

2011 No. 2935

EXCISE

The Hydrocarbon Oil and Biofuels (Road Fuel in Defined Areas) (Reliefs) Regulations 2011

<i>Made</i> - - - -	<i>7th December 2011</i>
<i>Laid before Parliament</i>	<i>8th December 2011</i>
<i>Coming into force</i> - -	<i>1st January 2012</i>

The Commissioners for Her Majesty's Revenue and Customs make the following regulations in exercise of the powers conferred by section 20AA of the Hydrocarbon Oil Duties Act 1979(a):

Citation and commencement

1. These Regulations may be cited as the Hydrocarbon Oil and Biofuels (Road Fuel in Defined Areas) (Reliefs) Regulations 2011 and come into force on 1st January 2012.

Interpretation

2. In these Regulations—

“defined area” means —

- (i) the Inner and Outer Hebrides;
- (ii) the Northern Isles;
- (iii) the Islands of the Clyde; and
- (iv) the Isles of Scilly;

“qualified claimant” has the meaning given in regulation 3;

(a) 1979 c. 5; section 20AA was inserted by section 2(1) of the Finance Act 1989 (c. 26) and has been amended by the Finance Act 1993 (c. 34), Schedule 23, Part 1 (4), the Finance Act 1994 (c. 9), Schedule 4, Part 3, paragraphs 49 and 54, the Finance Act 2000 (c. 17), section 10(3) and the Finance Act 2008 (c. 9), Schedule 5, paragraph 17 and Schedule 6, paragraphs 24 and 30. The power to make Regulations under section 20AA is conferred on “the Commissioners”. By virtue of section 27(3) “the Commissioners” has the same meaning as given in the Customs and Excise Management Act 1979 (c. 2). Section 1(1) of that Act (as amended by the Commissioners for Revenue and Customs Act 2005 (c. 11), Schedule 4, paragraphs 20 and 22 (b)) defines “the Commissioners” as “the Commissioners for Her Majesty’s Revenue and Customs”. Section 20AA of the Hydrocarbon Oils Duties Act 1979 provides that the Commissioners may make regulations allowing reliefs as regards any duty of excise which has been charged in respect of “hydrocarbon oil”. Section 6AC of that Act (which was inserted by the Finance Act 2002 (c. 23), section 5(4)) provides that the Commissioners may by regulations provide for references in the Act to hydrocarbon oil to be construed as including references to biodiesel and bioblend and for references to duty on hydrocarbon oil to be construed as including references to duty under sections 6AA and 6AB of the Act. Section 6AF of that Act (which was inserted by the Finance Act 2004 (c. 12) provides that the Commissioners may by regulations provide for references in the Act to hydrocarbon oil to be construed as including references to bioethanol blend and for references to duty on hydrocarbon oil to be construed as including references to duty under section 6AE of the Act. Regulation 3(1), (2) and (4) of the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc) Regulations 2004 (S.I. 2004/2065) (as amended by S.I. 2008/753) provides that references to hydrocarbon oil and to the duty on hydrocarbon oil in section 20AA(1)(a) of the Hydrocarbon Oil Duties Act 1979 (c. 5) are to be construed as including references to biodiesel, bioblend and bioethanol blend and to the duty on those products.

“qualifying fuel” means—

- (v) hydrocarbon oil charged with a duty of excise under section 6(1A)(a) or (c) of the Hydrocarbon Oil Duties Act 1979(a);
- (vi) biodiesel charged with a duty of excise under section 6AA(b) of that Act;
- (vii) bioblend charged with a duty of excise under section 6AB(c) of that Act; and
- (viii) bioethanol blend charged with a duty of excise under section 6AE(d) of that Act, and in relation to which the duty charged has been paid.

Qualified claimant

3. A person is a qualified claimant if that person—
- (a) supplies qualifying fuel by retail sale from premises situated in a defined area; and
 - (b) has notified the Commissioners of that fact and is registered by them to make a claim for relief.

Relief

4. Relief is allowed in accordance with these Regulations if a quantity of qualifying fuel has been purchased by a qualified claimant to be supplied by that person for use as fuel in a road vehicle.

Amount and form of relief

5. The amount of the relief shall be 5 pence per litre and shall be in the form of a repayment by the Commissioners to the qualified claimant.

Application for relief

- 6.—(1) Relief is allowed only upon the written application of a qualified claimant.
- (2) Each application must contain the particulars specified in the Schedule and be made on a form provided by the Commissioners for the purpose.
- (3) The qualified claimant must sign and date the form and declare that the information provided on it is true and complete.
- (4) An application must be made no later than 30 days after the end of the month to which it relates.

Conditions

- 7.—(1) Relief is allowed subject to the following conditions.
- (2) The qualified claimant must—
- (a) if so required by the Commissioners, provide to their satisfaction evidence of the purchase of the qualifying fuel in relation to which any application for relief is made;

(a) Section 6(1A) was inserted by the Finance Act 1997 (c. 16), section 7(3) and substituted by the Finance Act 2008 (c. 9), section 13(3).

(b) Section 6AA was inserted by the Finance Act 2002 (c. 23), section 5(4) and has been amended by the Finance Act 2004 (c. 12), section 11 and Schedule 42, Part 1(1), the Finance Act 2007 (c. 11), section 10(3), the Finance Act 2008 (c. 9), Schedule 5, paragraph 4 and the Finance Act 2010 (c. 13), section 12(1) and (3).

(c) Section 6AB was inserted by the Finance Act 2002 (c. 23), section 5(4) and has been amended by the Finance Act 2008 (c. 9), Schedule 5, paragraph 5 and the Finance Act 2010 (c. 13), section 12(1) and (4).

(d) Section 6AE was inserted by the Finance Act 2004 (c. 12), section 10(3) and has been amended by the Finance Act 2010 (c. 13), section 12(1) and (6).

(b) give to the person to whom the qualifying fuel is supplied for use in a road vehicle a reduction in the price per litre that is equivalent to the relief per litre that has been claimed (or will be claimed) on it;

(c) keep and preserve such records as the Commissioners may specify.

(3) The condition in paragraph (2)(b) does not apply in relation to any qualifying fuel that is supplied in the period of 60 consecutive days commencing with the day on which the qualified claimant is first registered to make a claim for relief.

Cancellation of Relief

8.—(1) If there is a failure to comply with any condition imposed by regulation 7 the relief allowed shall be cancelled.

(2) Where any relief is cancelled, any person who is a qualified claimant in relation to the application for relief shall, on demand, be liable to repay the amount of the relief.

Dave Hartnett

Mike Eland

7th December 2011

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

SCHEDULE

Regulation 6(2)

PARTICULARS TO BE CONTAINED IN APPLICATION

- a) The name, address and telephone number of the qualified claimant.
- b) The month to which the application relates.
- c) The total volume of unleaded petrol purchased by the qualified claimant in that month.
- d) The total volume of heavy oil (diesel) purchased by the qualified claimant in that month.
- e) The name of the person from whom the unleaded petrol and diesel was purchased.
- f) The date on which the unleaded petrol and diesel was purchased.
- g) The amount of the claim.

Note

In this Schedule the references to unleaded petrol and diesel include unleaded petrol and diesel which contains biodiesel, bioblend or bioethanol blend.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st January 2012, provide for a relief from excise duty charged on hydrocarbon oil, biodiesel, bioblend and bioethanol blend where it is purchased by a retail supplier ("the supplier") situated in the Scottish Islands and the Scilly Isles to be supplied for use as fuel in a road vehicle.

The amount of the relief is 5 pence per litre and is given in the form of a repayment to the supplier. The relief is given subject to the condition that the supplier must, if so required by the

Commissioners for Revenue and Customs (“the Commissioners”), provide evidence of the purchase of the fuel in relation to which an application for relief is made and keep such records as the Commissioners may specify. Also, other than in relation to fuel supplied within 60 days of the date on which the supplier is registered to claim relief, the relief must be passed on to persons to whom the fuel is supplied in the form of a discount on the price of the fuel.

The relief is cancelled if there is a failure to comply with a condition subject to which it was given and the person to whom it was given is liable, on demand, to repay the amount of the relief.

A Tax Information and Impact Note covering this instrument was published on 25th November 2011 alongside a draft of this instrument and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

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