



# Hydrocarbon Oil Duties Act 1979

## 1979 CHAPTER 5

### *Rebate of duty*

#### **11 Rebate on heavy oil.**

(1) Subject to sections 12 [<sup>F1</sup>13, 13AA and 13AB] below, where heavy oil charged with the excise duty on hydrocarbon oil is delivered for home use, there shall be allowed on the oil at the time of delivery a rebate of duty at a rate—

- <sup>F2</sup>(a) in the case of fuel oil, of [<sup>F3</sup>£0.0274] a litre less than the rate at which the duty is for the time being chargeable;
- (b) in the case of gas oil [<sup>F4</sup>which is not ultra low sulphur diesel], of [<sup>F5</sup>£0.0313] a litre less than the rate at which the duty is for the time being chargeable;
- <sup>F6</sup>(ba) [ in the case of ultra low sulphur diesel, of [<sup>F5</sup>£0.0313] a litre less than the rate at which the duty is for the time being chargeable; and]
- (c) in the case of heavy oil [<sup>F7</sup>which is neither fuel oil nor] gas oil, equal to the rate at which the duty is for the time being chargeable.]

<sup>F8</sup>(2) In this section—

“fuel oil” means heavy oil which contains in solution an amount of asphaltenes of not less than 0·5 per cent. or which contains less than 0·5 per cent. but not less than 0·1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C; <sup>F9</sup> . . .

<sup>F9</sup> . . .]

<sup>F10</sup>(3) This subsection applies in any case where—

- (a) oil is delivered for home use,
- (b) regulations under section 24 below require, as a condition of allowing a rebate on the oil under subsection (1) above, that a marker prescribed by regulations under that section shall have been added to the oil, and
- (c) the marker is present at the time of delivery for home use but in such a proportion that its presence falls to be disregarded by virtue of provision made by regulations under that section.

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- (4) In any case where subsection (3) above applies, a rebate may be allowed on the oil at the time it is delivered for home use if it appears to the Commissioners to be appropriate to allow it.
- (5) Where a rebate is allowed under subsection (4) above, the rate at which the rebate is allowed—
- (a) shall be such rate as appears to the Commissioners to be appropriate, but
  - (b) shall not be less than 95 per cent. of, and shall not exceed, the rate of rebate specified in the relevant paragraph of subsection (1) above.]

#### Textual Amendments

- F1** Words in s. 11(1) substituted (1.10.1996) by 1996 c. 8, s. 5(2); S.I. 1996/2314, art. 2(b)
- F2** S. 11(1)(a)(b)(c) substituted for paragraphs (a) and (b) by Finance Act 1986 (c.41, SIF 40:1), s. 2(3)(4)
- F3** Words in s. 11(1)(a) substituted (*retrospective* to 6pm on 21.3.2000) by 2000 c. 17, s. 4(2)(a)(5)
- F4** Words in s. 11(1)(b) inserted (15.8.1997) by 1997 c. 16, s. 7(5)(a); S.I. 1997/1960, art. 2
- F5** Words in s. 11(1)(b)(ba) substituted (*retrospective* to 6pm on 21.3.2000) by 2000 c. 17, s. 4(2)(b)(5)
- F6** S. 11(1)(ba) substituted (15.8.1997) for the word “and” by 1997 c. 16, s. 7(5)(b); S.I. 1997/1960, art. 2
- F7** Words in s. 11(1)(c) substituted (15.8.1997) by 1997 c. 16, s. 7(5)(c); S.I. 1997/1960, art. 2
- F8** S. 11(2) substituted by Finance Act 1986 (c. 41, SIF 40:1), s. 2(3)(4)
- F9** S. 11(2): definition of “gas oil” and the preceding “and” repealed (15.8.1997) by 1997 c. 16, ss. 7(10), 113, Sch. 18 Pt. I Note; S.I. 1997/1960, art. 2
- F10** S. 11(3)-(5) inserted (28.7.2000) by 2000 c. 17, s. 10(2)

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

- C1** S. 11(1)(b)(ba)(c) restricted (subject to reg. 6 of the amending S.I.) (1.8.2002) by S.I. 2002/1773, regs. 4, 6

## 12 Rebate not allowed on fuel for road vehicles.

- (1) If, on the delivery of heavy oil for home use, it is intended to use the oil as fuel for a road vehicle, a declaration shall be made to that effect in the entry for home use and thereupon no rebate shall be allowed in respect of that oil.
- (2) No heavy oil on whose delivery for home use rebate has been allowed [<sup>F11</sup>(whether under section 11(1) above or 13AA(1) below)] shall—
- (a) be used as fuel for a road vehicle; or
  - (b) be taken into a road vehicle as fuel,
- unless an amount equal to the amount for the time being allowable in respect of rebate on like oil has been paid to the Commissioners in accordance with regulations made under section 24(1) below for the purposes of this section.
- (3) For the purposes of this section and section 13 below—
- (a) heavy oil shall be deemed 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; and
  - (b) heavy oil shall be deemed to be taken into a road vehicle as fuel if, but only if, it is taken into it as part of that supply.

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#### Textual Amendments

**F11** Words in s. 12(2) inserted (1.10.1996) by 1996 c. 8, s. 5(3); S.I. 1996/2314, art. 2(b)

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

**C2** S. 12(2) restricted by S.I. 1989/2439, reg. 2

### 13 Penalties for misuse of rebated heavy oil.

- (1) [<sup>F12</sup>Where any person]—
  - (a) uses heavy oil in contravention of section 12(2) above; or
  - (b) is liable for heavy oil being taken into a road vehicle in contravention of that subsection,  
[<sup>F13</sup>his use of the oil [<sup>F14</sup>or his becoming so liable (or, where his conduct includes both, each of them)] shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)]. . .
- [<sup>F15</sup>(1A) Where oil is used, or is taken into a road vehicle, in contravention of section 12(2) above, the Commissioners may—
  - (a) assess an amount equal to the rebate on like oil at the rate in force at the time of the contravention as being excise duty due from any person who used the oil or was liable for the oil being taken into the road vehicle, and
  - (b) notify him or his representative accordingly.]
- (2) [<sup>F16</sup>Where any person] supplies heavy oil having reason to believe that it will be put to a particular use [<sup>F16</sup>and] that use would, if a payment under subsection (2) of section 12 above were not made in respect of the oil, contravene that subsection [<sup>F17</sup>his supplying the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)].
- (3) A person who, with the intent that the restrictions imposed by section 12 above should be contravened,—
  - (a) uses heavy oil in contravention of subsection (2) of that section; or
  - (b) supplies heavy oil having reason to believe that it will be put to a particular use, being a use which would, if a payment under that subsection were not made in respect of the oil, contravene that subsection,shall be guilty of an offence under this subsection.
- (4) A person who is liable for heavy oil being taken into a road vehicle in contravention of subsection (2) of section 12 above shall be guilty of an offence under this subsection where the oil was taken in with the intent by him that the restrictions imposed by that section should be contravened.
- (5) A person guilty of an offence under subsection (3) or (4) above shall be liable—
  - (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the oil in question, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding [<sup>F18</sup>7 years], or to both.
- (6) Any heavy oil—

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- (a) taken into a road vehicle as mentioned in section 12(2) above or supplied as mentioned in subsection (2) or (3) above; or
- (b) taken as fuel into a vehicle at a time when it is not a road vehicle and remaining in the vehicle as part of its fuel supply at a later time when it becomes a road vehicle,

shall be liable to forfeiture.

- (7) For the purposes of this section, a person is liable for heavy oil being taken into a road vehicle in contravention of section 12(2) above if he is at the time the person having the charge of the vehicle or is its owner, except that if a person other than the owner is, or is for the time being, entitled to possession of it, that person and not the owner is liable.

#### Textual Amendments

- F12** Words in s. 13(1) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 51(1)(a)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F13** Words in s. 13(1) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 51(1)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F14** Words in s. 13(1) substituted (28.7.2000 with effect in relation to liability arising on or after 1.5.2000) by 2000 c. 17, **s. 8(2)(a)(4)**
- F15** S. 13(1A) inserted (28.7.2000 with effect in relation to liability arising on or after 1.5.2000) by 2000 c. 17, **s. 8(3)(4)**
- F16** Words in s. 13(2) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 51(2)(a)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F17** Words in s. 13(2) inserted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 51(2)(c)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F18** Words substituted by Finance Act 1988 (c. 39, SIF 40:1), **s. 12(1)(b)(6)**

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

- C3** S. 13 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>F19</sup>13A Rebate on unleaded petrol.

- (1) On unleaded petrol charged with the excise duty on hydrocarbon oil and delivered for home use there shall be allowed at the time of delivery a rebate of duty at [<sup>F20</sup>the rate specified in subsection (1A) below].

[ The rate of rebate shall be—

- <sup>F21</sup>(1A) (a) [<sup>F22</sup>£0.0379] a litre in the case of higher octane unleaded petrol; and  
(b) [<sup>F23</sup>£0.0586] a litre in any other case.

(1B) For the purposes of this section unleaded petrol is “higher octane” if—

- (a) its research octane number is not less than 96 and its motor octane number is not less than 86;
- (b) it is delivered for home use as petrol which satisfies the condition set out in paragraph (a) above;
- (c) it is delivered for home use as petrol which is suitable to be used as fuel for engines for which leaded petrol is suitable by virtue of being leaded; or

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- (d) it is delivered for home use under such a description, or in such a manner, as tends, in the circumstances, to suggest that it is—
  - (i) petrol satisfying the condition set out in paragraph (a) above; or
  - (ii) petrol suitable to be used as fuel for engines for which leaded petrol is suitable by virtue of being leaded.
- (1C) The method of testing unleaded petrol for ascertaining, for the purposes of this section, its research octane number or motor octane number shall be such as the Commissioners may direct.]
- (2) For the purposes of this section petrol is “unleaded” if it contains not more than 0.013 grams of lead per litre of petrol [<sup>F24</sup>; and petrol is “leaded” for the purposes of this section if it is not unleaded.] the petrol is delivered for home use before 1st April 1990, not more than 0.020 grams of lead per litre of petrol.
- (3) Rebate shall not be allowed under this section in any case where it is allowed under section 14 below.]

#### Textual Amendments

- F19** S. 13A inserted by Finance Act 1987 (c. 16, SIF 40:1), s. 1(1)(4)
- F20** Words in s. 13A(1) substituted (15.5.1996) by 1996 c. 8, s. 4(4)(7)
- F21** S. 13A(1A)-(1C) inserted (15.5.1996) by 1996 c. 8, s. 4(4)(7)
- F22** Words in s. 13A(1A)(a) substituted (*retrospective* to 6pm on 21.3.2000) by 2000 c. 17, s. 4(3)(a)(5)
- F23** Words in s. 13A(1A)(b) substituted (*retrospective* to 6pm on 21.3.2000) by 2000 c. 17, s. 4(3)(b)(5)
- F24** Words in s. 13A(2) substituted (29.4.1996) by 1996 c. 8, s. 4(5)

#### [<sup>F25</sup>13A Restrictions on use of rebated kerosene.

- (1) If, on the delivery of kerosene for home use, it is intended to use the kerosene as fuel for—
  - (a) an engine provided for propelling an excepted vehicle, or
  - (b) an engine which is used neither for propelling a vehicle nor for heating,a declaration shall be made to that effect and thereupon rebate shall be allowed at the rate for rebated gas oil which is then in force, instead of at the rate then in force under section 11(1)(c) above.
- (2) Subject to subsection (3) below, no kerosene on whose delivery for home use a rebate at the rate given by section 11(1)(c) above has been allowed shall—
  - (a) be used as fuel for an engine provided for propelling an excepted vehicle;
  - (b) be used as fuel for an engine which is used neither for propelling a vehicle nor for heating; or
  - (c) be taken into the fuel supply of an engine falling within paragraph (a) or (b) above.
- (3) Subsection (2) above does not apply to any quantity of kerosene in respect of which there has been paid to the Commissioners an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the payment.
- (4) A payment under subsection (3) above shall be made in accordance with regulations made under section 24(1) below for the purposes of this section.
- (5) For the purposes of this section and section 13AB below—

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“excepted vehicle” means a vehicle which is an excepted vehicle under any provision of Schedule 1 to this Act; and

“kerosene” means heavy oil of which more than 50 per cent. by volume distils at a temperature of 240°C or less.

- (6) For the purposes of this section and section 13AB below the rate for rebated gas oil which is in force at any time is the rate of duty which at that time is in force under <sup>F26</sup>section 6(1A) above in the case of heavy oil which is not ultra low sulphur diesel,]] as reduced by the rate of rebate allowable at that time under section 11(1)(b) above.

#### Textual Amendments

**F25** S. 13AA inserted (1.10.1996) by 1996 c. 8, s. 5(4); S.I. 1996/2314, art. 2

**F26** Words in s. 13AA(6) substituted (15.8.1997) by 1997 c. 16, s. 7(6); S.I. 1997/1960, art. 2

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

**C4** S. 13AA(1) restricted (1.8.2002) by S.I. 2002/1773, regs. 4, 6

### <sup>F27</sup> 13AB Penalties for misuse of kerosene.

- (1) If a person uses kerosene in contravention of section 13AA(2) above—
- <sup>F28</sup>(a) [ in respect of the quantity of kerosene used the Commissioners may assess as being excise duty due from him an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the contravention, and they may notify him or his representative accordingly;]]
- (b) his use of the kerosene shall attract a penalty under section 9 of the <sup>M1</sup>Finance Act 1994 (civil penalties); and
- (c) if he uses the kerosene with the relevant intent, he shall be guilty of an offence.
- (2) If a person is liable for kerosene being taken into a fuel supply of an engine in contravention of section 13AA(2) above—
- <sup>F28</sup>(a) in respect of the quantity of kerosene taken into the fuel supply the Commissioners may assess as being excise duty due from him an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the contravention, and they may notify him or his representative accordingly;]
- (b) his becoming so liable shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties); and
- (c) if he has the relevant intent in relation to the kerosene being taken into the fuel supply, he shall be guilty of an offence.
- (3) For the purposes of subsection (2) above, a person is liable for kerosene being taken into a fuel supply of an engine if at the time—
- (a) he has the charge of the engine; or
- (b) subject to subsection (4) below, he is the owner of the engine.
- (4) If a person other than the owner is for the time being entitled to possession of the engine, that other person and not the owner is liable.
- (5) If—

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- (a) a person supplies kerosene having reason to believe that it will be put to a particular use, and
  - (b) that use is one which, if a payment is not made under subsection (3) of section 13AA above, will contravene subsection (2) of that section,
- his supplying the kerosene shall attract a penalty under section 9 of the <sup>M2</sup>Finance Act 1994 (civil penalties) and, if he makes the supply with the relevant intent, he shall be guilty of an offence.
- (6) In this section “the relevant intent” means the intent that the restrictions imposed by section 13AA(2) above shall be contravened.
  - (7) A person guilty of an offence under this section shall be 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.
  - (8) Any kerosene falling within subsection (9) or (10) below is liable to forfeiture.
  - (9) Kerosene falls within this subsection if it is taken into a fuel supply in contravention of section 13AA(2) above.
  - (10) Kerosene falls within this subsection if—
    - (a) it has been supplied in circumstances in which there is reason to believe that it will be put to a particular use; and
    - (b) that use is one which, if payment is not made under subsection (3) of section 13AA above, will contravene subsection (2) of that section.

#### Textual Amendments

**F27** S. 13AB inserted (1.10.1998) by 1996 c. 8, s. 5(4); S.I. 1996/2314, art. 2

**F28** S. 13AB(1)(a)(2)(a) substituted (1.10.1998) by 1998 c. 36, s. 20, Sch. 2 para. 4(2)(3); S.I. 1998/2243, art. 2

#### Marginal Citations

**M1** 1994 c. 9.

**M2** 1994 c. 9.

## 14 Rebate on light oil for use as furnace fuel.

- (1) On light oil charged with the excise duty on hydrocarbon oil, and delivered for home use as furnace fuel for burning in vaporised or atomised form by a person for the time being approved in accordance with regulations made for the purposes of this subsection under section 24(1) below, there shall be allowed at the time of delivery a rebate of duty at a rate of [<sup>F29</sup>£0.0274] a litre less than the rate at which the duty is charged.
- (2) Except with the consent of the Commissioners, no oil in whose case rebate has been allowed under this section shall—
  - (a) be put to a use otherwise than as mentioned in subsection (1) above; or
  - (b) be acquired or taken into any vehicle, appliance or storage tank in order to be put to such a use.



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- (3) In giving their consent for the purposes of subsection (2) above, the Commissioners may impose such conditions as they think fit.
- (4) [<sup>F30</sup>Where any person]—
- (a) uses or acquires oil in contravention of subsection (2) above; or
  - (b) is liable for oil being taken into a vehicle, appliance or storage tank in contravention of that subsection,
- [<sup>F30</sup>his use or acquisition of the oil or, as the case may be, his becoming so liable shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)]; and the Commissioners may [<sup>F31</sup>assess the amount of rebate allowed on the oil as being excise duty due from him, and notify him or his representative accordingly.]
- (5) [<sup>F32</sup>Where any person] supplies oil having reason to believe that it will be used otherwise than as mentioned in subsection (1) above [<sup>F32</sup>and] that use without the consent of the Commissioners would contravene subsection (2) above [<sup>F33</sup>his supplying the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).].
- (6) A person who, with the intent that the restrictions imposed by subsection (2) above should be contravened,—
- (a) uses or acquires oil in contravention of that subsection; or
  - (b) supplies oil having reason to believe that it will be put to a use otherwise than as mentioned in subsection (1) above, being a use which, without the consent of the Commissioners, would contravene subsection (2) above,
- shall be guilty of an offence under this subsection.
- (7) A person who is liable for oil being taken into a vehicle, appliance or storage tank in contravention of subsection (2) above shall be guilty of an offence under this subsection where the oil was taken in with the intent by him that the restrictions imposed by that subsection should be contravened.
- (8) A person guilty of an offence under subsection (6) or (7) above shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the oil in question, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding [<sup>F34</sup>7 years], or to both.
- (9) For the purposes of this section, a person is liable for oil being taken into a vehicle, appliance or storage tank in contravention of subsection (2) above if he is at the time the person having the charge of the vehicle, appliance or tank, or is its owner, except that if a person other than the owner is, or is for the time being, entitled to possession of it, that person and not the owner is liable.
- (10) Any oil acquired, or taken into a vehicle, appliance or storage tank, as mentioned in subsection (2) above, or supplied as mentioned in subsection (5) or (6) above, shall be liable to forfeiture.

#### Textual Amendments

**F29** Words in s. 14(1) substituted (*retrospective* to 6pm on 21.3.2000) by 2000 c. 17, s. 4(4)(5)

**F30** Words in s. 14(4) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 52(1)(a)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**



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- F31** Words in s. 14(4) substituted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 paras. 6(3)**; S.I. 1997/1305, **art. 2**
- F32** Words in s. 14(5) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 52(2)(a)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F33** Words in s. 14(5) inserted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. III para. 52(2)(c)**; (with s. 19(3)); S.I. 1994/2679, **art. 3**
- F34** Words substituted by Finance Act 1988 (c. 39, SIF 40:1), **s. 12(1)(b)(6)**

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

- C5** S. 14 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 paras. 1(1)**; S.I. 1997/1305, **art. 2**)
- C6** S. 14(1) restricted (1.8.2002) by S.I. 2002/1773, **regs. 4, 6**

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