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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 3. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

Section 6

#### HYDROCARBON OIL DUTIES: REBATED HEAVY OIL ETC

##### PART 1

###### REGULATING TRADERS IN REBATED HEAVY OIL

1 In the Hydrocarbon Oil Duties Act 1979 (c. 5), after section 23 insert—

###### “23A Regulation of traders in controlled oil

- (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—

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- (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.

### **23B Power to provide for exceptions to section 23A**

- (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.”.

#### **Commencement Information**

- II** Sch. 3 para. 1 in force at 24.7.2002 for specified purposes, see s. 6(3)(4); Sch. 3 para. 1 in force at 1.4.2003 in so far as not already in force by [S.I. 2002/3056](#), [art. 2](#)

- 2 In section 100H(1) of the Customs and Excise Management Act 1979 (c. 2) (particular provision that may be made by registered excise dealers and shippers regulations), after paragraph (n) insert—
  - “(p) authorised by section 24AA of the Hydrocarbon Oil Duties Act 1979 (regulation of traders in controlled oil).”.
- 3 In the Hydrocarbon Oil Duties Act 1979 (c. 5), after section 24 insert—

#### **“24AA Registered excise dealers and shippers regulations: special provision for traders in controlled oil**

- (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—

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- (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.”

4 (1) Section 27 of the Hydrocarbon Oil Duties Act 1979 (c. 5) (interpretation) is amended as follows.

(2) In subsection (1) insert (at the appropriate place)—

““controlled oil” means hydrocarbon oil in respect of which a rebate has been allowed under section 11(1)(b), (ba) or (c) or 13AA;”

(3) In the Table set out in subsection (3) (expressions used in the Act that have a meaning given by another Act included in the Customs and Excise Acts 1979), under the heading “Management Act” insert (at the appropriate places)—

““registered excise dealer and shipper””,

and

““revenue trader””.

## PART 2

### MINOR AMENDMENTS RELATING TO REBATES

5 The Hydrocarbon Oil Duties Act 1979 is amended as follows.

6 In section 12(1) (no rebate allowed on heavy oil intended for use in a road vehicle), after “no rebate” insert “ under section 11 above ”.

7 In section 12(2) (oil not to be used in road vehicles if rebate has been allowed under section 11(1) or 13AA(1)), for “section 11(1)” substitute “ section 11 ”.

8 In section 24(2) (regulations made for the purposes of section 12 or 13AA), for “under subsection (2) of that section” substitute “ under subsection (2) of section 12, or subsection (3) of section 13AA, ”.

9 In section 27(1) (interpretation), in the definition of “rebate”, after “section 11,” insert “ 13AA, ”.

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