

EXPLANATORY MEMORANDUM TO
THE OTHER FUEL SUBSTITUTES (RATES OF EXCISE DUTY ETC.)
(AMENDMENT) ORDER 2014

2014 No. 470

1. Introduction

This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") on behalf of the Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the Statutory Instrument

This Statutory Instrument, which comes into force on 1st April 2014, amends the Other Fuel Substitutes (Rates of Excise Duty etc) Order 1995 (S.I. 1995/2716) ("the principal Order"). The purpose of the instrument is to ensure that fuel additives and extenders that are added to hydrocarbon oils on which a rebate of duty has been allowed and to Liquefied Petroleum Gas (LPG) are taxed at the correct rate of duty.

3. Matters of Special Interest to the Select Committee on Statutory Instruments

None.

4. Legislative Context

4.1 Article 3 of Council Directive 2003/96/EC of 27 October 2003 on restructuring the Community framework for the taxation of energy products and electricity¹ ("the EPD") provides that fuel additives and extenders shall be taxed at the rate of the equivalent motor fuel. In order to comply with the Directive additives and extenders that are used, or set aside for use, in fuel on which a rebate of duty has been allowed should be taxed at the same rebated rate.

4.2 Section 6A of the Hydrocarbon Oil Duties Act 1979 ("the Act") provides that a duty of excise shall be charged on the use of a substance as an additive or extender in fuel for any engine, motor or other machinery. The rate of duty under the section is prescribed by order made by the Treasury.

4.3 The principal Order prescribe the rates of duty for additives and extenders by reference to the full rates of excise duty on hydrocarbon oil specified in section 6 of the Act. No provision is made for a rebated rate for additives or extenders that are used, or set aside for use, in hydrocarbon oil on which a

¹ OJ: L283, 31.10.2003, p 51

rebate of duty has been allowed. The amendments made by this instrument, and consequential amendments made to the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc) Regulations 2004 by The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc) (Amendment) Regulations 2014 S.I.2014/471 provide for this.

4.4 The amendments also prescribe that the rate of duty for additives and extenders used, or set aside for use, in LPG is the same rate as for LPG.

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

What is being done and why

7.1 Fuel additives and fuel extenders are chemical products that are added to petrol, diesel, LPG and rebated fuel. These amendments are being made to ensure that additives and extenders that are used, or set aside for use, in fuels on which a rebate of excise duty has been allowed are charged at the same rebated rate as applies to the fuel to which they are added. In addition, the amendments ensure that the rate of duty for additives and extenders that are used, or set aside for use, in LPG is the same rate as for LPG.

Consolidation

7.2 There are currently no plans to consolidate the amendments that have been made to the principal Order.

8. Consultation Outcome

As this is a minor technical amendment, no formal consultation has been undertaken.

9. Guidance

9.1 The Public Notice 179E (Biofuels and other fuel substitutes), available on www.hmrc.gov.uk, will be updated.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

11. Regulating Small Business

The legislation applies to small business. To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to keep to a minimum any new regulatory requirements as part of this change.

12. Monitoring and Review

Reviews of compliance with the practical application of the new regulations will form part of the compliance review programme of the Indirect Tax Directorate of HMRC.

13. Contact

Ademola Adetosoye at HMRC can answer any queries regarding this instrument. Tel: 03000 586040 E-mail: ademola.adetosoye@hmrc.gsi.gov.uk