**EXPLANATORY MEMORANDUM TO**

# THE EXCISE DUTIES (SURCHARGES OR REBATES) (HYDROCARBON OILS ETC.) ORDER 2022 (CONTINUATION) ORDER 2023

**2023 No. 329**

## 1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

## 2. Purpose of the instrument

2.1 This instrument extends the current temporary cut in the rates of excise duty on products[1] provided for by the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) Order 2022 (SI 2022/365) ("the 2022 Order"). Without this instrument the 2022 Order would expire one year from coming into force. This instrument provides for the 2022 Order to continue in force for a further year.

## 3. Matters of special interest to Parliament

***Matters of special interest to the Select Committee on Statutory Instruments***

3.1 The instrument comes into force less than 21 days after it was laid. It extends for another year the existing temporary cut in the rates of excise duty on products within scope of the Hydrocarbon Oil Duties Act 1979 (HODA). This policy was announced in the Budget Statement on 15 March 2023. Given the legislation could not be laid before the policy has been announced, the government has had to breach the 21-day rule to the minimum extent possible by laying the instrument as soon as possible after announcement.

## 4. Extent and Territorial Application

4.1 The territorial extent of this instrument (that is the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

## 5. European Convention on Human Rights

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

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[1] Unleaded petrol; Light oil other than unleaded petrol; Heavy oil (diesel and kerosene); Aviation gasoline; Biodiesel; Bioblend; Bioethanol; Bioethanol blend; Aqua methanol; Liquified Natural Gas (LNG); Road fuel gas other than natural road fuel gas (Liquified Petroleum Gas); Fuel oil; Marked gas oil (red diesel); Heavy oil used for heating; Light oil used as furnace fuel; and biodiesel <u>not</u> used for fuel as a road vehicle, propelling a private pleasure craft, or an additive or extender to fuel used for those two purposes.

## 6. Legislative Context

6.1 Section 2(2) of the Excise Duties (Surcharges or Rebates) Act 1979 Act (which applies in respect of orders under section 1 of that Act) provides that an order shall cease to be in force at the expiration of a period of one year from the date on which it takes effect unless continued in force by a further order.

6.2 The 2022 Order, made under powers in sections 1 and 2 of the Excise Duties (Surcharges or Rebates) Act 1979 Act, came into force on 23 March 2022 and would expire after another year.

6.3 This instrument continues the effect of the 2022 Order for a further year. This is the first exercise of the power in section 2(2) of the Excise Duties (Surcharges or Rebates) Act 1979 Act to make a continuation order.

## 7. Policy background

***What is being done and why?***

7.1 The Chancellor of the Exchequer has decided to extend the temporary reduction in the amount of fuel duty payable, made by the 2022 Order, for a further year. This provides support to motorists in the context of petrol and diesel prices continuing to be volatile given the ongoing conflict in Ukraine and inflation remaining high.

***Explanations***

*What did any law do before the changes to be made by this instrument?*

7.2 The 2022 Order temporarily lowered the fuel duty rate payable by importers and producers of hydrocarbon oil products intended for the UK market.

7.3 HODA currently requires the payment of fuel duty on hydrocarbon oils imported or produced in the UK for use within the UK. These hydrocarbon oil products are generally used to power an engine, motor or other machinery. The duty rates before last year’s cut took effect varied from 67.67 pence per litre for light oil (other than unleaded petrol and aviation gasoline) to nil for kerosene used for heating.

7.4 The 2022 Order cut rates in HODA by 5 pence per litre or kilogram (as appropriate), or by 8.63% if this would result in a duty decrease in excess of 10% (the maximum permitted by the Excise Duties (Surcharges or Rebates) Act 1979), and by 5% for Aviation Gasoline.

*Why is it being changed?*

7.5 The 2022 Order is being continued to extend the temporary reduction on the taxation of fuel that ultimately impacts on consumers and businesses

*What will it now do?*

7.6 The effect of the instrument will be to extend the effect of the 2022 Order for a further year.

## 8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union. All duty rates will remain above the minimum rates set in the Energy Taxation Directive (2003/96/EC) and therefore the instrument meets the UK government’s commitment in Article 8 of the Protocol on Ireland/Northern Ireland in the European Union

Withdrawal Agreement that this directive shall apply to the UK in respect of Northern Ireland.

## 9. Consolidation

9.1 There are no plans to consolidate this instrument.

## 10. Consultation outcome

10.1 This instrument effectively legislates to extend the original cut in the liabilities to duty made by the 2022 Order and this is a matter for the Chancellor of the Exchequer. The government does not consult on tax rates as these are commercially sensitive.

## 11. Guidance

11.1 As fuel duty rates will not change, guidance published on the fuel duty section of gov.uk (https://www.gov.uk/government/publications/rates-and-allowances-excise-duty-hydrocarbon-oils/excise-duty-hydrocarbon-oils-rates) does not need to be updated and published to coincide with the introduction of this instrument.

## 12. Impact

12.1 The impact on business, charities or voluntary bodies is an extended, temporary reduction in fuel costs which will particularly benefit those where fuel is a significant part of ongoing running costs.

12.2 The impact on the public sector is an extended, temporary reduction in fuel costs which will particularly benefit those where fuel is a significant part of ongoing running costs.

12.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

## 13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No mitigating actions are needed to minimise the impact of the requirements on small businesses (employing up to 50 people) as this legislation will positively impact all businesses who use fuel by extending the temporary reduction of excise duty in the cost of fuel.

## 14. Monitoring & review

14.1 This measure will be monitored through information collected from tax receipts. Continued collaboration with Department for Transport will also allow monitoring of traffic levels and emissions.

14.2 The regulations do not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 under section 28(3)(a) a review clause is not required as the regulations make or amend provisions relating to a duty.

## 15. Contact

15.1 James Brannan at HMRC, email: james.brannan2@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Rachel Nixon, Director for Indirect Tax at HMRC can confirm that this Explanatory Memorandum meets the required standard.

15.3 James Cartlidge MP, Exchequer Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.