



Finance Act 2004

2004 CHAPTER 12

PART 1

EXCISE DUTIES

Hydrocarbon oil etc duties

5 Rates

- (1) In section 6 of the Hydrocarbon Oil Duties Act 1979 (c. 5) (hydrocarbon oil: rates of duty)—
 - (a) in subsection (1A)(a) (ultra low sulphur petrol) for “£0.4710” substitute “£0.4902 ”,
 - (b) in subsection (1A)(b) (other light oil) for “£0.5620” substitute “ £0.5790 ”,
 - (c) in subsection (1A)(c) (ultra low sulphur diesel) for “£0.4710” substitute “ £0.4902 ”, and
 - (d) in subsection (1A)(d) (other heavy oil) for “£0.5327” substitute “ £0.5487 ”.
- (2) In section 6AA(3) of that Act (biodiesel: rate of duty) for “£0.2710” substitute “ £0.2852 ”.
- (3) In section 11(1) of that Act (rebate on heavy oil)—
 - (a) in paragraph (a) (fuel oil) for “£0.0382” substitute “ £0.0624 ”,
 - (b) in paragraph (b) (gas oil: general) for “£0.0422” substitute “ £0.0664 ”, and
 - (c) in paragraph (ba) (ultra low sulphur diesel) for “£0.0422” substitute “ £0.0664 ”.
- (4) In section 13A(1) of that Act (rebate on unleaded petrol) for “£0.0601” substitute “ £0.0620 ”.
- (5) In section 14(1) of that Act (rebate on light oil for use as furnace fuel) for “£0.0382” substitute “ £0.0624 ”.
- (6) This section shall come into force on 1st September 2004.

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Hydrocarbon oil etc duties. (See end of Document for details)

Commencement Information

II S. 5 in force at 1.9.2004, see s. 5(6)

6 Road fuel gas

(1) At the end of section 5 of the Hydrocarbon Oil Duties Act 1979 (road fuel gas) (which becomes subsection (1)) add—

“(2) In this Act “natural road fuel gas” is road fuel gas with a methane content of not less than 80%.”

(2) For section 8(3) of that Act (rate of duty on road fuel gas) substitute—

“(3) The rate of the duty under this section shall be—

- (a) in the case of natural road fuel gas, £0.1110 a kilogram, and
- (b) in any other case, £0.1303 a kilogram.”

(3) After section 21(2) of that Act (regulations) insert—

“(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.”

(4) This section shall come into force on 1st September 2004.

Commencement Information

I2 S. 6 in force at 1.9.2004, see s. 6(4)

7 Sulphur-free fuel

(1) For section 1(3A) and (3B) of the Hydrocarbon Oil Duties Act 1979 (descriptions of hydrocarbon oil: ultra low sulphur petrol and unleaded petrol) substitute—

“(3A) “Ultra low sulphur petrol” means unleaded petrol—

- (a) the sulphur content of which does not exceed 0.005 per cent. by weight,
- (b) the aromatics content of which does not exceed 35 per cent. by volume, and
- (c) which is not sulphur-free petrol.

(3B) “Sulphur-free petrol” means unleaded petrol the sulphur content of which does not exceed 0.001 per cent. by weight (or is nil).

(3C) “Unleaded petrol” means petrol that contains not more than 0.013 grams of lead per litre of petrol; and petrol is “leaded petrol” if it is not unleaded petrol.”

(2) For section 1(6) of that Act (ultra low sulphur diesel) substitute—

“(6) “Ultra low sulphur diesel” means gas oil—

- (a) the sulphur content of which does not exceed 0.005 per cent. by weight,

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- (b) the density of which does not exceed 835 kilograms per cubic metre at a temperature of 15°C,
- (c) of which not less than 95 per cent. by volume distils at a temperature not exceeding 345°C, and
- (d) which is not sulphur-free diesel.

(7) “Sulphur-free diesel” means gas oil the sulphur content of which does not exceed 0.001 per cent. by weight (or is nil).”

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(4) For section 2A(1) of that Act (power to amend definitions) substitute—

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

- (a) sulphur-free diesel;
- (b) sulphur-free petrol;
- (c) ultra low sulphur diesel;
- (d) ultra low sulphur petrol;
- (e) unleaded petrol and leaded petrol.”

(5) In section 6(1A) of that Act (rates of duty)—

- (a) after paragraph (a) insert—
“(aa) £0.4852 a litre in the case of sulphur-free petrol;”,
- (b) in paragraph (b) after “other than ultra low sulphur petrol” insert “ and sulphur-free petrol ”,
- (c) after paragraph (c) insert—
“(ca) £0.4852 a litre in the case of sulphur-free diesel;”, and
- (d) in paragraph (d) after “other than ultra low sulphur diesel” insert “ and sulphur-free diesel ”.

(6) In section 13AA(6) of that Act (restrictions on use of rebated kerosene) after “which is not ultra low sulphur diesel” insert “ or sulphur-free diesel ”.

(7) In section 13A(1) of that Act (rebate on unleaded petrol) after “, other than ultra low sulphur petrol” insert “ and sulphur-free petrol ”.

(8) In section 27 of that Act (interpretation)—

- (a) after the definition of “road vehicle” insert—
““sulphur-free diesel” has the meaning given by section 1(7) above;
“sulphur-free petrol” has the meaning given by section 1(3B) above;”,
and
- (b) in the definition of “unleaded petrol” and “leaded petrol” for “section 1(3B) above.” substitute “ section 1(3C) above. ”

(9) This section shall come into force on 1st September 2004.

Textual Amendments

F1 S. 7(3) omitted (retrospective to 1.4.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 5 paras. 25\(e\)\(i\), 26\(b\)](#)

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Hydrocarbon oil etc duties. (See end of Document for details)

Commencement Information

I3 S. 7 in force at 1.9.2004, see s. 7(9)

8 Definition of “fuel oil”

Before section 2A(2) of the Hydrocarbon Oil Duties Act 1979 (c. 5) (power to amend definitions) insert—

“(1C) The Treasury may by order made by statutory instrument amend the definition for the purposes of section 11 of “fuel oil”.”

9 Mixing of rebated oil

(1) For section 20AAA of the Hydrocarbon Oil Duties Act 1979 (mixing of rebated oil) substitute—

“20AAA Mixing of rebated oil

- (1) A duty of excise shall be charged on a mixture which is—
 - (a) produced by mixing fully rebated heavy oil with heavy oil which is not fully rebated, and
 - (b) supplied for use as fuel for any engine, motor or other machinery.
- (2) A duty of excise shall be charged on a mixture which is—
 - (a) produced by mixing partially rebated heavy oil with heavy oil which is not partially rebated, and
 - (b) supplied for use as fuel for any engine, motor or other machinery;
 but a mixture on which duty is charged under subsection (1) shall not be charged under this subsection.
- (3) A duty of excise shall be charged on a mixture which is produced by mixing—
 - (a) fully or partially rebated heavy oil, with
 - (b) biodiesel or a substance containing biodiesel.
- (4) The rate of duty on a mixture under subsection (1) or (2) shall be—
 - (a) in the case of a mixture supplied for use as fuel for a road vehicle, the rate of duty specified in section 6(1A)(d) (general rate for heavy oil), and
 - (b) in any other case, equivalent to the rate of rebate specified in section 11(1)(b) (general rate for gas oil).
- (5) The rate of duty on a mixture under subsection (3) shall be the rate of duty specified in section 6(1A)(d).
- (6) For the purposes of this section—
 - (a) oil is fully rebated if a rebate has been allowed in respect of it under section 11(1)(c) (general rebate for heavy oil),
 - (b) oil is partially rebated if a rebate has been allowed in respect of it under any other provision of section 11 or under section 13AA, and
 - (c) a reference to mixing is a reference to non-approved mixing (within the meaning given by section 20A(5)).

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- (7) The person liable to pay duty charged under this section on supply or production of a mixture is the person supplying or producing the mixture.
- (8) Where duty under a provision of this Act has been paid on an ingredient of a mixture, the duty charged under this section shall be reduced by the amount of any duty that the Commissioners are satisfied has been paid on the ingredient (but not to a negative amount).
- (9) The Commissioners may exempt a person from liability to pay duty under any provision of this Act in respect of production or supply of a mixture of a kind described in subsection (1)(a), (2)(a) or (3) if satisfied that—
 - (a) the liability was incurred accidentally, and
 - (b) in the circumstances the person should be exempted.”
- (2) In section 20AAB of that Act (mixing of rebated oil: supplementary)—
 - (a) for subsections (1) and (2) substitute—
 - “(1) A person who supplies or produces a mixture on which duty is charged under section 20AAA above must notify the Commissioners of the supply or production—
 - (a) in advance, or
 - (b) within the period of seven days beginning with the date of supply or production.”, and
 - (b) in subsection (3) omit “or (2)”.
 - (3) Schedule 2A to that Act shall cease to have effect.
 - (4) This section—
 - (a) in so far as it imposes or relates to the charge specified in section 20AAA(1) or (2) of that Act (as substituted by subsection (1) above), shall have effect in relation to anything supplied on or after the date on which this Act is passed,
 - (b) in so far as it imposes or relates to the charge specified in section 20AAA(3) of that Act (as substituted by subsection (1) above), shall have effect in relation to anything produced on or after the date on which this Act is passed, and
 - (c) in so far as it causes sections 20AAA and 20AAB(1) and (2) of, and Schedule 2A to, that Act to cease to have effect in their present form, shall come into force on the day on which this Act is passed.
 - (5) But no duty shall be charged on the supply of a mixture under section 20AAA(1) or (2) of that Act (as substituted by subsection (1) above) if duty was charged on the production of the mixture under section 20AAA as it had effect before the date on which this Act is passed.

10 Bioethanol

- (1) After section 2AA of the Hydrocarbon Oil Duties Act 1979 (c. 5) (biodiesel) insert—
 - “**2AB Bioethanol**
 - (1) In this Act “bioethanol” means a liquid fuel—
 - (a) consisting of ethanol produced from biomass, and
 - (b) capable of being used for the same purposes as light oil.

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- (2) In subsection (1)—
- (a) “liquid” does not include any substance that is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars, and
 - (b) “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) A substance shall be treated as falling within subsection (1)(a) if it—
- (a) is denatured alcohol for the purposes of section 5 of the Finance Act 1995 (c. 4), and
 - (b) would fall within subsection (1)(a) above (without reliance on this subsection) but for the presence of a component introduced—
 - (i) for the purpose of rendering the substance denatured alcohol, and
 - (ii) in the minimum proportion necessary for that purpose.”

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- (3) After section 6AC of that Act (biodiesel: application of provisions relating to hydrocarbon oil) insert—

“6AD Excise duty on bioethanol

- (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 bioethanol.
- (2) In subsection (1) “chargeable use” means use—
- (a) as fuel for any engine, motor or other machinery,
 - (b) as an additive or extender in any substance so used, or
 - (c) for the production of bioethanol blend.
- (3) The rate of duty under this section shall be £0.2852 a litre.

6AE Excise duty on blends of bioethanol and hydrocarbon oil

- (1) A duty of excise shall be charged on bioethanol blend—
- (a) imported into the United Kingdom, or
 - (b) produced in the United Kingdom and delivered for home use from a refinery or other premises used for the production of hydrocarbon oil or from any bonded storage for hydrocarbon oil, not being bioethanol blend chargeable with duty under paragraph (a) above.
- (2) In this Act “bioethanol blend” means any mixture that is produced by mixing—
- (a) bioethanol, and
 - (b) hydrocarbon oil not charged with excise duty.
- (3) The rate at which the duty shall be charged on any bioethanol blend shall be a composite rate representing—

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- (a) in respect of the proportion of the blend that is hydrocarbon oil, the rate that would be applicable to the blend if it consisted entirely of hydrocarbon oil of the description that went into producing the blend, and
 - (b) in respect of the proportion of the blend that is bioethanol, the rate that would be applicable to the blend if it consisted entirely of bioethanol.
- (4) A reference in subsection (3) to a proportion is to a proportion by volume to the nearest 0.001%.
- (5) If the Commissioners are not satisfied as to the proportion of bioethanol in any bioethanol blend, the rate of duty chargeable shall be the rate that would be applicable to the blend if it consisted entirely of hydrocarbon oil of the description that went into producing the blend.
- (6) Where imported bioethanol blend 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 blend, 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.

6AF Application to bioethanol and bioethanol blend 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) bioethanol;
 - (ii) bioethanol blend;
 - (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 6AD above;
 - (ii) section 6AE above;
 - (c) bioethanol, or bioethanol blend, 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.”
- (4) In section 6A(1) of that Act (fuel substitutes) for “which is not hydrocarbon oil, biodiesel or bioblend” substitute “which is not—
- (a) hydrocarbon oil,

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- (b) biodiesel,
 - (c) bioblend,
 - (d) bioethanol, or
 - (e) bioethanol blend.”
- (5) At the end of section 11(6) of that Act (rebate on heavy oil: exception) add “ or bioethanol blend ”.
- (6) At the end of section 13AA of that Act (restrictions on use of rebated kerosene) add—
- “(7) Nothing in this section has the effect of allowing a rebate on bioblend or bioethanol blend.”
- (7) In section 14 of that Act (rebate on light oil for use as furnace fuel) after subsection (1) insert—
- “(1A) No rebate shall be allowed under this section in respect of bioethanol blend.”
- (8) In section 22 of that Act (prohibition on use of petrol substitutes on which duty has not been paid)—
- (a) after subsection (1AA) insert—
- “(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.”, and
- (b) in subsection (1A) for “subsection (1) or (1AA) above.” substitute “ subsection (1), (1AA) or (1AB) above. ”
- (9) In section 27(1) of that Act (interpretation) after the definition of “biodiesel” insert—
- ““bioethanol” has the meaning given by section 2AB above;
- “bioethanol blend” has the meaning given by section 6AE(2) above;”.
- (10) This section shall come into force on 1st January 2005.
- (11) But no duty shall be charged under section 6AD or 6AE of that Act (inserted by subsection (3) above) in respect of the chargeable use of any goods, or the setting aside of any goods for a chargeable use, if before 1st January 2005—
- (a) the goods were used or set aside for a chargeable use within the meaning of section 6A of that Act, and
 - (b) a duty of excise was charged under that section on that use or setting aside.

Textual Amendments

- F2** S. 10(2) omitted (retrospective to 1.4.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 5 paras. 25\(e\)\(ii\)](#), [26\(b\)](#)

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Hydrocarbon oil etc duties. (See end of Document for details)

Commencement Information

I4 S. 10 in force at 1.1.2005, see s. 10(10)

11 Biodiesel

(1) In section 6AA(2) of the Hydrocarbon Oil Duties Act 1979 (c. 5) (excise duty on biodiesel) after paragraph (b) add—

“(c) for the production of bioblend.”

(2) This section shall come into force on 1st January 2005.

Commencement Information

I5 S. 11 in force at 1.1.2005, see s. 11(2)

12 Fuel substitutes

(1) For section 6A(2)(b) of the Hydrocarbon Oil Duties Act 1979 (fuel substitutes: additives and extenders) substitute—

“(b) as an additive or extender in any substance so used.”

(2) This section shall have effect in relation to anything done on or after the date on which this Act is passed.

13 Warehousing

After section 23B of the Hydrocarbon Oil Duties Act 1979 (regulation of traders in controlled oil) insert—

“23C Warehousing

(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 [F3EU] instrument, and
- (c) may, in particular, make provision by reference to the purpose for which a substance is intended to be used.”

Textual Amendments

F3 Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with art. 3(2)(3), 4(2), 6(4)(5))

14 Treatment of certain energy products

- (1) Section 10 of the Finance Act 1993 (c. 34) (application of Hydrocarbon Oil Duties Act 1979 to certain substances) shall be amended as follows.
- (2) In subsection (1) for “mineral oil” substitute “energy product”.
- (3) In subsection (2)—
 - (a) after “as the equivalent of hydrocarbon oil” insert “or road fuel gas”, and
 - (b) for “as if it fell within such description of hydrocarbon oil” substitute “as if it fell within such class or description of substance”.
- (4) In subsection (3)—
 - (a) for “a mineral oil” substitute “an energy product”, and

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- (b) for “hydrocarbon oil of the description” substitute “ the substance ”.
- (5) For subsection (4) substitute—
 - “(4) In this section “energy product” means a substance which—
 - (a) is an energy product for the purposes of Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity, and
 - (b) is not (apart from as a result of this section) hydrocarbon oil or road fuel gas within the meaning of the 1979 Act.”
- (6) For subsection (6) substitute—
 - “(6) Where a duty of excise is charged on a substance under a provision of the 1979 Act by virtue of an order under this section, no duty shall be charged on the substance under any other provision of that Act.”
- (7) For the heading substitute “ Extension of Hydrocarbon Oil Duties Act 1979 to energy products ”.

Status:

Point in time view as at 06/04/2018.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Hydrocarbon oil etc duties.