



# Hydrocarbon Oil Duties Act 1979

## 1979 CHAPTER 5

### *Administration and enforcement*

#### **21 Regulations with respect to hydrocarbon oil, petrol substitutes and road fuel gas. U.K.**

- (1) The Commissioners may, with a view to the protection of the revenue, make regulations—
  - (a) for any of the purposes specified in Part I of Schedule 3 to this Act (which relates to hydrocarbon oil);
  - <sup>F1</sup>(b) .....
  - (c) for any of the purposes specified in Part III of that Schedule (which relates to road fuel gas).
- (2) In the case of regulations made for the purposes mentioned in subsection (1)(a) above, different regulations may be made for different classes of hydrocarbon oil; and the power to make such regulations shall include power to make regulations—
  - (a) regulating the allowance and payment of drawback under or by virtue of section 15 above; and
  - (b) for making the allowance and payment of drawback by virtue of an order under subsection (2) of that section subject to such conditions as the Commissioners see fit to impose for the protection of the revenue.
- <sup>F2</sup>(2A) In the case of regulations made for the purposes mentioned in subsection (1)(c) above, different regulations may be made for different classes of road fuel gas.]
- (3) [<sup>F3</sup>Where any person] contravenes or fails to comply with any regulation made under this section [<sup>F4</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture.]

*Status: Point in time view as at 01/01/2005.*

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#### Textual Amendments

- F1** S. 21(1)(b) repealed (1.12.1995) by 1993 c. 34, ss. 11(5), 213, **Sch. 23 Pt. I**; S.I. 1995/2715, **art. 2**
- F2** S. 21(2A) inserted (1.9.2004) by **Finance Act 2004 (c. 12), s. 6(3)(4)**
- F3** Words in s. 21(3) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 55(a)** (with s. 19(3)); S.I. 1994/2670, **art. 3**
- F4** Words in s. 21(3) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 55(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**

#### Modifications etc. (not altering text)

- C1** S. 21(1)(a)(2) modified (26.7.2002) by S.I. 2002/1928, **reg. 3(1)(c)**
- C2** S. 21(2) modified (1.9.2004) by **The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065), regs. 1(1), 3(1)(d)**
- C3** S. 21(2) modified by S.I. 2004/2065, **reg. 3(2)(f)** (as inserted (1.4.2008) by **The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes (Determination of Composition of a Substance and Miscellaneous Amendments) Regulations 2008 (S.I. 2008/753), regs. 1(2), 8(2)(c)**)

## 22 Prohibition on use of petrol substitutes on which duty has not been paid. **U.K.**

(1) <sup>F5</sup>A person who—

- (a) puts to a chargeable use (within the meaning of section 6A above) any liquid which is not hydrocarbon oil; and
- (b) knows or has reasonable cause to believe that there is duty charged under section 6A above on that liquid which has not been paid and is not lawfully deferred,

shall] <sup>F6</sup>attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes this subsection shall be liable to forfeiture.]

<sup>F7</sup>(1AA) Where any person—

- (a) puts any biodiesel to a chargeable use (within the meaning of section 6AA above), and
- (b) knows or has reasonable cause to believe that there is duty charged under section 6AA above on that biodiesel which has not been paid and is not lawfully deferred,

his putting the biodiesel to that use shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes this subsection shall be liable to forfeiture.]

<sup>F8</sup>(1AB) Where any person—

- (a) puts any bioethanol to a chargeable use (within the meaning of section 6AD above), and
- (b) knows or has reasonable cause to believe that there is duty charged under section 6AD above on that bioethanol which has not been paid and is not lawfully deferred,

his putting the bioethanol to that use shall attract a penalty under section 9 of the Finance Act 1994 (c. 9) (civil penalties), and any goods in respect of which a person contravenes this section shall be liable to forfeiture.]

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[<sup>F9</sup>(1A) Section 10 of the Finance Act 1994 (exception for cases of reasonable excuse) shall not apply in relation to conduct attracting a penalty by virtue of [<sup>F10</sup>subsection (1), (1AA) or (1AB) above.]]

(2) In subsection (1) above, “liquid” does not include any substance which is gaseous at a temperature of 15°C and under a pressure of 1013·25 millibars.

#### Textual Amendments

- F5** Words in s. 22(1) substituted (1.12.1995) by 1993 c. 34, s. 11(3)(5); S.I. 1995/2715, art. 2
- F6** Words in s. 22(1) substituted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. III para. 56(1)(a)(b) (with s. 19(3)); S.I. 1994/2679, art. 3
- F7** S. 22(1AA) inserted (24.7.2002 with application as mentioned in s. 5(8)(b) of the amending Act) by 2002 c. 23, s. 5, Sch. 2, para.5(7)
- F8** S. 22(1AB) inserted (1.1.2005) by Finance Act 2004 (c. 12), s. 10(8)(a)(10)
- F9** S. 22(1A) inserted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. III para. 56(2) (with s. 19(3)); S.I. 1994/2679, art. 3
- F10** Words in s. 22(1A) substituted (1.1.2005) by Finance Act 2004 (c. 12), s. 10(8)(b)(10)

## 23 Prohibition on use etc. of road fuel gas on which duty has not been paid. **U.K.**

(1) [<sup>F11</sup>Where any person]—

- (a) uses as fuel in; or
- (b) takes as fuel into,

a road vehicle any road fuel gas on which he knows or has reasonable cause to believe that the excise duty chargeable under section 8 above has not been paid [<sup>F12</sup>his use of the road fuel gas or, as the case may be, his taking it as fuel into that vehicle shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which a person contravenes this subsection shall be liable to forfeiture.]

[<sup>F13</sup>(1A) Section 10 of the Finance Act 1994 (exception for cases of reasonable excuse) shall not apply in relation to conduct attracting a penalty by virtue of subsection (1) above.]

[<sup>F14</sup>(1B) Where any person—

- (a) uses as fuel in, or
- (b) takes as fuel into,

a road vehicle any road fuel gas on which the excise duty chargeable under section 8 above has not been paid, the Commissioners may assess the amount of that duty as being excise duty due from that person and notify him or his representative accordingly.]

(2) For the purposes of [<sup>F15</sup>subsections (1)(b) and (1B)(b)] above, road fuel gas shall be deemed to be taken into a road vehicle as fuel if, but only if, it is taken into it as part of the supply of fuel for the engine provided for propelling the vehicle or for an engine which draws its fuel from the same supply as that engine.

#### Textual Amendments

- F11** Words in s. 23(1) substituted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. III para. 57(1)(a) (with s. 19(3)); S.I. 1994/2679, art. 3

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- F12** Words in s. 23(1) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 57(1)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F13** S. 23(1A) inserted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 57(2)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F14** S. 23(1B) inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 6(4)**; S.I. 1997/1305, **art. 2**
- F15** Words in s. 23(2) substituted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 6(5)**; S.I. 1994/1305, **art. 2**

**Modifications etc. (not altering text)**

- C4** S. 23 restricted (1.6.1997) by 1994 c. 9, s. **12A(3)(c)** (as inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 1(1)**); S.I. 1997/1305, **art. 2**

[<sup>F16</sup>**23A Regulation of traders in controlled oil** **U.K.**

- (1) If a revenue trader who is not a registered excise dealer and shipper—
  - (a) buys or sells controlled oil in the course of a trade or business, or
  - (b) in the course of a trade or business deals in controlled oil,
 his buying or selling, or dealing in, the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).
- (2) Subsection (1) above does not apply to the buying of oil by a revenue trader if—
  - (a) the oil is for use by the trader, and
  - (b) that use does not involve selling or dealing in hydrocarbon oil.
- (3) Subsection (1) above does not apply to the selling of oil by a revenue trader if—
  - (a) that oil was for use by the trader,
  - (b) that use did not involve selling or dealing in hydrocarbon oil,
  - (c) that use came to an end before the oil was used, and
  - (d) the oil is sold after the use ends.
- (4) Where a revenue trader who is not a registered excise dealer and shipper is entitled to the possession of any controlled oil, the oil is liable to forfeiture.
- (5) Subsection (4) above does not apply to oil if—
  - (a) that oil is for use by the revenue trader, and
  - (b) that use does not involve selling or dealing in hydrocarbon oil.
- (6) Subsection (4) above does not apply to oil if—
  - (a) the oil was for use by the revenue trader,
  - (b) that use did not involve selling or dealing in hydrocarbon oil,
  - (c) that use has come to an end,
  - (d) that use came to an end before the oil was used, and
  - (e) the oil is being held pending sale or other disposal.
- (7) Where oil is liable to forfeiture by virtue of subsection (4) above—
  - (a) anything mixed with the oil,
  - (b) any container in which the oil (and anything mixed with it) is kept, and
  - (c) any equipment kept for dispensing the contents of any such container,
 is liable to forfeiture.]

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#### Textual Amendments

**F16** Ss. 23A, 23B inserted (24.7.2002 for power to make regulations otherwise 1.4.2003) by [2002 c. 23, s. 6, Sch. 3 para. 1](#); [S.I. 2002/3056, art. 2](#)

#### Modifications etc. (not altering text)

**C5** S. 23A restricted in part by [S.I. 2002/3057, reg. 3\(1\)](#) (as substituted (1.4.2008) by [The Hydrocarbon Oil, Biofuels and Other Fuel Substitutes \(Determination of Composition of a Substance and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2753\), regs. 1\(2\), 7\(2\)](#))

**C6** S. 23A(1)(4) excluded (1.1.2003) by [S.I. 2002/3057, regs. 3\(1\), 6\(3\)](#)

### <sup>F17</sup>**23B Power to provide for exceptions to section 23A** **U.K.**

- (1) The Commissioners may by regulations make provision for—
  - (a) exceptions to section 23A(1) above in addition to those allowed by section 23A(2) and (3) above;
  - (b) exceptions to section 23A(4) above in addition to those allowed by section 23A(5) and (6) above;
  - (c) exceptions to section 23A(7) above.
- (2) Regulations under subsection (1) above may provide for exceptions allowed by such regulations to have effect subject to conditions—
  - (a) specified by such regulations;
  - (b) specified by the Commissioners under such regulations.

#### Textual Amendments

**F17** Ss. 23A, 23B inserted (24.7.2002 for power to make regulations otherwise 1.4.2003) by [2002 c. 23, s. 6, Sch. 3 para. 1](#); [S.I. 2002/3056, art. 2](#)

### <sup>F18</sup>**23C Warehousing** **U.K.**

- (1) For the purposes of Part VIII of the Customs and Excise Management Act 1979 (c. 2) (warehousing) the substances specified in subsection (4) shall be treated as if they were chargeable with duty (and therefore within the scope of section 92(1)(a) or (c) of that Act) whether or not duty is in fact chargeable.
- (2) The Commissioners may make regulations under section 93 of that Act (warehousing regulations) that relate to a substance specified in subsection (4).
- (3) In respect of a substance specified in subsection (4) which has been or is to be deposited in an excise warehouse by virtue of subsection (2), the Commissioners may—
  - (a) treat the substance, or make provision by regulations for treating the substance, as if duty were chargeable in relation to it by virtue of a specified enactment;
  - (b) make any regulations, or do any other thing, of a kind that they could make or do (whether or not by virtue of a provision of Part VIII of that Act) in respect of a substance deposited in an excise warehouse under Part VIII of that Act.
- (4) The substances referred to in subsection (1) are—

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- (a) petroleum gas,
  - (b) animal fat set aside for use as motor fuel or heating fuel,
  - (c) vegetable fat set aside for use as motor fuel or heating fuel,
  - (d) non-synthetic methanol set aside for use as motor fuel or heating fuel,
  - (e) biodiesel,
  - (f) a mixture of two or more substances specified in paragraphs (a) to (e), and
  - (g) any other substance specified for the purposes of this section in regulations made by the Commissioners.
- (5) In subsection (4)—
- (a) “petroleum gas” means any hydrocarbon which—
    - (i) is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars, and
    - (ii) is not natural gas (as defined in paragraph (b) below),
  - (b) “natural gas” means gas with a methane content of not less than 80%,
  - (c) “animal fat” means a triglyceride of animal origin,
  - (d) “vegetable fat” means a triglyceride of vegetable origin, and
  - (e) “non-synthetic methanol” means methyl alcohol of non-synthetic origin.
- (6) Regulations under subsection (4)(g)—
- (a) may make provision only if the Commissioners think it necessary or expedient for a purpose connected with Council Directive [92/12/EEC](#) on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products,
  - (b) may, in particular, make provision by reference to that Directive or any other Community instrument, and
  - (c) may, in particular, make provision by reference to the purpose for which a substance is intended to be used.]

#### Textual Amendments

**F18** S. 23C inserted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 13](#)

## 24 Control of use of duty-free and rebated oil. **U.K.**

- (1) The Commissioners may make regulations for any of the purposes of [<sup>F19</sup>section 6(3)] section 9(1) or (4), [<sup>F20</sup>section 11,] section 12 [<sup>F21</sup>section 13A [<sup>F22</sup>section 13AA]]<sup>F23</sup>, section 14(1), section 17, <sup>F24</sup> . . . section 19 [<sup>F25</sup> section 19A [<sup>F26</sup> section 20AB] or section 24A of this Act]], and in particular for the purposes specified in Schedule 4 to this Act.
- (2) Regulations made for the purposes of section 12 [<sup>F27</sup>or section 13AA] above may provide for restricting (whether by reference to locality, the obtaining of a licence from the Commissioners or other matters) the cases in which payments to the Commissioners [<sup>F28</sup>under subsection (2) of section 12, or subsection (3) of section 13AA,] are to be effective for the purposes of that subsection.
- (3) For the purposes of the Customs and Excise Acts 1979, the presence in any hydrocarbon oil of a marker which, in regulations made under this section, is prescribed in relation to—

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- (a) oil delivered without payment of duty under section 9 above; or
- (b) rebated heavy oil or rebated light oil,

shall be conclusive evidence that that oil has been so delivered or, as the case may be, that the rebate in question has been allowed.

- (4) [<sup>F29</sup>Where any person] contravenes or fails to comply with any regulation made under this section [<sup>F30</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any goods in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture.]

[<sup>F31</sup>(4A) Where—

- (a) a rebate of duty is allowed on any oil, and
- (b) a person contravenes or fails to comply with any requirement which, by virtue of any regulations made under this section, is a condition of allowing the rebate,

the Commissioners may assess an amount equal to the rebate as being excise duty due from that person, and notify him or his representative accordingly.

(4B) Where—

- (a) any oil is delivered without payment of duty, and
- (b) a person contravenes or fails to comply with any requirement which, by virtue of any regulations made under this section, is a condition of allowing the oil to be delivered without payment of duty,

the Commissioners may assess an amount equal to the excise duty on like oil at the rate in force at the time of the contravention or failure to comply as being excise duty due from that person, and notify him or his representative accordingly.]

<sup>F32</sup>[(4C) In a case where subsection (4D) below applies, the power of the Commissioners under subsection (4A) above includes power, if it appears to them to be appropriate, to assess (and notify) an amount less than the amount of the rebate concerned.

(4D) This subsection applies in any case where—

- (a) the Commissioners have power to assess (and notify) an amount under subsection (4A) above by virtue of a contravention of, or failure to comply with, a requirement such as is mentioned in paragraph 5 of Schedule 4 to this Act, and
- (b) the marker whose addition is required by the requirement is present at the time of the contravention or failure but in such a proportion that its presence falls to be disregarded by virtue of provision made by regulations under this section for the purpose mentioned in paragraph 7 of that Schedule.]

- (5) Schedule 5 to this Act shall have effect with respect to any sample of hydrocarbon oil taken in pursuance of regulations made under this section.

#### Textual Amendments

**F19** Words inserted by virtue of [Finance Act 1982 \(c. 39, SIF 40:1\)](#), [s. 4\(3\)](#)

**F20** Words in s. 24(1) inserted (15.8.1997) by [1997 c. 16, s. 7\(7\)](#); S.I. 1997/1960, [art. 2](#)

**F21** Words inserted by [Finance Act 1987 \(c. 16, SIF 40:1\)](#), [s. 1\(2\)\(4\)](#)

**F22** Words in s. 24(1) inserted (1.10.1996) by [1996 c. 8, s. 5\(5\)\(a\)\(6\)](#); S.I. 1996/2314, [art. 2](#)

**F23** Words substituted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), [s. 6\(1\)\(2\)](#)



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- F24** Words in s. 24(1) repealed (1.11.1996) by 1996 c. 8, ss. 8, 205, **Sch. 41 Pt. I**; S.I. 1996/2536, **art. 2**
- F25** Words in s. 24(1) substituted (29.4.1996) by virtue of 1996 c. 8, **s. 7(2)**
- F26** S. 24(1) inserted (5.11.2001) by 2001 c. 9, **s. 3(2)**
- F27** Words in s. 24(2) inserted (1.10.1996) by 1996 c. 8, **s. 5(5)(b)(6)**; S.I. 1996/2314, **art. 2**
- F28** Words in s. 24(2) substituted (24.7.2002) by 2002 c. 23, s. 6, **Sch. 3 para. 8**
- F29** Words in s. 24(4) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 58(a)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F30** Words in s. 24(4) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 58(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F31** Ss. 4A, 4B inserted (1.6.1997) by 1997 c. 16, s. 50(2), Sch. 6 paras. 6(6), 7; S.I. 1997/1305, **art. 2**
- F32** S. 24(4C)(4D) inserted (28.7.2000) by 2000 c. 17, **s. 10(4)**

**Modifications etc. (not altering text)**

- C7** S. 24 restricted (1.6.1997) by 1994 c. 9, **s. 12A(3)(c)** (as inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 1(1)**; S.I. 1997/1305, **art. 2**)

[<sup>F33</sup>**24AA**Registered excise dealers and shippers regulations: special provision for traders in controlled oil **U.K.**

- (1) For the purposes of section 100H(1)(p) of the Management Act (registered excise dealers and shippers regulations may, in particular, make provision authorised by this section), this section authorises provision—
- (a) requiring traders in controlled oil to notify prescribed information;
  - (b) requiring traders in controlled oil to make prescribed returns;
  - (c) authorising a trader in controlled oil to carry out or arrange for the carrying out of any prescribed activity falling within section 100H(1)(b) of the Management Act in relation to controlled oil, but subject to prescribed conditions or restrictions;
  - (d) requiring a trader in controlled oil to give security by prescribed means for amounts that may become due from him by way of repayment of rebate;
  - (e) for taking into account, in determining whether a trader in controlled oil has—
    - (i) contravened any provision of registered excise dealers and shippers regulations, or
    - (ii) failed to comply with any prescribed condition, restriction or requirement,
 the extent to which the trader has followed guidance issued by the Commissioners (including guidance issued after the making of provision under this paragraph referring to it).
- (2) In this section—
- “prescribed” has the meaning given by section 100H(3) of the Management Act;
- “trader in controlled oil” means a registered excise dealer and shipper carrying on a trade or business that consists of or includes the dealing in, buying or selling of controlled oil.]

**Textual Amendments**

- F33** S. 24AA inserted (24.7.2002) by 2002 c. 23, s. 6, **Sch. 3 para. 3**



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[<sup>F34</sup>**24A Penalties for misuse of marked oil.** **U.K.**

- (1) Marked oil shall not be used as fuel for a road vehicle.
- (2) For the purposes of this section marked oil is any hydrocarbon oil in which a marker is present which is for the time being designated by regulations made by the Commissioners under subsection (3) below.
- (3) 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 road vehicles, or for road vehicles of a particular description.
- (4) For the purposes of this section marked oil shall be taken to be used as fuel for a road vehicle if, but only if, it is used as fuel for the engine provided for propelling the vehicle or for an engine which draws its fuel from the same supply as that engine.
- (5) Where a person uses any hydrocarbon oil in contravention of subsection (1) above, his use of the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).
- (6) If a person who uses any marked oil in contravention of subsection (1) above does so in the knowledge that the oil he is using is marked oil, he shall be guilty of an offence and liable—
  - (a) on summary conviction, to a penalty of the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both;
  - (b) on conviction on indictment, to a penalty of any amount, or to a term of imprisonment not exceeding 7 years, or to both.
- (7) Any marked oil which is in a road vehicle as part of the fuel supply for the engine which propels the vehicle shall be liable to forfeiture.
- (8) Where in any proceedings relating to this section a question arises as to the nature of any substance present at any time in any hydrocarbon oil—
  - (a) a certificate of the Commissioners to the effect that that substance is or was a marker designated for the purposes of this section shall be sufficient, unless the contrary is shown, for establishing that fact; and
  - (b) any document purporting to be such a certificate shall be taken to be one unless it is shown not to be.]

**Textual Amendments**

**F34** S. 24A inserted (29.4.1996) by 1996 c. 8, s. 7(1)

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