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STATUTORY INSTRUMENTS

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**2022 No. 234**

**The Hydrocarbon Oil Duties (Consequential Amendments and Transitional Provisions) Regulations 2022**

**PART 3**

Transitional provisions

**Vehicles other than road vehicles - forfeiture**

**9.**—(1) Where—

- (a) heavy oil was taken as fuel into a vehicle at a time when it was not a road vehicle for the purposes of the Act, as it had effect before 1st April 2022;
- (b) the oil remains in the vehicle as part of its fuel supply on or after 1st April 2022;
- (c) the vehicle is not, or ceases to be, an excepted machine; and
- (d) regulation 10(2) does not apply to the oil,

the heavy oil is liable to forfeiture<sup>(1)</sup>.

(2) In this regulation—

- (a) “heavy oil” has the meaning given in section 1(4) of the Act (hydrocarbon oil);
- (b) “excepted machine” has the meaning given in section 27(1) of the Act (interpretation)<sup>(2)</sup>.

**Use of heavy oil or marked oil**

**10.**—(1) The following provisions of the Act do not apply in relation to heavy oil or marked oil to which paragraph (2) or (4) applies—

- (a) section 12(2) (restriction on use of heavy oil as fuel for certain purposes);
- (b) section 13(6) (liability to forfeiture of certain heavy oil)<sup>(3)</sup>;
- (c) section 24A (penalties for misuse of marked oil)<sup>(4)</sup>.

(2) This paragraph applies to heavy oil or marked oil that—

- (a) was taken into a vehicle, vessel, machine or appliance in the United Kingdom before 1st April 2022 in accordance with the law of the place in the United Kingdom where it was taken in;
- (b) was not used at any time before 1st April 2022 other than—
  - (i) as fuel for that vehicle, vessel, machine or appliance; and
  - (ii) in a way that was in accordance with the law of the place where it was used; and

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<sup>(1)</sup> See section 139 of the Customs and Excise Management Act 1979 (c. 2).

<sup>(2)</sup> The definition of “excepted machine” was inserted by paragraph 20 of Schedule 21 to FA 2021 (c. 26).

<sup>(3)</sup> Section 13(6) was amended by paragraph 6 of Schedule 21 to FA 2021 and paragraph 3 of Schedule 11 to FA 2022.

<sup>(4)</sup> Section 24A was inserted by section 7 of FA 1996 and amended by paragraph 21 of Schedule 5 to FA 2008, paragraph 19 of Schedule 21 to FA 2021, paragraph 7 of Schedule 11 to FA 2022 and S.I. 2015/664.

- (c) is not used on or after 1st April 2022 other than—
  - (i) as fuel for that vehicle, vessel, machine or appliance; and
  - (ii) in a way that would be in accordance with the law of the place where it is used if the relevant provisions had not come into force.
- (3) The relevant provisions are any provisions of—
  - (a) Schedule 21 to the Finance Act 2021<sup>(5)</sup>;
  - (b) Part 1 of Schedule 11 to the Finance Act 2022<sup>(6)</sup>.
- (4) This paragraph applies to heavy oil or marked oil that is held by a person who obtained it before 11th June 2021 for use in stand-by power generation or for use as fuel for critical equipment (including when it is used by that person for that purpose).
- (5) For the purposes of paragraph (4)—
  - (a) stand-by power generation is any method of powering equipment in the event that the main power supply for that equipment ceases to be available;
  - (b) equipment is critical if it is needed to ensure continuous use or availability of an essential or critical service including (amongst other things)—
    - (i) protecting national security;
    - (ii) emergency services and law enforcement;
    - (iii) health services;
    - (iv) the supply of water, fuel and power;
    - (v) protecting the welfare of livestock and other animals.
- (6) In this regulation—
  - (a) “heavy oil” has the meaning given in section 1(4) of the Act (hydrocarbon oil);
  - (b) “marked oil” has the meaning given in section 24A(2) of the Act (penalties for misuse of marked oil).

### **Reliefs for Electricity Generation**

**11.**—(1) For the purposes of the Hydrocarbon Oil Duties (Relief for Electricity Generation) Regulations 2005 (“the reliefs regulations”)—

- (a) heavy oil to which paragraph (2) applies is to be treated as if it were qualifying oil; and
  - (b) bioblend to which paragraph (3) applies is to be treated as if it were qualifying bioblend.
- (2) This paragraph applies to heavy oil charged with a duty of excise under section 6(1) of the Act on whose delivery for home use a rebate has been allowed under section 11(1), 13ZA or 13AA of the Act that—
- (a) was obtained before 11th June 2021 by the person who used it; or
  - (b) was—
    - (i) obtained on or after 11th June 2021 by the person who used it; and
    - (ii) before 1st April 2022, taken into a machine for one of the purposes specified in regulation 3(1) of the reliefs regulations.
- (3) This paragraph applies to bioblend charged with a duty of excise under section 6AB of the Act on whose delivery for home use a rebate has been allowed under section 14B of the Act that—
- (a) was obtained before 11th June 2021 by the person who used it; or

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<sup>(5)</sup> Schedule 21 was amended by paragraph 10 of Schedule 11 to FA 2022.

<sup>(6)</sup> 2022 c. 3.

- (b) was—
  - (i) obtained on or after 11th June 2021 by the person who used it; and
  - (ii) before 1st April 2022, taken into a machine for one of the purposes specified in regulation 3(1) of the reliefs regulations.
- (4) Where paragraph (2) or (3) applies, the reliefs regulations apply as if Schedule 2 were not substituted by regulation 8(3) of these Regulations.