STATUTORY INSTRUMENTS

2015 No. 943

EXCISE

The Hydrocarbon Oil Duties (Reliefs for Electricity Generation) (Amendments for Carbon Price Support) Regulations 2015

Made - - - -	*26th March 2015*
Laid before Parliament	*27th March 2015*
Coming into force - -	*1st April 2015*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 20AA(1)(a) and (2) of the Hydrocarbon Oil Duties Act 1979(**1**)

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) (Amendments for Carbon Price Support) Regulations 2015 and come into force on 1st April 2015.

(2) They have effect in relation to qualifying oil or qualifying bioblend used in a combined heat and power station in Great Britain on or after that date.

(**1**) 1979 c. 5; section 20AA was inserted by the Finance Act 1989 (c. 26), section 2(1) and has been 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) and the Finance Act 2008 (c. 9), Schedule 5, paragraph 17 and Schedule 6, paragraphs 24 and 30. Section 20AA provides that the Commissioners may make regulations allowing reliefs as regards any duty of excise which has been charged in respect of "hydrocarbon oil"; section 6AC (inserted by the Finance Act 2002 (c. 23), section 5(4)) provides that the Commissioners may by regulations provide for references in the Hydrocarbon Oil Duties Act 1979 to hydrocarbon oil to be construed as including references to biodiesel and bioblend and for references to duty on hydrocarbon oil to be construed as including references to duty under sections 6AA and 6AB(inserted by the Finance Act 2002 (c. 23). Regulation 3(1), (2) and (4) of the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc) Regulations 2004 (S.I. 2004/2065) (as amended by S.I. 2008/753) provides that references to hydrocarbon oil and to the duty on hydrocarbon oil in section 20AA(1)(a) are to be construed as including references to biodiesel and bioblend and to the duty on biodiesel and bioblend. The power to make regulations under section 20AA is conferred on "the Commissioners" and, 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 that Act (as amended 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".

Amendments to the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005

2. The Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005(**2**) are amended as follows.

3. In regulation 9 (application and interpretation of part 4), in paragraph (2)—

(a) after "Part" insert "and Schedule 3";

(b) before the definition of "CHPQA" insert—

"(ba) "CHP Qualifying Heat Output", "CHP Qualifying Power Output", "CHP Total Fuel Input" and "CHP Total Power Output" have the meaning given in section 4 of the CHPQA;";

(c) for the definition of "CHPQA" substitute—

"(c) "CHPQA" refers to the Combined Heat and Power Quality Assurance Standard, Issue 5 (November 2013), prepared by the Department of Energy and Climate Change ("the CHPQA Standard");";

(d) after the definition of "CHPQA certificate" insert—

"(da) "non-qualifying electricity" means electricity to which paragraph 24B(2A) of Schedule 6 to the Finance Act 2000(**3**) does not apply;

(db) "qualifying electricity" means electricity to which paragraph 24B(2A) of Schedule 6 to the Finance Act 2000 applies.".

4. In regulation 10 (amount of relief)—

(a) in paragraph (1), for "paragraph (4)" substitute "paragraphs (4) and (7)";

(b) after paragraph (3) insert—

"(3A) Paragraphs (4) and (5) apply to qualifying oil or qualifying bioblend used to produce outputs of the station before 1st April 2015.";

(c) after paragraph (5) insert—

"(6) Paragraphs (7) and (8) apply to qualifying oil or qualifying bioblend used to produce outputs of the station on or after 1st April 2015.

(7) Where a quantity of the qualifying oil or qualifying bioblend used to produce outputs of the station is referable to the production of non-qualifying electricity in the relevant annual operation, the amount of relief allowed under paragraphs (1) and (2) is the amount of duty that has been charged and paid on the quantity that is so referable less the relevant amount specified in Schedule 2 (carbon price support rates).

(8) For the purposes of paragraph (7), the quantity of qualifying oil or qualifying bioblend that is referable to the production of non-qualifying electricity is such quantity as is determined in accordance with Schedule 3.".

5. After Schedule 2 insert—

(**2**) S.I. 2005/3320, amended by 2007/2191, 2008/753, 2013/657 and 2014/713.
(**3**) 2000 c. 17; paragraph 24B was inserted by the Finance Act 2013 (c. 29), Schedule 42, paragraph 10 and was amended by the Finance Act 2015 (c. 11), section 63.