STATUTORY INSTRUMENTS

2016 No. 976

EXCISE

The Biofuels and Hydrocarbon Oil Duties (Miscellaneous Amendment) Regulations 2016

Made - - - -	*19th October 2016*
Laid before Parliament	*21st October 2016*
Coming into force - -	*14th November 2016*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 6AH(1)(a), (b) and (2), 20AA(1)(a) and (2)(a), (b), (c), (d), (g), (h) and (i), 21(1)(a) and (2), 23C(2) and (3) and 24(1) of, and paragraphs 3 and 11 of Schedule 3 and paragraphs 17 and 21 of Schedule 4 to, the Hydrocarbon Oil Duties Act 1979(**1**), sections 93(1)(a), (b), (c), (2)(a), (ee) and (3), 100G(1), 100H(1)(b) and (2), 118A(1) and (2), and 127A(1) and (4) of the Customs and Excise Management Act 1979(**2**) and section 1(1), (3), (4)(a) and (6) of the Finance (No.2) Act 1992(**3**):

(**1**) 1979 c.5; section 6AH was inserted by section 153 of, and Schedule 17 to, the Finance Act 2016 (c.24); section 20AA was inserted by section 2(1) of the Finance Act 1989 (c.26) and 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), the Finance Act 2008 (c.9), Schedule 5, paragraph 17 and Schedule 6, paragraphs 24 and 30; section 23C was inserted by section 13 of the Finance Act 2004 (c.12) and amended by S.I. 2012/593 and paragraph 8 of Schedule 17 to the Finance Act 2016. The power to make regulations under sections 6AH, 21, 23C and 24(1) 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 the Customs and Excise Management Act 1979 (as substituted 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 21 of the Hydrocarbon Oil Duties Act 1979 provides that the Commissioners may make regulations which relate to hydrocarbon oil. Section 6AH(1) of that Act provides that the Commissioners may by regulations provide for specified references in the Act to hydrocarbon oil to be construed as including references to aqua methanol. Regulation 3(2B) of the Biofuels and Other Fuel Substitute (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065) (as inserted by these Regulations) provides that references to hydrocarbon oil in sections 20AA(1)(a) and 21(2) of, and paragraphs 3 and 11 of Schedule 3 and paragraphs 17 and 21 of Schedule 4 to, the Hydrocarbon Oil Duties Act 1979 are to be construed as including reference to aqua methanol.

(**2**) 1979 c.2; section 93(1) was substituted by the Finance (No.2) Act 1992 (c.48), Schedule 2, paragraph 2(1); section 93(2)(a) was amended by the Finance Act 1981 (c.35), Schedule 8, Part 1, paragraph 2(a); section 93(3) was amended by the Finance (No.2) Act 1992, Schedule 2, paragraph 2(4); sections 100G and 100H were inserted by the Finance Act 1991 (c.31), section 11(3) and Schedule 4; section 118A was inserted by the Finance Act 1991, Schedule 5 and amended by the Finance (No.3) Act 2010 (c.33), Schedule 13, Part 1, paragraph 1; section 127A was inserted by the Finance Act 1983 (c.28), section 6 and amended by the Finance (No.2) Act 1992, Schedule 1, paragraph 7.

(**3**) 1992 c.48; Section 1(7) defines "the Commissioners" as "the Commissioners of Customs and Excise". The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005. Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

Citation and Commencement

1. These Regulations may be cited as the Biofuels and Hydrocarbon Oil Duties (Miscellaneous Amendment) Regulations 2016 and come into force on 14th November 2016.

Amendments to the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004

2. The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004(**4**) are amended as follows.

3. In regulation 2 (interpretation)—

(a) after the definition of "approved person" insert—

""aqua methanol duty" means the duty charged on aqua methanol by section 6AG(**5**) of the Oil Act;";

(b) in the definition of "biofuel" before "biodiesel" insert "aqua methanol,";

(c) in the definition of "biofuels duty" before "bioethanol" insert "aqua methanol duty,";

(d) in the definition of "chargeable use" before sub-paragraph (a) insert—

"(za) in relation to aqua methanol, means chargeable use within the meaning of section 6AG(2) of the Oil Act,".

4. In regulation 3 (construction of references to hydrocarbon oil etc. in the Oil Act)—

(a) after paragraph (2A) insert—

"(2B) The references to hydrocarbon oil in the following provisions of the Oil Act are to be construed as including references to aqua methanol—

(a) section 15(1) (drawback of duty on exportation etc.);

(b) section 21(1) and (2) (regulations with respect to hydrocarbon oil);

(c) paragraphs 3 and 11 of Schedule 3 (subjects for regulations);

(d) paragraphs 17 and 21 of Schedule 4 (subjects for regulations);";

(b) in paragraph (3), before sub-paragraph (a) insert—

"(za) aqua methanol duty;";

(c) in paragraph (4), before "biodiesel" insert "aqua methanol duty,".

5. In Part 4 (production premises)—

(a) in regulation 8—

(i) in paragraph (1)—

(aa) omit "either";

(bb) for "or the second condition" substitute ", the second condition or the third condition";

(ii) after paragraph (3) insert—

"(4) The third condition is that the producer has produced aqua methanol.";

(b) in regulation 8A—

(i) at the end of paragraph (3)(b) substitute ";" for ".";

(ii) after paragraph (3)(b) insert—

(**4**) S.I 2004/2065; amended by S.I. 2007/1640, 2007/3307, 2008/753, 2014/471
(**5**) Section 6AG was inserted by the Finance Act 2016 (c.24), section 153.