

EXPLANATORY MEMORANDUM TO
THE HYDROCARBON OIL DUTIES (SULPHUR-FREE DIESEL)
(HYDROGENATION OF BIOMASS) (RELIEFS) (AMENDMENT)
REGULATIONS 2007

2007 No. 2406

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. **Description**

These Regulations amend the Hydrocarbon Oil Duties (Sulphur-free Diesel) (Hydrogenation of Biomass) (Reliefs) Regulations 2006 ("the principal Regulations") (S.I. 2006/3426). They extend the partial relief from excise duties, provided by regulation 3 of the principal Regulations, to sulphur-free diesel produced wholly from the hydrogenation of biomass. They also revoke the date on which the principal Regulations cease to have effect.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None

4. **Legislative Background**

4.1 These Regulations amend the principal Regulations so as to provide relief by way of a partial remission of excise duty charged on sulphur-free diesel where that fuel is produced wholly by means of a process known as hydrogenation of biomass. The amount of the relief is equivalent to the duty differential between sulphur-free diesel and biodiesel and is calculated on the volume of fuel produced from the hydrogenated biomass.

5. **Extent**

This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy Background**

7.1 Production of hydrocarbon oil normally involves the obtaining of one description of mineral oil from another description of mineral oil. Biodiesel is not a hydrocarbon oil; it is normally produced by putting vegetable or animal

matter (biomass) through a stabilising process called esterification. An alternative approach to producing road fuel from biomass is to obtain hydrocarbon oil from biomass through hydrogenation. In this process hydrogen bonds with the carbon in the biomass to form hydrocarbon oil. This produces a fuel that meets the sulphur-free diesel definition in section 1(7) of the Hydrocarbon Oil Duties Act 1979.

7.2 This relief was introduced to facilitate pilot projects by oil refiners. The original pilot project envisaged replacing a proportion of the mineral oil feedstock in the refinery process itself with biomass; the relief was therefore framed to provide relief on sulphur-free diesel produced partially from the hydrogenation of biomass. However, an alternative non-refinery based technology has become available in which sulphur-free diesel is produced wholly from the hydrogenation of biomass. This instrument extends the scope of the relief to include sulphur-free diesel produced using this process.

7.3 The original approved trial in respect of which relief was conferred by the principal Regulations was expected to take place early in 2007. This has not gone ahead to the original timetable. Subsequently other refiners have shown an interest in both refinery and non-refinery based hydrogenation technology, and imported produce from both technologies has become available for use in vehicle trials. Given the delay to the original refinery trial, the original time limit on the relief is no longer appropriate. The uncertain timetable for the future development means that it is not practicable to determine an appropriate termination date for the relief at this time, though individual pilot projects approved under the relief will continue to be time limited.

7.4 There is no guarantee that the duty reduction set for the fuel produced from a pilot will continue once the approved pilot projects are completed. However, the pilot process will be used to inform decisions on the longer-term duty rates for the fuels in question.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is negligible.

9. Contact

Tim Smith at HM Revenue and Customs tel. 020 7147 0573 or email tim.smith@hmrc.gsi.gov.uk can answer any queries regarding this instrument.