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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1st September 2004, regulate the administration and collection of the excise duties charged on biodiesel, bioethanol and other fuel substitutes by sections 6AA, 6AD and 6A, respectively, of the Hydrocarbon Oil Duties Act 1979 c. 5 (“the Oil Act”). These Regulations also make provision in respect of bioblend and bioethanol blend charged to excise duty under sections 6AB and 6AE, respectively, of the Oil Act.

Regulation 2 defines certain terms used in the Regulations such as “biofuel”, “motor fuels record” and “chargeable use”.

### Part 2

Regulation 3 provides that certain references to hydrocarbon oil, or to the duty on hydrocarbon oil, in the Oil Act are to be construed to include references to biodiesel, bioblend, bioethanol and bioethanol blend, or to the duty on biodiesel and bioethanol, as the case may be.

Regulation 4 revokes two instruments, the provisions of which are replaced with other provisions by these Regulations.

Regulation 5 amends the Deferment Regulations so that those Regulations provide for the deferment of duty in respect of biofuels. Amendments are also made that are consequential on Part 7 of these Regulations.

### Part 3

Regulation 6 provides that the provisions of Part 4 (production premises) do not apply in the case of an excise warehouse. Regulation 7 provides for the types of biofuels that may be produced and warehoused in an excise warehouse.

### Part 4

Regulation 8 requires producers of biofuels to make entry of their premises in accordance with section 108 of the Customs and Excise Management Act 1979 (c. 2) and prescribes the time when such entry must be made. Regulation 9 requires producers to separately store biofuels. Regulation 10 provides for a right of access to biofuels production premises, and for examination, inspection and sampling by authorised persons. Regulation 11 requires producers and warehousekeepers to provide facilities for examination, inspection and sampling.

Regulation 12 provides that biofuels may be removed from production premises, for warehousing (subject to the rules in regulation 7 regarding what kinds of biofuels may be warehoused).

### Part 5

Regulation 13 requires producers to maintain a motor fuels record in accordance with the particulars set out in the Schedule of these Regulations. It also defines the term “standard litres” used in the Schedule and specifies how long the record should be preserved. Regulation 14 requires producers to continue to keep any records required under the instruments revoked by regulation 4.

Regulation 15 requires producers to issue delivery notes in respect of certain consignments of biofuels sent out from their premises. It also contains details to be recorded on the delivery note.

Regulation 16 requires occupiers of production premises or excise warehouses to comply with measurement and calibration requirements imposed by an authorised person.

### Part 6

Regulation 17 fixes the excise duty points for biofuels, except for those biofuels that are subject to duty suspension arrangements (various other regulations set excise duty points in respect of excise goods that are subject to such arrangements). The only exception is biofuel that is removed from production premises duty suspended in order to be deposited in an adjacent excise warehouse. If such biofuel is not actually placed in the warehouse, the excise duty point is set by regulation 17(3).

**Changes to legislation:** There are currently no known outstanding effects for the *The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004*. (See end of Document for details)

Regulation 18 prescribes who is liable for the biofuels duty. Regulation 19 requires the submission of returns and payment of duty within certain time limits.

#### Part 7

This Part provides for a relief from biofuels duty in respect of biofuels used for electricity generation. Relief is allowed upon application by a qualified claimant, who is defined in Regulation 20 as the person who causes biofuel to be used as motor fuel in a generator to produce electricity. Regulation 21 sets out the scope of the relief.

Regulation 22 sets out the form that the relief will take (which depends on various factors to do with the qualified claimant, such as whether he also pays excise duty on biofuels or other dutiable goods). The relief is either in the form of an allowance to be set-off against duty payable to the Commissioners of Customs and Excise, or in the form of a repayment by the Commissioners.

Regulation 23 describes how the relief is to be set-off against liability to duty of the qualified claimant. Regulation 24 provides for the way that applications for relief must be made.

Regulation 25 requires the repayment of any relief where there is contravention of, or failure to comply with, the conditions under which the relief is granted.

Regulation 26 imposes conditions that claimants for relief must, on demand, produce evidence that the fuel has been used in a generator to produce electricity and that the duty claimed has been paid. Regulation 27 provides for the imposition of further conditions on qualified claimants.

#### Part 8

Regulation 28 requires claims made for repayment of duty made under section 17A of the Oil Act to be made within a prescribed time limit, prescribes the minimum and maximum period of the claim and provides a monetary limit, below which claims will not be met.

<sup>M1</sup>Part 7 of this instrument gives effect to Article 14(1)(a) of Council Directive [2003/96/EC](#) (of 27th October 2003 restructuring the Community framework for the taxation of energy products and electricity) in respect of biofuels used as motor fuel for electricity generation. A transposition note for the directive is available at [www.hmce.gov.uk](http://www.hmce.gov.uk).

A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of business, charities or voluntary bodies.

**Changes to legislation:**

There are currently no known outstanding effects for the The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004.