

2021 No. 780

EXCISE

**The Hydrocarbon Oil and Biofuels (Northern Ireland Private
Pleasure Craft) Regulations 2021**

<i>Made</i> - - - -	<i>30th June 2021</i>
<i>Laid before Parliament</i>	<i>1st July 2021</i>
<i>Coming into force</i> - -	<i>1st October 2021</i>

These Regulations are made by the Treasury and the Commissioners for Her Majesty's Revenue and Customs.

The powers exercised by the Treasury are those conferred by section 14E(7) of the Hydrocarbon Oil Duties Act 1979(a).

The powers exercised by the Commissioners for Her Majesty's Revenue and Customs are those conferred by sections 20AA(1) and (2) and 24(1) of, and paragraphs 19 to 21 of Schedule 4 to, the Hydrocarbon Oil Duties Act 1979(b).

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- (a) 1979 c. 5 ("HODA"). Section 14E was inserted by the Finance Act 2008 (c. 9), Schedule 6, paragraph 15. Section 14E(7A) was inserted by the Finance Act 2012 (c. 14), section 189. Section 14E of HODA was relevantly amended by paragraph 6 of Schedule 9 to the Taxation (Cross-border Trade) Act 2018 (c. 22). Paragraphs 6(3) and 6(4) of that Schedule are omitted by paragraph 17 of Schedule 11 to the Finance Act 2020 (c. 14) and a new section 14E of HODA was substituted by paragraph 8 of Schedule 11 to the Finance Act 2020, which was commenced in relation to Northern Ireland only by S.I. 2021/740 (C. 36) with effect from 30th June 2021, for the purposes of making regulations, and with effect from 1st October 2021 (also for Northern Ireland only), for all other purposes.
- (b) Section 20AA of HODA was inserted by the Finance Act 1989 (c. 26), section 2(1); sections 20AA-20AB were placed under a new heading entitled "Powers to allow reliefs" by the Finance Act 2016 (c. 24), Schedule 17(1), paragraph 6(2). The reference in section 20AA to hydrocarbon oil is to be construed as including a reference to biodiesel and bioblend, by virtue of regulation 3 of S.I. 2004/2065. The power to make regulations, other than under new section 14E(7) where it is conferred on "the Treasury", is conferred on "the Commissioners" by section 24(1) of HODA, which was relevantly amended by the Finance Act 2008, Schedule 5, paragraph 20 and Schedule 6, paragraph 16; and section 27(3) of HODA provides that "the Commissioners" has the same meaning as that which it bears in the Customs and Excise Management Act 1979 (c. 2); section 1 of the latter Act (as amended by the Commissioners for Revenue and Customs Act 2005 (c. 11), section 50(6) and Schedule 4, paragraphs 20 and 22(b)), provides that "the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs. Paragraphs 19 to 21 of HODA Schedule 4 were relevantly amended by the Finance Act 2020, Schedule 11, paragraph 13 to insert references to "vessels", which was commenced in relation to Northern Ireland only by S.I. 2021/740 (C. 36) with effect from 30th June 2021 for the purposes of making regulations, and with effect from 1st October 2021 (also for Northern Ireland only), for all other purposes.

PART 1

INTRODUCTION

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Hydrocarbon Oil and Biofuels (Northern Ireland Private Pleasure Craft) Regulations 2021 and come into force on 1st October 2021.

(2) In these Regulations “HODA” means the Hydrocarbon Oil Duties Act 1979.

(3) Regulations 2, 9 and 10 apply in relation to private pleasure craft in Northern Ireland.

(4) Regulations 3 to 8 apply in relation to the supply of qualifying fuel in Northern Ireland.

(5) In paragraph (4) “qualifying fuel” has the meaning provided for in regulation 3(5).

(6) In these Regulations, references to Northern Ireland do not include any of the territorial sea of the United Kingdom that is adjacent to Northern Ireland.

PART 2

CASES IN WHICH A VESSEL IS TREATED AS NOT BEING A PRIVATE PLEASURE CRAFT

Cases in which a vessel is treated as not being a private pleasure craft

2.—(1) Paragraphs 2 and 3 specify cases pursuant to section 14E(7) of HODA in which a vessel is treated as not being a private pleasure craft.

(2) The first case is where the vessel is used in accordance with instructions given by an officer of Her Majesty’s Revenue and Customs for the purposes of removing restricted fuel from the vessel.

(3) The second case is where the vessel is used solely as a residential craft.

(4) For the purposes of paragraph (3) “residential craft” means a vessel designed or adapted for use solely as a place of habitation, and which does not use an engine for propulsion.

PART 3

RELIEF FOR NON-PROPULSION USE OF FUEL IN A PRIVATE PLEASURE CRAFT

General provisions

3.—(1) This regulation applies for the purposes of this Part.

(2) A person is a “qualified claimant” if that person is a revenue trader who—

(a) supplies qualifying fuel to qualified users by retail sale in Northern Ireland from waterside premises or a refuelling vessel; and

(b) has given written notification of that fact to the Commissioners and is registered by them for the purposes of claiming relief under this Part.

(3) A person is a “qualified user” if that person is the owner or operator of a qualifying craft to which qualifying fuel is delivered.

(4) “Qualifying craft” means a vessel—

(a) with a single fuel supply; and

(b) which is not used otherwise than as a private pleasure craft.

(5) “Qualifying fuel” means—

- (a) heavy oil charged with a duty of excise under section 6(1A)(a) of HODA;
 - (b) biodiesel charged with a duty of excise under section 6AA(b) of HODA; or
 - (c) bioblend charged with a duty of excise under section 6AB(c) of HODA,
- and in relation to which the duty charged has been paid and no rebate has been allowed.

(6) “Rebate” means rebate of duty—

- (a) in the case of heavy oil, under section 11(d) of HODA;
- (b) in the case of biodiesel, under section 14A(e) of HODA; or
- (c) in the case of bioblend, under section 14B(f) of HODA.

Relief

4.—(1) Relief is allowed in accordance with this Part if a quantity of qualifying fuel is supplied by a qualified claimant to a qualified user for use as fuel in a qualifying craft.

(2) Relief is allowed subject to the conditions in regulation 7.

Amount and form of relief

5.—(1) Calculate the amount of the relief in accordance with the following formula—

$$Q \times (R - r) \times 0.4$$

Where

Q is the volume, expressed in litres, of qualifying fuel delivered;

R is the amount of the relevant rebate per litre for the corresponding fuel type; and

r is the amount of any duty already repaid per litre on Q, if Q was the subject of any other application or claim for repayment, remission or drawback.

(2) The relief is in the form of a repayment by the Commissioners to the qualified claimant and rounded up to the nearest penny.

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 by the method specified in a notice published by the Commissioners(g).

(3) The applicant must—

- (a) sign and date the application;
- (b) declare that the information provided is true and complete; and
- (c) deliver it to the Commissioners at the address set out in the notice.

(a) Section 6(1A) was inserted by section 7 of the Finance Act 1997 (c. 16) and substituted by section 13 of the Finance Act 2008. The rate of £0.5795 (per litre) was substituted by section 179 of the Finance Act 2013 (c. 29). There are other amendments to the section, but none is relevant.

(b) Section 6AA was inserted by section 5 of the Finance Act 2002 (c. 23) and amended by section 10 of the Finance Act 2007 (c. 11) and section 12 of the Finance Act 2010 (c. 13). There are other amendments to the section, but none is relevant.

(c) Section 6AB was inserted by section 5 of the Finance Act 2002 and amended by section 14 of and Schedule 5 to the Finance Act 2008 and section 12 of the Finance Act 2010. There are other amendments to the section, but none is relevant.

(d) Section 11(1) was amended by section 2(2) of the Finance Act 1986 (c. 41) and section 179 of the Finance Act 2013. There are other amendments to the section, but none is relevant.

(e) Section 14A was inserted by the Finance Act 2008 Schedule 5 paragraph 13 and amended by the Finance Act 2013, section 179 and the Finance Act 2020 Schedule 11, paragraph 5. There are other amendments to the section, but none is relevant.

(f) Section 14B was inserted by the Finance Act 2008 Schedule 5 paragraph 13 and amended by the Finance Act 2020 Schedule 11 paragraph 6.

(g) Any notices mentioned in this instrument will be published at <https://www.gov.uk/government/collections/oils-notices>. A hard copy may be obtained free of charge by arrangement with HM Revenue and Customs, 100 Parliament Street, London SW1A 2BQ or telephone the fuel duty enquiry line number 0300 200 3700.

(4) Claims for relief must be made no later than the day which is 12 months after the last day of the period to which they relate, and that period must not be shorter than 1 month or longer than 12 months.

Conditions

- 7.—(1) Relief is allowed subject to the following conditions.
- (2) No relief is allowed unless the qualifying fuel is delivered directly into the fuel supply of a qualifying craft.
- (3) The qualified claimant must—
- (a) if so required by the Commissioners, provide satisfactory evidence of the delivery of the qualifying fuel in relation to which any application for relief is made;
 - (b) give to the qualified user a reduction in the price per litre that is equivalent to the relief per litre that will be claimed on it; and
 - (c) keep and preserve such records as the Commissioners may specify.
- (4) The qualified claimant must obtain an acknowledgement of receipt from the qualified user at the time the qualifying fuel is delivered containing a declaration—
- (a) that the vessel has a single fuel supply; and
 - (b) that the fuel will be used—
 - (i) solely in the vessel into which it was delivered; and
 - (ii) whilst that vessel is a qualifying craft.
- (5) The duty that is the subject of the application for relief must not be the subject of any other application or claim for repayment, remission or drawback.
- (6) The qualifying fuel must not be used otherwise than as fuel in the vessel into which it was delivered.
- (7) The qualifying fuel must not be landed again at any place in the United Kingdom without the written consent of the Commissioners.
- (8) For the purposes of paragraph (7) “landed” means the removal of qualifying fuel from the vessel, other than through use as fuel in the vessel.

Cancellation of relief

- 8.—(1) If there is a failure to comply with any condition imposed by regulation 7, the relief allowed is cancelled.
- (2) If the relief is cancelled under paragraph (1) after it has been paid to the applicant, due to a failure on the part of the applicant to comply with a condition imposed by regulation 7, the applicant is liable to repay the amount of that relief to the Commissioners.

PART 4

CONSEQUENTIAL AMENDMENTS

Amendment to the Hydrocarbon Oil Regulations 1973

- 9.—(1) The Hydrocarbon Oil Regulations 1973(a) are amended as follows.
- (2) In regulation 47 after paragraph (5) insert—
- “(6) In Northern Ireland references to “vehicle” in this regulation are to be read as including any vessel. “Vessel” includes any boat or hovercraft.”.

(a) S.I. 1973/1311. Regulation 47 was amended by S.I. 2008/753 to make reference to bioblend and bioethanol blend.

Amendment to the Hydrocarbon Oil and Bioblend (Private Pleasure-flying and Private Pleasure Craft) (Payment of Rebate etc.) Regulations 2008

10. In the Hydrocarbon Oil and Bioblend (Private Pleasure-flying and Private Pleasure Craft) (Payment of Rebate etc.) Regulations 2008(a) after regulation 10 insert—

“Northern Ireland

11.—(1) This Part does not apply in relation to fuel supplied for use in private pleasure craft in Northern Ireland on or after 1st October 2021.

(2) References to Northern Ireland do not include any of the territorial sea of the United Kingdom that is adjacent to Northern Ireland. ”.

30th June 2021 *Myrtle Lloyd*
Sophie Dean
Two of the Commissioners for Her Majesty’s Revenue and Customs

30th June 2021 *James Morris*
Maggie Throup
Two of the Lords Commissioners of Her Majesty’s Treasury

SCHEDULE

Regulation 6

PARTICULARS TO BE INCLUDED IN AN APPLICATION FOR RELIEF

Particulars to be included in an application for relief—

- (a) the name, address and telephone number of the qualified claimant;
- (b) the period to which the application relates;
- (c) the total number of supplies of qualifying fuel made to qualified users in that period;
- (d) the total volume of qualifying fuel delivered by the qualified claimant to qualified users in that period;
- (e) confirmation that the claim does not include any amount of duty which is the subject of any other application or claim for repayment, remission or drawback;
- (f) the amount of the claim.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st October 2021, make provision about the use of fuel in private pleasure craft. The Hydrocarbon Oil Duties Act 1979 (c. 5) (“HODA”) was amended by section 89 of, and Schedule 11 to, the Finance Act 2020 (c. 14) to disallow the use of “restricted fuel”, which is defined in new section 14E(2) of HODA as rebated fuel or marked oil that is not rebated fuel, to propel private pleasure craft. The changes made by Schedule 11 to the Finance Act 2020 have been commenced only in relation to Northern Ireland by the Finance Act 2020, Schedule 11 (Appointed Day) (Northern Ireland) Regulations 2021 (S.I. 2021/740 (C. 36)).

Part 1 (regulation 1) of these Regulations deals with citation, commencement, interpretation and application.

(a) S.I. 2008/2599.

Part 2 (regulation 2) provides for cases in which a vessel in Northern Ireland is treated as not being a private pleasure craft. Two cases are specified. The first is where the vessel is used in accordance with instructions given by an officer of Her Majesty's Revenue and Customs for the purposes of removing restricted fuel from the vessel. The second is where the vessel is used solely as a residential craft.

Part 3 (regulations 3-8) and the Schedule to the Regulations provide for a new relief in Northern Ireland from part of the excise duty charged on qualifying fuel supplied for private pleasure craft that will be used for non-propulsion purposes.

Part 4 (regulations 9-10) deals with amendments to other regulations, in relation to Northern Ireland, specifically adding treatment of "vessels" into regulation 47 of the Hydrocarbon Oil Regulations 1973 (S.I 1973/1311), and to ensure that Part 3 of the Hydrocarbon Oil and Bioblend (Private Pleasure-flying and Private Pleasure Craft) (Payment of Rebate etc.) Regulations 2008 (S.I 2008/2599) does not apply where the fuel is supplied for use in a private pleasure craft after these Regulations take effect.

Any notices mentioned in this instrument will be published at <https://www.gov.uk/government/collections/oils-notices>. A hard copy may be obtained free of charge by arrangement with HM Revenue and Customs, 100 Parliament Street, London SW1A 2BQ or telephone the fuel duty enquiry line number 0300 200 3700.

A Tax Information and Impact Note covering this instrument was published on 20 March 2020 alongside publication of the Finance Bill 2020. This has been updated as a result of changes to the impacts as a result of this instrument and is available on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

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