed 0.005% by weight or is nil.
- (2) In subsection (1)—
 - (a) “diesel quality” means capable of being used for the same purposes as heavy oil;
 - (b) “liquid” does not include any substance that is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars;
 - (c) “biomass” means vegetable and animal substances constituting the biodegradable fraction of—
 - (i) products, wastes and residues from agriculture, forestry and related activities, or
 - (ii) industrial and municipal waste.”.
- (3) In section 2A (power to amend definitions), after subsection (1) insert—

Status: This is the original version (as it was originally enacted).

“(1A) The Treasury may by order made by statutory instrument amend the definition for the purposes of this Act of “biodiesel”.”.

(4) After section 6 (excise duty on hydrocarbon oil) insert—

“6AA Excise duty on biodiesel

- (1) A duty of excise shall be charged on the setting aside for a chargeable use by any person, or (where it has not already been charged under this section) on the chargeable use by any person, of biodiesel.
- (2) In subsection (1) “chargeable use” means use—
 - (a) as fuel for any engine, motor or other machinery, or
 - (b) as an additive or extender in any substance so used.
- (3) The rate of duty under this section shall be £0.2582 a litre.

6AB Excise duty on blends of biodiesel and heavy oils

- (1) A duty of excise shall be charged on bioblend—
 - (a) imported into the United Kingdom, or
 - (b) produced in the United Kingdom and delivered for home use from a refinery or from other premises used for the production of hydrocarbon oil or from any bonded storage for hydrocarbon oil, not being bioblend chargeable with duty under paragraph (a) above.

This is subject to subsection (6) below.

- (2) In this Act “bioblend” means any mixture that is produced by mixing—
 - (a) biodiesel, and
 - (b) heavy oil not charged with the excise duty on hydrocarbon oil.
- (3) The rate at which the duty shall be charged on any bioblend shall be a composite rate representing—
 - (a) in respect of the proportion of the bioblend that is hydrocarbon oil, the rate that would be applicable to the bioblend if it consisted entirely of heavy oil of the description that went into producing the bioblend, and
 - (b) in respect of the proportion of the bioblend that is biodiesel, the rate that would be applicable to the bioblend if it consisted entirely of biodiesel.
- (4) The references in subsection (3) above to the proportions of—
 - (a) hydrocarbon oil, and
 - (b) biodiesel,are to the proportions by volume to the nearest 0.001%.
- (5) If the Commissioners are not satisfied as to the proportion of biodiesel in any bioblend, the rate of duty chargeable shall be the rate that would be applicable to the bioblend if it consisted entirely of heavy oil of the description that went into producing the bioblend.
- (6) Where imported bioblend is removed to a refinery, the duty chargeable under subsection (1) above shall, instead of being charged at the time of the

importation of the bioblend, be charged on the delivery of any goods from the refinery for home use and shall be the same as that which would be payable on the importation of like goods.

6AC Application to biodiesel and bioblend of provisions relating to hydrocarbon oil

- (1) The Commissioners may by regulations provide for—
 - (a) references in this Act, or specified references in this Act, to hydrocarbon oil to be construed as including references to—
 - (i) biodiesel;
 - (ii) bioblend;
 - (b) references in this Act, or specified references in this Act, to duty on hydrocarbon oil to be construed as including references to duty under—
 - (i) section 6AA above;
 - (ii) section 6AB above;
 - (c) biodiesel, or bioblend, to be treated for the purposes of such of the following provisions of this Act as may be specified as if it fell within a specified description of hydrocarbon oil.
- (2) Where the effect of provision made under subsection (1) above is to extend any power to make regulations, provision made in exercise of the power as extended may be contained in the same statutory instrument as the provision extending the power.
- (3) In this section “specified” means specified by regulations under this section.
- (4) Regulations under this section may make different provision for different cases.
- (5) Paragraph (b) of subsection (1) above shall not be taken as prejudicing the generality of paragraph (a) of that subsection.”.
- (5) Schedule 2 to this Act contains minor and consequential amendments of the Hydrocarbon Oil Duties Act 1979 (c. 5).
- (6) Subsection (4), and subsection (5) so far as relating to paragraphs 2 and 4(1) of that Schedule, have effect in relation to biodiesel that—
 - (a) is set aside for chargeable use (as defined in the section 6AA inserted by subsection (4)) after such date as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, or
 - (b) not having been so set aside, is the subject of such chargeable use after that date,
and has not been set aside for chargeable use under section 6A of that Act (fuel substitutes) on or before that date.
- (7) Subsection (4), and subsection (5) so far as relating to paragraph 2 of that Schedule, have effect in relation to bioblend that—
 - (a) is imported into the United Kingdom after the date appointed under subsection (6)(a), or
 - (b) not having been so imported—

Status: This is the original version (as it was originally enacted).

- (i) is produced in the United Kingdom and delivered for home use after that date, and
- (ii) has not been set aside for chargeable use under section 6A of that Act (fuel substitutes) on or before that date.

(8) Subsection (5)—

- (a) so far as relating to paragraph 3 of that Schedule, comes into force on the day after the date appointed under subsection (6)(a),
- (b) so far as relating to paragraph 5 of that Schedule, applies to mixtures produced after the date appointed under subsection (6)(a), and
- (c) so far as relating to paragraph 7 of that Schedule, comes into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

6 Regulating trade in rebated heavy oil etc

(1) Schedule 3 to this Act has effect.

(2) In that Schedule—

Part 1 makes provision for regulating trade in certain heavy oil on which rebate of excise duty has been allowed, and
Part 2 amends provisions of the Hydrocarbon Oil Duties Act 1979 relating to rebates.

(3) Subject to subsection (4), subsection (1) so far as relating to paragraph 1 of that Schedule shall not come into force until such day as the Commissioners of Customs and Excise may appoint by order made by statutory instrument.

(4) For the purpose of the exercise of any power to make regulations, subsection (1) so far as relating to that paragraph comes into force on the day on which this Act is passed.

7 Fuel substitutes

(1) In section 6A of the Hydrocarbon Oil Duties Act 1979 (c. 5) (fuel substitutes)—

- (a) in subsection (5) (power to provide that fuel substitute to be treated as if it were a description of hydrocarbon oil), for the words from “the description of such one or more of the following” to the end substitute “such description of hydrocarbon oil as may be so specified”;
- (b) in subsection (6)(a) (power to be exercised so that fuel substitute charged with duty and otherwise treated as if it were description of hydrocarbon oil to which it is most closely equivalent), for “the substance falling within the descriptions specified in subsection (5) above” substitute “hydrocarbon oil of the description”.

(2) In section 10 of the Finance Act 1993 (c. 34) (mineral oil fuel substitutes)—

- (a) in subsection (2) (power to provide that mineral oil fuel substitute to be treated as if it were a particular description of hydrocarbon oil), for the words from “the description of such one or more of the following” to the end substitute “such description of hydrocarbon oil as may be so specified”;
- (b) in subsection (3) (power to be exercised so that mineral oil fuel substitute treated as if it were description of hydrocarbon oil to which it is most closely

equivalent), for “the substance falling within the descriptions specified in subsection (2) above” substitute “hydrocarbon oil of the description”.