

**EXPLANATORY MEMORANDUM TO  
THE HYDROCARBON OIL DUTIES (MARINE VOYAGES RELIEFS)  
(AMENDMENT) REGULATIONS 2010**

**2010 No. 2868**

1. This explanatory memorandum has been prepared by HM Revenue & Customs and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

‘Approved persons’, who make a direct supply of marine fuel, at a ‘duty-exclusive’ price, to a ship that will be engaged on a sea voyage, may recover the duty that they have paid on that fuel by setting off the relevant amount on their deferment account (“netting off”). This instrument will extend the relief to circumstances where there is a chain of supplies between the approved person and the ship (while preserving the requirement that the fuel be delivered to the ship directly from a warehouse or refinery). The purpose of that extension is to accommodate current practices and facilitate trade.

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

None

**4. Legislative Context**

The instrument amends the Hydrocarbon Oil Duties (Marine Voyages Reliefs) Regulations 1996, which were made under section 127A of the Customs and Excise Management Act 1979, sections 20AA, 21(1)(a), and 21(2) of the Hydrocarbon Oil Duties Act 1979, and section 1 of the Finance Act 1992. Those Regulations came into force on 1 November 1996 and govern the relief accorded to fuel supplied to ships engaged on marine voyages. The amendments made by this instrument are not in consequence of any change in the law.

**5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom.

**6. European Convention on Human Rights**

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

**7. Policy background**

7.1 Under certain circumstances, marine fuels can be supplied fully relieved of excise duty to eligible vessels undertaking a qualifying voyage. There are currently three methods of achieving this result:

- by supplying the fuel to the vessel in ‘duty-suspension’
- where the fuel is supplied duty-paid, by making a repayment claim under the Marine Voyages Relief scheme
- where the fuel is duty-paid, the supply is at a ‘duty-exclusive’ price and the supplier is an ‘approved person’, by off-setting the duty on the approved person’s monthly deferment return (“netting off”).

7.2 Following a marine fuels supply chain review by HMRC, it was discovered that a number of extra-statutory practices had developed on an ad hoc basis. These mainly revolved around the “netting” arrangements and included allowing the relief where there had been one or more intermediate supplies between the approved person and the ship. Having carried out a review of these practices, HMRC formed the view that they were desirable both in terms of trade-facilitation and from the point of view of consistency and equity of treatment across the sector. They did not compromise the necessary controls (including those aimed at diversion to non-eligible use) and should, in order to give certainty and ensure consistency, be accommodated within the relevant legislation. A proposal to that effect was therefore made.

## **8. Consultation outcome**

An initial informal consultation with business in Nov 2008 showed a good level of support for the proposal to extend the netting arrangements as described. A formal consultation exercise was carried out, between 23 June and 18 September 2009. The consultation document was published on the HMRC website and sought the views of all businesses that might be affected by the proposed changes. Five responses were received and all supported the proposal.

## **9. Guidance**

All relevant public notices and guidance (both public and internal) will be updated as appropriate to coincide with the implementation of these changes. HMRC issued business briefs to announce the consultation and will issue updated business briefs when the legislation is introduced. We have also informed certain trade associations directly so that they can bring the measures to the attention of their members.

## **10. Impact**

The impact on business, charities and voluntary bodies is negligible.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 Small businesses had the opportunity to comment on the proposals during the consultation process. However, those oil distributors who are most affected by these proposals will not be small businesses. Most small businesses that are affected will be the end-users, the vessel owners and these are likely to benefit from these changes in terms of improved cash-flow through access to fuel at duty-exclusive prices. The consultation did not produce any negative comments from small businesses or reveal any negative impact on this sector.

## **12. Monitoring & review**

The outcome will be subject to an internal review after 12 months and the legislation may be amended accordingly if necessary.

## **13. Contact**

Neil Pedersen at HM Revenue & Customs (tel: 0161 827 0310 or email: [neil.pedersen@hmrc.gsi.gov.uk](mailto:neil.pedersen@hmrc.gsi.gov.uk)) can answer any queries regarding the instrument.