
STATUTORY INSTRUMENTS

1996 No. 2313

The Hydrocarbon Oil (Payment of Rebates) Regulations 1996

Citation and commencement

1. These Regulations may be cited as the Hydrocarbon Oil (Payment of Rebates) Regulations 1996 and shall come into force on 1st October 1996.

Revocation

2. The following regulations are hereby revoked; that is to say—
- (a) regulations 31, 32 and 33 of the Hydrocarbon Oil Regulations 1973⁽¹⁾; and
 - (b) subparagraphs (c) and (d) of regulation 3 of the Hydrocarbon Oil (Amendment) Regulations 1981⁽²⁾.

Interpretation

3.—(1) In these Regulations—

“Act” means the Hydrocarbon Oil Duties Act 1979;

“annual rebate payment person” means a rebate payment person permitted by the Commissioners in the licence issued by them to him as a rebate payment person to furnish an estimate (as required by these Regulations) in relation to any year commencing 1st January after the issue of the licence;

“business days” means days which are business days within the meaning of section 92 of the Bills of Exchange Act 1882⁽³⁾;

“Collector for the Oils Accounting Centre” means the Collector of Customs and Excise responsible for the Oils Accounting Centre at HM Customs and Excise, Dorset House, Stamford Street, London SE1 9PY or at such other address which may be specified in directions made by the Commissioners under section 116 of the Customs and Excise Management Act 1979;

“Event A” is the event described in regulation 6(2)(a) below;

“Event B(1)”, “Event B(2)” and “Event B(3)” is, in each case, the event described in regulation 6(2)(b) below in association with the consequence described by the following subparagraphs ((a) to (c)) of regulation 6(3) below—

- (i) subparagraph (a) in the case of Event B(1);
- (ii) subparagraph (b) in the case of Event B(2); and
- (iii) subparagraph (c) in the case of Event B(3);

“gas oil” has the meaning given by section 11(2) of the Act;

“his accounting period” means—

⁽¹⁾ S.I.1973/1311.

⁽²⁾ S.I. 1981/1134.

⁽³⁾ 1882 c. 61 (45 & 46 Vict); section 92 was amended by the Banking and Financial Dealings Act 1971 (c. 80), sections 3 and 4.

- (a) in relation to a quarterly rebate payment person, any quarter in any year commencing 1st January, 1st April, 1st July and 1st October; and
- (b) in relation to an annual rebate payment person, any year commencing 1st January following the issue of the licence to him, in which the Commissioners permit him to furnish an estimate in relation to a year commencing on that date;

“licensed user” means an annual rebate payment person or a quarterly rebate payment person;

“quarterly rebate payment person” means a rebate payment person permitted by the Commissioners, in the licence issued by them to him as a rebate payment person, to furnish an estimate (governed by these Regulations) in relation to any quarterly period in any year commencing 1st January, 1st April, 1st July and 1st October;

“rebated heavy oil activity” means, in relation to heavy oil described in section 12(2) of the Act (which includes gas oil and section 12 kerosene), the use of that heavy oil as fuel for a road vehicle (falling within that section) or the taking of that heavy oil into that vehicle as fuel;

“rebated kerosene activity” means, in relation to section 13AA kerosene, either of the two uses of that kerosene as fuel for engines, or the taking of that kerosene into the fuel supply of an engine, which engines and engine fall respectively within paragraph 5(a), (b) and (c) of section 13AA(2) of the Act;

“rebate payment person” means, subject to paragraph (3) below of this regulation, a person—

- (a) who applies in writing to the Commissioners for a licence authorising him to make payments in accordance with the provisions of these Regulations for the purposes of section 12(2) or section 13AA(3) and (4) of the Act, as specified in his application; and
- (b) to whom such a licence is issued by the Commissioners;

“section 12 kerosene” means heavy oil of the description given by paragraph (c) of section 11(1) of the Act; and

“section 13AA kerosene” means kerosene of the description given by section 13AA(5) of the Act for the purposes of sections 13AA and 13AB of the Act.

(2) In regulation 6(3)(c) below “the rate of net excise duty per litre of section 13AA kerosene” means the rate, expressed as pence per litre, calculated in accordance with the formula provided by paragraph 2 of, and by paragraph 3 of Schedule 2 to these Regulations for the purpose of effecting the comparison (required by regulation 6(3)(c) below) in accordance with the provisions of Schedule 2.

(3) “rebate payment person” does not include a person, in relation to any period after the withdrawal of the following licence takes effect, whose licence, issued to him as a rebate payment person, has been withdrawn for reasonable cause by the Commissioners (in a notice of withdrawal issued to him at his address appearing in his written application for the licence) with effect from the end of the quarter commencing 1st January, 1st April, 1st June or 1st October (in any year) in which the notice of withdrawal is issued.

Effective rebate payments for the purposes of section 12(2) or 13AA(2) of the Act

4. A payment made for the purposes of section 12(2) or 13AA(2) of the Act shall not be effective unless it is made by a licensed user in accordance with the provisions of regulation 5 or, as the case may be, regulation 6 below in respect of any rebated heavy oil activity or rebated kerosene activity carried out by him.

Estimates and payments

5.—(1) A licensed user shall comply with the requirements of paragraphs (2) and (3) below before he begins for the first time in his accounting period to carry out any rebated heavy oil activity or any rebated kerosene activity.

(2) The licensed user shall furnish the Collector for the Oils Accounting Centre an estimate, relating to his accounting period in which he intends to begin for the first time in that period to carry out the activities mentioned in paragraph (1) above, of the volumes of fuel (described in the following form) which he estimates he will use in carrying out those activities during that accounting period, on the form numbered 1 in Schedule 1 to these Regulations, containing full information in respect of all other matters specified in the form.

(3) The licensed user shall, at the same time as he furnishes the estimate (required by paragraph 2 above), pay the Commissioners—

- (a) in the case of any rebated heavy oil activities, relating to gas oil, dealt with in the estimate at Part 2, an amount equal to the amount which would, at the time the estimate is furnished, be allowed as a rebate of excise duty under section 11(1)(b) of the Act on a quantity of gas oil (if delivered at that time for home use), being of the same volume as that specified at Part 2(a) in the estimate;
- (b) in the case of rebated heavy oil activities, relating to section 12 kerosene, dealt with in the estimate at Part 3, an amount equal to the amount which would, at the time the estimate is furnished, be allowed as a rebate of excise duty under section 11(1)(c) of the Act on a quantity of section 12 kerosene (if delivered at that time for home use), being of the same volume as that specified at Part 3(a) in the estimate; and
- (c) in the case of any rebated kerosene activities, relating to section 13AA kerosene, dealt with in the estimate at Part 4, an amount calculated in accordance with the formula $A-B$, where—
 - (i) A is the amount of excise duty that would be charged, at the legally effective rate at the time the estimate is furnished, by section 6(1) of the Act on a quantity of heavy oil (if imported or produced, as described in section 6(1), at that time), being of the same volume as that specified at Part 4(c) in the estimate in relation to section 13AA kerosene; and
 - (ii) B is the amount of rebate of excise duty on heavy oil allowable in the case of gas oil under section 11(1)(b) of the Act, at the legally effective rate at the same time as that specified in paragraph (i) above, on a quantity of gas oil (if delivered for home use as envisaged by section 11), being of the same volume as that used in the calculation for the purposes of paragraph (i) above.

Supplementary estimates, Events A, B(1), B(2) and B(3), and additional rebate payments and forms

6.—(1) Paragraph (4) below applies to a licensed user—

- (a) who furnished an estimate (required by regulation 5(2) above); and
- (b) where, subsequently in relation to him and his accounting period and the estimate, and to any rebated heavy oil activities or rebated kerosene activities carried out by him by the time of the following occurrence, there is an occurrence of an event described in paragraph (2) and (3) below (referred to in these Regulations respectively as Event A, Event B(1), Event B(2) and Event B(3)).

(2) For the purposes of these Regulations the events are—

- (a) Event A—at any time during his accounting period, to which the estimate relates, the amounts of fuel used by that time by the licensed user for carrying out any rebated heavy activity, or any rebated kerosene activity (which activity, respectively, is the subject of an entry in Part 2 or Part 3, or Part 4 of the estimate) is equal to the estimated volume of fuel specified in that Part of the estimate;

- (b) Event B(1), B(2) and B(3)—on a day, in his accounting period to which the licensed user’s estimate relates, a change of either or both—
- (i) the legally effective rate of excise duty in the case of heavy oil (charged by section 6(1) of the Act); and
 - (ii) the legally effective rate of rebate of the heavy oil excise duty in the case of gas oil (allowed under section 11(1)(b) of the Act),
- takes legal effect, which is associated with any one or more of the three consequences described in paragraph (3) below.
- (3) For the purposes of paragraph (2)(b) above the consequences are as follows: where the licensed user has furnished an estimate (required by regulation 5(2) above)—
- (a) (Event B(1)) in which there is an entry in Part 2 (for estimated gas oil consumption), the consequence is that the amount of rebate allowable under section 11(1)(b) of the Act on a quantity of gas oil, when the change takes legal effect, would be greater than it would have been immediately before the change takes legal effect;
 - (b) (Event B(2)) in which there is an entry in Part 3 (for estimated section 12 kerosene consumption), the consequence is that the amount of rebate allowable under section 11(1)(c) of the Act on a quantity of section 12 kerosene, when the change takes legal effect, would be greater than it would have been immediately before the change takes legal effect; and
 - (c) (Event B(3)) in which there is an entry in Part 4 (for estimated section 13AA kerosene consumption), the consequence is that a comparison (effected in accordance with the provisions of Schedule 2 to those Regulations) of—
 - (i) the rate, immediately before the change takes legal effect, of the net excise duty per litre of section 13AA kerosene calculated in accordance with the formula provided by paragraph 2 of Schedule 2 (called in this sub-paragraph “the paragraph (i) rate”); with
 - (ii) the rate, when the change takes legal effect, of the net excise duty per litre of section 13AA kerosene calculated in accordance with the formula provided by paragraph 3 of Schedule 2 (called in this sub-paragraph “the paragraph (ii) rate”),
 indicates that the paragraph (ii) rate is greater than the paragraph (i) rate.
- (4) The licensed user, to whom this paragraph applies, shall, in respect of that part of any rebated heavy oil activity or of any rebated kerosene activity (called in this paragraph the “relevant part-activity”) to which Event A, Event B(1), Event B(2) or Event B(3) relates (called in this paragraph the “related Event”), cease to carry out the relevant part-activity upon the occurrence of the related Event; and he may again carry out the relevant ceased part-activity only if, before doing so—
- (a) in the case of the related Event being Event A, he furnishes the Collector for the Oils Accounting Centre a supplementary estimate of the volumes of fuel (described in the following form) estimated to be used in carrying out the relevant part-activity, on the form numbered 2 in Schedule 1 to those Regulations, containing full information in respect of all other matters specified on the form, and only if he complies with the requirements specified in paragraph (5) below; and
 - (b) in the case of Event B(1), B(2) or B(3) occurring, he furnishes the Collector for the Oils Accounting Centre with an additional rebate payment form in the form numbered 3 in Schedule 1 to these Regulations (called below in this sub-paragraph the “form”) showing the additional amount payable (correctly calculated in accordance with the provisions of the form) in the following parts of the form in relation to the occurring event (that is to say Part 2(e) in relation to Event B(1), Part 3(e) in relation to Event B(2) and Part 4(a) in relation to Event B(3)), containing full information in respect of all other matters specified

in the form, and containing a declaration, signed by him, that the information given in the form is true and complete; and only if he pays to the Commissioners the additional amount payable, at the same time as he furnishes the form.

(5) A licensed user shall comply, when furnishing a supplementary estimate under paragraph 4(a) above, with the requirements of paragraph (3) of regulation 5 above (requiring payments to be made to the Commissioners when furnishing an estimate), as if the supplementary estimate was the estimate mentioned therein.

Application of regulation 6 provisions to supplementary estimates

7.—(1) The provisions of paragraphs (4) and (5) of regulation 6 above shall apply to a licensed user who has furnished a supplementary estimate under that regulation in respect of his accounting period, or has furnished another supplementary estimate or further supplementary estimates, in respect of that accounting period, by virtue of operation of this regulation in relation to it or them—

- (a) as if the supplementary estimate was the estimate mentioned in regulation 6 or, as the case may be, each of those supplementary estimates was such an estimate; and
- (b) where there is an occurrence of Event A, Event B(1), Event B(2) or Event B(3) in relation to that supplementary estimate or, as the case may be, those supplementary estimates, to the licensed user, to the period of his accounting period dealt with by that supplementary estimate or supplementary estimates, and to any rebated heavy oil activities or rebated kerosene activities carried out by him in the above first-mentioned period by the time of that occurrence.

Returns

8.—(1) A person, who furnished an estimate (as required by paragraph 2 of regulation 5 above) as a licensed user, shall furnish, within 10 business days after the end of the period determined in accordance with paragraph 2 below, the Collector for the Oils Accounting Centre a return, relating to the accounting period specified in Part 1 of that estimate, in the form numbered 4 in Schedule 1 to these Regulations, containing full information in respect of the matters specified in the form, and containing a declaration, signed by him, that the information given in the return is true and complete.

- (a) (2) (a) Unless subparagraph (b) below applies, the period is the accounting period specified in Part 1 of the estimate or, in the absence of sufficient specification in Part 1, is the accounting period which the licensed user ought to have specified as his accounting period;
- (b) This subparagraph applies in the case of a person (falling within paragraph (1) above) who—
 - (i) furnishes the estimate (referred to in paragraph (1) above) for an annual accounting period of a particular year; and
 - (ii) ceases to be a rebate payment person with effect, as the case may be, from the end of one of the three quarters commencing in that particular year 1st January, 1st April or 1st July, by reason of the Commissioners withdrawing, under paragraph (3) of regulation 3 above, the licence issued to him as a rebate payment person;in such a case, and having regard to those three quarters, the period is the quarter from the end of which the withdrawal takes effect.

(3) A person furnishing a return under this Regulation may, at the same time, claim any amount which he may have overpaid to the Commissioners in the accounting period to which the return relates.

Records to be kept by a licensed user

9.—(1) Paragraphs (2) and (4) below apply to a licensed user who uses a road vehicle falling within section 12 of the Act for any rebated heavy oil activity or any rebated kerosene activity, and to a person who has ceased to be such a licensed user during the period of 12 months (defined in paragraph (2) below) with effect from a time falling within that period, by reason of the withdrawal by the Commissioners (as envisaged by paragraph (3) of regulation 2 above) of the licence issued to him as a rebate payment person.

(2) A licensed user, and a person, to whom, in either case, this paragraph applies by virtue of paragraph (1) above shall—

- (a) keep a record of all fuel used by him respectively, for any rebated heavy oil activity or rebated kerosene activity carried out by way of a road vehicle falling within section 12 of the Act, in which shall be entered, on the day of the use of the fuel (and by reference to its date), the particulars specified in paragraph (3) below; and
- (b) preserve that record—
 - (i) at the premises at which the aforementioned road vehicle is usually kept, or at such other place as may be agreed between the aforementioned licensed user or person and the proper officer⁽⁴⁾; and
 - (ii) for not less than the period of 12 months from the date on which the last entry was made in it.

(3) The particulars in relation to the road vehicle falling within paragraph 2(a) above are—

- (a) the registration number of the road vehicle or other identification mark in the case of an unregistered vehicle;
- (b) the date of each journey, or, where the road vehicle is employed otherwise than in making a journey from place to place, the place of that employment;
- (c) the quantities of, and the fuel (by reference to the classification of whether it is gas oil, section 12 kerosene or section 13AA kerosene) supplied into the road vehicle; and
- (d) the number of miles travelled by the road vehicle on any journey (falling within paragraph (b) above), and the number of hours the vehicle is used in employment falling within paragraph (b) above.

(4) A licensed user, and a person, to whom, in either case, this paragraph applies by virtue of paragraph 1 above, shall, on demand by the proper officer, produce to the proper officer at all reasonable times the record which he is required by paragraph (2) above to keep.

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9th September 1996

D J Howard
Commissioner of Customs and Excise

(4) The Hydrocarbon Oil Duties Act 1979 (c. 5), section 27(3) applies the definitions for “officer” and “proper” (in relation to an officer) provided by Customs and Excise Management Act 1979 (c. 2), section 1(1).