

**EXPLANATORY MEMORANDUM TO
THE BIOFUELS AND HYDROCARBON OIL DUTIES (MISCELLANEOUS
AMENDMENTS) (REGULATIONS 2007**

2007 No. 3307

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.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

This statutory instrument corrects errors that occurred when the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc) Regulations 2004 (S.I. 2004/2065) ("the 2004 Regulations") were amended by the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc) (Amendment) Regulations 2007 (S.I. 2007/1640) ("the 2007 Regulations"). It also corrects errors in the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005 (S.I. 2005/3320) ("2005 Regulations").

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

- 3.1 This statutory instrument corrects drafting errors made in the 2007 Regulations that were reported by the Committee in its Twenty-third Report of the 2006-2007 Session.

- 3.2 This statutory instrument also corrects drafting errors in the 2005 Regulations that were reported by the Committee in its Sixteenth Report of the 2005-2006 Session and First Special Report of the 2006-2007 Session.

- 3.3 This Statutory instrument is being issued free of charge to all known recipients of the 2007 Regulations and the 2005 Regulations.

4. **Legislative Background**

- 4.1 Regulation 8 of the 2007 Regulations amended regulation 19 of the 2004 Regulations. Regulation 19(1) was replaced with paragraphs (1) and (1A). New paragraph (1) provides that the requirements in paragraph (1A) apply to a producer of biofuels other than a large producer. Paragraph (1A) imposes requirements concerning the making of returns and payment of duty. There are references in regulations 19(4) and (6)(a) of the 2004 Regulations to the requirements of paragraph (1) and those regulations should have been amended to refer the requirements of paragraph (1A).

4.2 Regulation 3 of these Regulations amends regulations 19(4) and (6)(a) of the 2004 Regulations so that they now refer to the requirements of regulation 19(1A).

4.3 Regulation 9 of the 2007 Regulations added regulation 19A to the 2004 Regulations. It makes provision about large producers of biofuel. Regulations 19A(3) and 19A(4) require large producers to furnish returns and pay duty monthly. Regulation 19A(5) applies regulations 19(2) to 19(8) to large producers, with one adjustment to the text of regulation 19(4).

4.4 Regulation 4(2) of these Regulations correct a typographical error in regulation 19A.

4.5 Regulation 4(3) of these Regulations substitutes a new regulation 19A(5). The purpose of making this substitution is to adjust the text of regulation 19(4) in its application to large producers to reflect the monthly frequency with which large producers must furnish returns and pay duty. Since regulations 19(7) and 19(8) make provision in relation to producers of biofuel generally, new regulation 19A(5) is adjusted so that it does not apply those provisions specifically to large producers.

4.6 Regulation 5 makes corrections to regulations 10(1) and 11(4) of the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005 so as to achieve consistency in references to relief provided for by those Regulations. Regulation 5 also corrects a typographical error in regulation 8(a).

5. Extent

These Regulations apply 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

These Regulations make the corrections to the 2004 Regulations and the 2005 Regulations described above.

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

Tony Baxter at HM Revenue and Customs Tel: 0161 827 0309 or email tony.baxter@hmrc.gsi.gov.uk can answer any queries regarding the biofuels aspects of this instrument; Ann Little at HM Revenue and Customs Tel: 020 7147 0383 or email ann.little@hmrc.gsi.gov.uk can answer any queries on the relief for electricity generation aspects of this instrument.