

2008 No. 2599

EXCISE

**The Hydrocarbon Oil and Bioblend (Private Pleasure-flying and
Private Pleasure Craft) (Payment of Rebate etc.) Regulations
2008**

<i>Made</i> - - - -	<i>3rd October 2008</i>
<i>Laid before Parliament</i>	<i>6th October 2008</i>
<i>Coming into force</i> - -	<i>1st November 2008</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 13AC(3), (6) and (7), 14E(3), (7) and (8) and 24(1) of the Hydrocarbon Oil Duties Act 1979(a):

PART 1

CITATION, COMMENCEMENT AND INTERPRETATION

Citation and commencement

1. These Regulations may be cited as the Hydrocarbon Oil and Bioblend (Private Pleasure-flying and Private Pleasure Craft) (Payment of Rebate etc.) Regulations 2008 and come into force on 1st November 2008.

Interpretation

2. In these Regulations—

“business day” means a day that is a business day within the meaning of section 92 of the Bills of Exchange Act 1882(b);

“the rebate amount” means the amount specified in section 13AC(4) of the Act;

“the Act” means the Hydrocarbon Oil Duties Act 1979.

-
- (a) 1979 c.5; sections 13AC and 14E were inserted respectively by the Finance Act 2008 (c.9), Schedule 6, paragraphs 11 and 15. Section 24(1) was amended by the Finance Act 1987 (c.16) section 1(2) and (4), the Finance Act 1996 (c.8), sections 5(1), (5), 7(2), 205, Schedule 41, the Finance Act 1997 (c.16), sections 7(7), the Finance Act 2001 (c.9), section 3(2) and the Finance Act 2008 (c.9), Schedule 5, paragraph 20 and Schedule 6, paragraphs 5, 16 and 31. Section 27(3) adopts for the purposes of the Act or any instrument made under the Act the definition of “the Commissioners” in section 1(1) of the Customs and Excise Management Act 1979 (c.2) (as substituted by the Commissioners for Revenue and Customs Act 2005 (c.11), Schedule 4, paragraph 22), namely “the Commissioners” means “the Commissioners for Her Majesty's Revenue and Customs”.
- (b) 1882 (c.61); section 92 has been amended by the Banking and Financial Dealings Act 1971 (c.80), sections 3(1), (3) and 4(4).

PART 2

PRIVATE PLEASURE-FLYING

Declaration of intention to use rebated kerosene for private pleasure-flying

3. A declaration for the purposes of section 13AC(3) of the Act that a quantity of rebated kerosene is to be used for private pleasure-flying^(a) must be made in the way and form specified by the Commissioners in a notice published by them and not withdrawn by a further notice.

Payment of rebate

4.—(1) For the purposes of section 13AC of the Act (use of rebated kerosene for private pleasure-flying), where a person (“P”) is required to pay the rebate amount, that amount must be paid in accordance with this regulation.

(2) Payment must be made to the Commissioners at the address, or into the bank account, provided by them for the purpose.

(3) P must pay the rebate amount no later than thirty days after the end of the month in which the declaration giving rise to the obligation to make the payment is made.

(4) But where the thirtieth day would fall on a day that is not a business day, payment must be made no later than the last business day before that thirtieth day.

(5) In respect of each declaration, the following information must be notified to the Commissioners at the time of payment—

- (a) P’s name and address;
- (b) the quantity of rebated kerosene purchased by P;
- (c) the date on which the quantity of rebated kerosene was purchased;
- (d) the name and address of the supplier of the quantity of rebated kerosene;
- (e) the rate of the rebate under section 11(1)(c) of the Act at the time of the declaration ; and
- (f) the rebate amount in relation to the quantity of rebated kerosene.

(6) The notification must be made on a form provided by the Commissioners for the purpose or on any other document provided it contains all the information specified in paragraph (5).

(7) P must sign, date and declare on the notification that the information provided in it is true and complete.

Mixture of fuel in fuel tank

5. Regulation 6 applies for the purposes of section 13AC (use of rebated kerosene for private pleasure-flying) and section 13AD (penalties for contravention of section 13AC) of the Act^(b).

6.—(1) Paragraphs (2) and (3) apply in cases where—

- (a) kerosene which must not be used as fuel for private pleasure –flying (“fuel A”); and
- (b) other kerosene (“fuel B”)

are mixed together by being taken into a fuel tank of an aircraft.

(2) When the aircraft is being used for private pleasure-flying the fuel in the mixture that is fuel B shall be treated as being used before the fuel in the mixture that is fuel A.

(a) Section 13AC(7) of the Act provides that “private pleasure-flying” has the same meaning as in Article 14(1)(b) of Council Directive 2003/96/EC (taxation of energy products etc.) (OJ:L 283, 31.10.2003, p51). That is to say, the use of an aircraft by its owner or the natural or legal person who enjoys its use either through hire or through any other means, for other than commercial purposes and in particular other than for the carriage of passengers or goods or for the supply of services for consideration or for the purposes of public authorities.

(b) Section 13AD was inserted by the Finance Act 2008 (c.9), Schedule 6, paragraph 11.

(3) When the aircraft is being used other than for private pleasure-flying the fuel in the mixture that is fuel A shall be treated as being used before the fuel in the mixture that is fuel B.

PART 3

PRIVATE PLEASURE CRAFT

Declaration of intention to use rebated heavy oil or bioblend as fuel for propelling private pleasure craft

7. A declaration for the purposes of section 14E(3) of the Act that a quantity of rebated heavy oil or bioblend is to be used as fuel for propelling a private pleasure craft^(a) must be made in the way and form specified by the Commissioners in a notice published by them and not withdrawn by a further notice.

Payment of rebate

8.—(1) Where a person who supplies a quantity of rebated heavy oil or bioblend that is to be used as fuel for propelling a private pleasure craft is required to pay the amount specified in section 14E(4) of the Act, that amount must be paid to the Commissioners at the address, or into the bank account, provided by them for the purpose.

(2) Payment must be made no later than twenty-one days after the end of the period for which, in relation to such supplies, a return is required to be made.

(3) But where the twenty-first day would fall on a day that is not a business day, payment must be made no later than the last business day before that twenty-first day.

(4) In paragraph (2) “return” means a return that a registered dealer in controlled oil is required to make by regulation 9 of the Hydrocarbon Oil (Registered Dealers in Controlled Oil) Regulations 2002^(b) specifically for the purposes of section 14E of the Act.

Mixture of fuel in fuel tank

9. Regulation 10 applies for the purposes of section 14E (rebated heavy oil and bioblend: private pleasure craft) and section 14F (penalties for contravention of section 14E) of the Act^(c).

10.—(1) Paragraphs (2) and (3) apply in cases where—

- (a) heavy oil or bioblend which must not be used as fuel for propelling private pleasure craft (“fuel C”); and
- (b) other heavy oil or bioblend (“fuel D”)

are mixed together by being taken into the fuel tank of a craft.

(2) When the craft is being used as a private pleasure craft the fuel in the mixture that is fuel D shall be treated as being used before the fuel in the mixture that is fuel C.

(3) When the craft is being used other than as a private pleasure craft the fuel in the mixture that is fuel C shall be treated as being used before the fuel in the mixture that is fuel D.

*Dave Hartnett
Steve Lamey*

3rd October 2008

Two of the Commissioners for Her Majesty’s Revenue and Customs

(a) Section 14E(8) of the Act provides that “private pleasure craft” has the same meaning as in Article 14(1)(c) of Council Directive 2003/96/EC (taxation of energy products etc.). That is to say, any craft used by its owner or the natural or legal person who enjoys its use either through hire or through any other means, for other than commercial purposes and in particular other than for the carriage of passengers or goods or for the supply of services for consideration or for the purposes of public authorities.

(b) S.I.2002/3057, to which there is an amendment not relevant to these Regulations.

(c) Section 14F was inserted by the Finance Act 2008 (c.9), Schedule 6, paragraph 15.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 1st November 2008. They provide that a declaration that a quantity of heavy oil (including kerosene) or bioblend on which a rebate of excise duty has been allowed under the Hydrocarbon Oil Duties Act 1979 (c.5) (“rebated fuel”) is to be used for private pleasure-flying or for propelling a private pleasure craft must be made in the way and form specified by the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) in a notice.

Where, following such a declaration, a person is required to pay to the Commissioners an amount equivalent to the rebate on the fuel, the Regulations provide for when and how such a payment is to be made and, in the case of a payment in relation to fuel used for private pleasure-flying, specify the information that must be provided to the Commissioners at the time of the payment.

Also, for the purposes of applying the civil penalty provisions for contravening the prohibition on the use of rebated fuel for private pleasure-flying or for propelling a private pleasure craft unless a declaration has been made, the Regulations provide for the order in which fuel is treated as being used in cases where fuel which must not be used for private pleasure-flying or for propelling a private pleasure craft and fuel in relation to which a declaration has been made are mixed together in a fuel tank of an aircraft or, as the case may be, a private pleasure craft.

The Regulations are part of the measures that implement Council Directive 2003/93/EC of 27 October 2003(a) on restructuring the Community framework for the taxation of energy products and electricity (“the Energy Products Directive”). A Transposition Note showing how the Directive has been transposed is available at www.hmrc.gov.uk

A full and final Impact Assessment of the effect that sections 13AC and 14E of the Act and this instrument will have on the costs of business and the voluntary sector is available at www.hmrc.gov.uk and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

(a) OJ:L283, 31.10.2003, p.51.

© Crown copyright 2008

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£4.00