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STATUTORY INSTRUMENTS

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**2005 No. 3472**

**The Hydrocarbon Oil (Registered Remote Markers) Regulations 2005**

**PART 2**

**RELIEF FROM DUTY**

**General conditions and restrictions**

8.—(1) In addition to any conditions or restrictions imposed by the Commissioners under section 100G(4) of the Management Act, the approval and registration of a registered remote marker is subject to the conditions and restrictions imposed by or under this Part of these Regulations.

(2) The approval and registration of every registered remote marker is subject to the conditions and restrictions prescribed in a notice published by the Commissioners and not withdrawn by a further notice.

(3) A registered remote marker must not mark any description of hydrocarbon oil at any premises or place unless the Commissioners have given him written approval to mark that description of hydrocarbon oil at those premises or at that place.

(4) Every registered remote marker must give notice in writing to the Commissioners of any change in the information that he was required to furnish in his application for registration, within seven days of the change.

**Conditions for relief to be allowed**

9.—(1) Relief is not allowed unless this regulation is complied with.

(2) The registered remote marker must, for every batch of oil that he marks, complete those parts of a form provided by the Commissioners (“form HO9”) that are applicable to him.

(3) If the registered remote marker is not the owner—

- (a) he must retain a copy of the form HO9 that he completes, and supply another copy to the owner, and
- (b) the owner must complete those parts of the copy form HO9 he receives that are applicable to him.

(4) The owner (whether or not he is also the registered remote marker who marked the hydrocarbon oil) must, without delay, furnish the Commissioners with a copy of the completed form HO9.

(5) The registered remote marker and the owner must ensure that the particulars given are true and complete and do not include particulars of hydrocarbon oil that—

- (a) has already been included in a form HO9;
- (b) was the subject of a rebate upon delivery for home use;
- (c) has not been marked by a registered remote marker; or

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(d) is intended for a use for which the appropriate rebate is not allowed.

(6) The Commissioners may provide different forms HO9 for different purposes; in particular, they may provide forms that are suitable for electronic transmission.

(7) A form HO9 is to be treated as having been provided by the Commissioners if they have approved it.

(8) The registered remote marker and the owner must keep and preserve a copy of every form HO9 that they complete for at least three years after the hydrocarbon oil to which it relates was marked.

### **Security**

**10.** The Commissioners may require any registered remote marker to provide such security, or further security, as they may think appropriate to protect the revenues derived from the duty.

### **Relieved hydrocarbon oil to be treated as rebated oil**

**11.** Hydrocarbon oil in respect of which relief from duty has been allowed under this Part of these Regulations is to be treated for all the purposes of the Oil Act as oil on which the appropriate rebate has been allowed.

### **Relief**

**12.—(1)** Subject to the provisions of this Part of these Regulations relief from duty at a rate equivalent to the appropriate rebate is allowed if—

- (a) hydrocarbon oil is delivered for home use without there being allowed on that oil at the time of that delivery a rebate of duty,
- (b) a registered remote marker has marked that oil with the prescribed markers and colouring substances in the prescribed manner and proportions, and
- (c) the registered remote marker who marked that oil complied with any conditions or restrictions imposed on him—
  - (i) by the Commissioners under section 100G(4) of the Management Act,
  - (ii) by or under regulations 8(2) and (3), 9, and 10 above, and
  - (iii) under regulation 8(4) above, insofar as the information relates to name, trading name or address of the registered remote marker.

(2) The relief allowed by this regulation shall take the form of an allowance to be set-off against duty payable to the Commissioners by the owner; and that allowance must be set-off against any duty that he becomes liable to pay until it is fully utilised.

(3) In this regulation—

“the prescribed manner and proportions” means the manner and proportions in which, in accordance with regulations made under section 24 of the Oil Act (control of use of duty-free and rebated oil), the prescribed markers and colouring substances are required to be added to hydrocarbon oil as a condition of allowing a rebate of duty on delivery for home use; and

“the prescribed markers and colouring substances” means the markers and colouring substances that are, in accordance with regulations made under section 24 of the Oil Act, required to be added to hydrocarbon oil as a condition of allowing a rebate of duty on delivery for home use.

### **Relief that is not allowed**

**13.**—(1) If it appears to the Commissioners that an amount of relief that the owner proposes to set-off is not allowed (“the disputed amount”) they may inform him that set-off is not permitted to the extent of the disputed amount.

(2) The notification given to the owner under paragraph (1) above must specify both the disputed amount and reasons why the relief is not allowed.

(3) If the owner has already set-off some or all of the disputed amount when he receives that notification, he must, without delay, inform the Commissioners in writing, specifying the amount set-off, the quantity of hydrocarbon oil concerned, and the date that that oil was marked.

(4) Nothing in this regulation prejudices—

- (a) the owner's right to set-off an amount that the Commissioners subsequently determine is due to him;
- (b) the owner's right to set-off an amount that a court or VAT and duties tribunal determines is due to him; or
- (c) the Commissioners' right to make an assessment of the disputed amount in accordance with section 24(4A) of the Oil Act <sup>M1</sup> or section 12A of the Finance Act 1994 <sup>M2</sup> (other assessments relating to excise duty matters).

#### **Marginal Citations**

**M1** Section 24(4A) was inserted by the Finance Act 1997(c. 16), Schedule 6, paragraph 6(6).

**M2** 1994 c. 9; section 12A was inserted by the Finance Act 1997(c. 16), Schedule 6, paragraph 1(1) and amended by the Finance Act 1998(c. 36), Schedule 2, paragraph 8.

**Status:**

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**Changes to legislation:**

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