



# Hydrocarbon Oil Duties Act 1979

## 1979 CHAPTER 5

### *Miscellaneous reliefs*

#### **17 Heavy oil used by horticultural producers.**

- (1) If, on an application made for the purposes of this section by a horticultural producer, it is shown to the satisfaction of the Commissioners that within the period for which the application is made any quantity of heavy oil has been used by the applicant as mentioned in subsection (2) below, then, subject as provided below, the applicant shall be entitled to obtain from the Commissioners repayment of the amount of any excise duty which has been paid in respect of the quantity so used [<sup>F1</sup>less any rebate allowed in respect of the duty], . . . <sup>F2</sup>.
- (2) A horticultural producer shall be entitled to repayment under this section in respect of oil used by him—
  - (a) in the heating, for the growth of horticultural produce primarily with a view to the production of horticultural produce for sale, of any building or structure, or of the earth or other growing medium in it; or
  - (b) in the sterilisation of the earth or other growing medium to be used for the growth of horticultural produce as mentioned in paragraph (a) above in any building or structure.
- (3) Where any quantity of oil is used partly for any such purpose as is mentioned in subsection (2) above and partly for another purpose, such part of that quantity shall be treated as used for each purpose as may be determined by the Commissioners.
- (4) . . . . . <sup>F3</sup>
- (5) The Commissioners may require an applicant for repayment under this section—
  - (a) to state such facts concerning the hydrocarbon oil delivered to or used by him, or concerning the production of horticultural produce by him, as they may think necessary to deal with the application;
  - (b) to furnish them in such form as they may require with proof of any statement so made; and

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- (c) to permit an officer to inspect any premises or plant used by him for the production of horticultural produce or in or for which any such oil was used.
- (6) If—
- (a) the facts required by the Commissioners under subsection (5)(a) above are not stated; or
  - (b) proof of the matters referred to in subsection (5)(b) above is not furnished to the satisfaction of the Commissioners; or
  - (c) an applicant fails to permit inspection of premises or plant as required under the subsection (5)(c) above,
- the facts shall be deemed for the purposes of this section to be such as the Commissioners may determine.
- (7) In this section—
- (a) “horticultural produce” has the meaning assigned to it by Schedule 2 to this Act; and
  - (b) “horticultural producer” means a person growing horticultural produce primarily for sale.

#### Textual Amendments

- F1** Words inserted (*retrospectively*) by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), [6\(4\)](#)
- F2** Words repealed by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), [s. 139\(6\)](#), [Sch. 19 Pt. III](#) Note 4 (by Note 4 it is provided that the repeal has effect in relation to oil used on or after 1.1.1982)
- F3** [S. 17\(4\)](#) repealed by [Finance Act 1981 \(c.35, SIF 40:1\)](#), [s. 139\(6\)](#), [Sch. 19 Pt. III](#) Note 4 (by Note 4 it is provided that the repeal has effect in relation to oil used on or after 1.1.1982)

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

- C1** [Ss. 17-19A](#) amended (15.10.1993) by [1993 c. 34, s. 12\(3\)](#); [S.I. 1993/2215, art. 3](#)
- C2** [S. 17](#) excluded (20.10.1995) by [S.I. 1995/2518, reg. 118\(b\)](#)
- C3** [S. 17\(1\)](#) explained by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), [s. 6\(4\)](#)
- C4** [S. 17\(1\)](#) amended by [S.I. 1985/1032, reg. 11\(c\)](#)
- C5** [S. 17\(1\)](#) amended (1.1.1993) by [S.I. 1992/3152, reg. 11\(d\)](#) (with [reg. 12](#))

VALID FROM 24/07/2002

#### [<sup>F4</sup>17A Biodiesel used otherwise than as road fuel

- (1) If, on an application made for the purposes of this section, it is shown to the satisfaction of the Commissioners that within the period for which the application is made any quantity of biodiesel has been used by the applicant as mentioned in subsection (2) below, then, subject as provided below, the applicant shall be entitled to obtain from the Commissioners repayment of the amount specified below.
- (2) A person is entitled to repayment under this section in respect of biodiesel used by him—
- (a) otherwise than as road fuel,
  - (b) otherwise than by mixing the biodiesel with—
    - (i) hydrocarbon oil, or
    - (ii) a mixture containing hydrocarbon oil, and

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- (c) otherwise than in the form of a mixture containing biodiesel and hydrocarbon oil.
- (3) For the purposes of subsection (2)(a) above, use “as road fuel” means use—
  - (a) as fuel for the engine provided for propelling a road vehicle or for an engine that draws its fuel from the same supply as such an engine, or
  - (b) as an additive or extender in any substance so used.
- (4) The amount of the repayment is the amount of the excise duty which has been paid in respect of the quantity of biodiesel used less the amount of £0.0313 a litre.
- (5) The Commissioners may require an applicant for repayment under this section—
  - (a) to state such facts concerning the biodiesel that is the subject of the claim, or the use to which it was put, as they may think necessary to deal with the application;
  - (b) to furnish them in such form as they may require with proof of any statement so made;
  - (c) to retain such records as the Commissioners may require relating to the use of biodiesel; and
  - (d) to permit an officer to inspect any premises, plant or vehicle on or in which the biodiesel in respect of which repayment is claimed is used.
- (6) If the applicant fails to comply with any such requirement, the Commissioners may reject the claim.]

#### Textual Amendments

- F4** S. 17A inserted (24.7.2002 with effect as mentioned in s. 5(6) of the amending Act) by 2002 c. 23, s. 5, Sch. 2 para. 4(1)

## 18 Fuel for ships in home waters.

- (1) If, on an application made for the purposes of this subsection . . . <sup>F5</sup> by the owner of a ship specified in the application, not being a pleasure yacht, it is shown to the satisfaction of the Commissioners—
  - (a) that . . . <sup>F5</sup> any quantity of heavy oil has been used as fuel for the machinery of the ship while engaged on a voyage in home waters; and
  - (b) that no drawback was allowable on the shipment of the oil,the applicant shall be entitled to obtain from the Commissioners repayment of the amount of any excise duty which has been paid in respect of the quantity so used [<sup>F6</sup>less any rebate allowed in respect of the duty], . . . <sup>F5</sup>.
- (2) Subject to subsections (3) and (4) below, heavy oil in a warehouse or refinery may, on an application made for the purposes of this subsection in such manner as the Commissioners may direct by the owner of a ship specified in the application, not being a pleasure yacht, and on the prescribed security being given, be delivered without payment of excise duty to the applicant for use as fuel for the machinery of the ship while engaged on a voyage in home waters.
- (3) At any time not later than 12 months after any oil has been delivered as mentioned in subsection (2) above the Commissioners may require the applicant to prove in the

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prescribed manner that the whole of the oil, or such part of it as is not on board the ship or has not been reloaded with the sanction of the proper officer, has been used as so mentioned.

- (4) If proof of any matter relating to the use of any oil, required by the Commissioners under subsection (3) above is not furnished to their satisfaction, any duty which but for the provisions of subsection (2) above would have been payable on the delivery of the oil shall become payable by the applicant on demand made by the Commissioners in the prescribed manner.
- (5) If, where oil has been delivered from a warehouse or refinery without payment of duty on an application under subsection (2) above, a person—
- (a) uses the oil or any part of it otherwise than as fuel for the machinery of the ship specified in the application while engaged on a voyage in home waters; or
  - (b) reloads the whole or any part of the oil at any place in the United Kingdom without the sanction of the proper officer,
- he shall be liable on summary conviction to a penalty of three times the value of the whole of the oil so delivered or [F7level 3 on the standard scale], whichever is the greater; and in the case of an offence under paragraph (b) of this subsection the oil reloaded shall be liable to forfeiture.
- (6) In this section—
- (a) “owner”, in relation to an application, includes a charterer to whom the specified ship is demised, or, in a case where the application relates to oil used, or for use, on a ship while undergoing trials for the purpose of testing her hull or machinery, the builder or other person conducting the trials;
  - (b) “prescribed” means prescribed by regulations made by the Commissioners; and
  - (c) “voyage in home waters”, in relation to a ship, means a voyage in which the ship is at all times either at sea or within the limits of a port.
- (7) This section shall apply as if references to ships included references to hovercraft (and “pleasure yacht”, “voyage”, “reload” and other expressions shall be construed accordingly).

#### Textual Amendments

- F5** Words repealed by Finance Act 1981 (c. 35, SIF 40:1), s. 139(6), Sch. 19 Pt. III Note 4 (by Note 4 it is provided that the repeal has effect in relation to oil used on or after 1.1.1982)
- F6** Words inserted (*retrospectively*) by Finance Act 1981 (c. 35, SIF 40:1), 6(4)
- F7** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46, and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

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

- C6** Ss. 17-19A amended (15.10.1993) by 1993 c. 34, s. 12(3); S.I. 1993/2215, art. 3
- C7** S. 18 excluded (20.10.1995) by S.I. 1995/2518, reg. 118(b)
- C8** S. 18(1) explained by Finance Act 1981 (c. 35, SIF 40:1), s. 6(4)
- C9** S. 18(1) amended by S.I. 1985/1032, reg. 11(c)
- C10** S. 18(1) amended (1.1.1993) by S.I. 1992/3152, reg. 11(d) (with reg. 12)

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## 19 Fuel used in fishing boats, etc.

- (1) Subsection (3) below shall have effect in the case of—
- (a) any fishing boat entered in the fishing boat register under the <sup>M1</sup>Merchant Shipping Act 1894 and used for the purposes of fishing by a person gaining a substantial part of his livelihood by fishing, whether he is the owner of the boat or not; or
  - (b) any lifeboat owned by the Royal National Lifeboat Institution (in this subsection called “the Institution”); or
  - (c) any tractor or gear owned by the Institution and used for the purpose of launching or hauling in any lifeboat owned by it,
- in respect of which an application is made to the Commissioners for the purposes of this section by the owner or master of the fishing boat or, as the case may be, by the Institution.
- (2) Paragraphs (b) and (c) of subsection (1) above shall apply to hovercraft as if hovercraft were boats or vessels.
- (3) Subject to the provisions of this section, if it appears to the satisfaction of the Commissioners that the applicant has . . . <sup>F8</sup> used any quantity of hydrocarbon oil on board that boat or for the purposes of that tractor or gear, the applicant shall be entitled to obtain from the Commissioners repayment of any excise duty which has been paid in respect of the oil so used [<sup>F9</sup>less any rebate allowed in respect of the duty].
- (4) . . . . . <sup>F10</sup>
- (6) This section shall have effect in relation to excise duty paid in respect of power methylated spirits as it has effect in relation to excise duty paid in respect of hydrocarbon oil.

### Textual Amendments

- F8** Words repealed by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), [Sch. 19 Pt. III](#) Note 4 (by Note 4 it is provided that the repeal has effect in relation to oil used on or after 1.1.1982)
- F9** Words inserted (*retrospectively*) by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), [s. 6\(4\)](#)
- F10** [S. 19\(4\)\(5\)](#) repealed by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), [Sch. 19 Pt. III](#) Note 4 (by Note 4 it is provided that the repeal has effect in relation to oil used on or after 1.1.1982)

### Modifications etc. (not altering text)

- C11** [Ss. 17-19A](#) amended (15.10.1993) by [1993 c. 34, s. 12\(3\)](#); [S.I. 1993/2215, art.3](#)
- C12** [S. 19\(3\)](#) amended by [S.I. 1985/1032, reg. 11\(c\)](#)
- C13** [S. 19\(3\)](#) explained by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), [s. 6\(4\)](#)
- C14** [S. 19\(3\)](#) amended (1.1.1993) by [S.I. 1992/3152, reg. 11\(d\)](#) (with [reg. 12](#))

### Marginal Citations

- M1** [1894 c. 60.](#)

## [<sup>F11</sup>19A Fuel for producing energy for refineries etc.

- (1) If on an application made for the purposes of this section by an approved person it is shown to the satisfaction of the Commissioners—

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- (a) that any quantity of rebated hydrocarbon oil has been used by him, otherwise than at a refinery or other premises used for the production of hydrocarbon oil, as fuel for producing energy; and
- (b) that not less than one-sixth or more than one-third of that energy was used in the treatment of hydrocarbon oil at a refinery or in the production of hydrocarbon oil at other premises used for the production of such oil,

the applicant shall be entitled to obtain from the Commissioners repayment of one-third of the amount of excise duty which has been paid in respect of the quantity so used less the rebate allowed in respect of the duty.

- (2) In this section “an approved person” means a person for the time being approved in accordance with regulations made for the purposes of this section under section 24(1) below.]

#### Textual Amendments

**F11** S. 19A inserted by Finance Act 1981 (c.35, SIF 40:1), s. 5(2)(5) (in relation to oil used on or after 1.9.1981)

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

**C15** Ss. 17-19A amended (15.10.1993) by 1993 c. 34, s. 12(3); S.I. 1993/2215, art. 3

**C16** S. 19A(1) amended by S.I. 1985/1032, reg. 11(c)

**C17** S. 19A(1) amended (1.1.1993) by S.I. 1992/3152, reg. 11(d) (with reg. 12)

#### [<sup>F12</sup>20 Contaminated or accidentally mixed oil.

- (1) This section applies where it is shown to the satisfaction of the Commissioners—
- (a) that hydrocarbon oil has been delivered for home use, that since it was so delivered it has become contaminated, and that at the time it became contaminated it was oil on which the appropriate duty of excise had been paid, or
  - (b) that hydrocarbon oils of different descriptions have been delivered for home use, that since they were so delivered they have become accidentally mixed with each other, and that at the time of mixing they were oils on which the appropriate duty of excise had been paid.
- (2) Subject to any conditions which the Commissioners see fit to impose for the protection of the revenue, they may make to such person as they see fit a payment in accordance with subsection (3) below.
- (3) The payment shall be of an amount appearing to the Commissioners to be equal to the excise duty which would have been payable if—
- (a) the oil had been delivered for home use (uncontaminated) at the time it became contaminated (where subsection (1)(a) above applies), or
  - (b) the oils had been delivered for home use (un-mixed) at the time they became mixed (where subsection (1)(b) above applies).]

#### Textual Amendments

**F12** S. 20 substituted by Finance Act 1985 (c. 54, SIF 40:1), s. 7, Sch. 4 para. 1

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

**C18** S. 20 excluded (20.10.1995) by S.I. 1995/2518, **reg. 118(b)**

**C19** S. 20(1) amended by S.I. 1985/1032, **reg. 11(c)**

**C20** S. 20(1) amended (1.1.1993) by S.I. 1992/3152, **reg. 11(d)** (with reg. 12)

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