Draft Order laid before Parliament under sections 124(5) and 192(3) of the Energy Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No.

TRANSPORT
ENERGY

SUSTAINABLE AND RENEWABLE FUELS

The Renewable Transport Fuel Obligations Order 2007

Made - - - -	*XXXX 2007*
Coming into force - -	*XXXX 2007*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 124 to 130, 132(1), 132(4) and 192(4)(c) of the Energy Act 2004(**1**).

A draft of this Order was laid before Parliament in accordance with sections 124(5) and 192(3) of that Act and approved by a resolution of each House of Parliament.

In accordance with section 124(4) of that Act, before making this Order the Secretary of State has consulted with such persons appearing to her to represent persons whose interests will be affected by the Order, and such other persons, as she considers appropriate.

PART 1

INTRODUCTORY PROVISIONS

Citation and commencement

1. This Order may be cited as the Renewable Transport Fuel Obligations Order 2007 and comes into force on the day after the day on which it is made.

Interpretation

2.—(1) In this Order—

"the 1979 Act" means the Hydrocarbon Oil Duties Act 1979(**2**);

(**1**) 2004 c.20.
(**2**) 1979 c.5.

"the 2004 Act" means the Energy Act 2004;

"account holder" has the meaning given in article 7(8);

"buy-out fund" has the meaning given in article 22(2)(d);

"Chief Executive" means the person appointed as such pursuant to paragraph 1 of the Schedule;

"connected person" means, in relation to a transport fuel supplier, a person connected to the supplier within the meaning of section 839 of the Income and Corporation Taxes Act 1988(**3**);

"non-obligated supplier" means a transport fuel supplier other than one upon whom a renewable transport fuel obligation is imposed under article 4;

"obligation period" has the meaning given in article 4(3)(a);

"obligated supplier" means a transport fuel supplier upon whom a renewable transport fuel obligation is imposed under article 4;

"road vehicle" means a vehicle constructed or adapted for use on roads, but does not include any vehicle which is an excepted vehicle within the meaning given by the 1979 Act(**4**);

"RTF account" means an account which is established pursuant to article 7; and

"working day" means any day other than—

(a) Saturday or Sunday,

(b) Christmas Day or Good Friday, or

(c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**5**) in any part of the United Kingdom.

(2) For the purposes of this Order and of section 132(4) of the 2004 Act, "biomass" means the biodegradable portion of—

(a) products, wastes and residues from agriculture, forestry and related activities, or

(b) industrial and municipal waste.

Definitions of fuels and fuel products

3.—(1) The following paragraphs of this article define the various descriptions of fuels and fuel products referred to in this Order.

(2) "Bioblend", "biodiesel", "bioethanol" and "bioethanol blend" have the same meaning as in the 1979 Act(**6**).

(3) "Fossil fuel" means coal, substances produced directly or indirectly from coal, lignite, natural gas, crude liquid petroleum, or petroleum products.

(4) "Heavy oil" has the same meaning as in the 1979 Act(**7**).

(5) "Hydrocarbon oil" has the same meaning as in the 1979 Act(**8**).

(**3**) 1988 c.1. Section 839 was amended by the Finance Act 1995 (c.4), section 74 and Schedule 17, paragraph 20, the Income Tax (Trading and Other Income) Act 2005 (c.5), section 882(1) and Schedule 1, paragraphs 1 and 341; the Finance Act 2006 (c.25), section 89 and Schedule 13, Part 2, paragraphs 7, 25 and 27; S.I. 1997/1154, regulation 15; and S.I. 2005/3229, regulations 47 and 100.

(**4**) Schedule 1 to the 1979 Act sets out the meaning of "excepted vehicle"; Schedule 1 to the 1979 Act was substituted by the Finance Act 1995 (c.4), section 8(2) and (3), and was amended by the Finance Act 2000 (c.17), sections 9, 156, Schedule 40, Part 1(1), and S.I. 2007/93.

(**5**) 1971(c.80).

(**6**) The expression "bioblend" is defined in section 6AB(2) of the 1979 Act, as inserted by the Finance Act 2002 (c.23), section 5(1) and (4); "biodiesel" is defined in section 2AA(1) of the 1979 Act, as inserted by the Finance Act 2002, section 5(1) and (2) ; "bioethanol" is defined in section 2AB(1) of the 1979 Act, as inserted by the Finance Act 2004 (c.12), section 10(1); and "bioethanol blend" is defined in section 6AE of the 1979 Act, as inserted by the Finance Act 2004, section 10(3).

(**7**) The expression "heavy oil" is defined in section 1(4) of the 1979 Act.

(**8**) The expression "hydrocarbon oil" is defined in section 1(2) of the 1979 Act.

(6) "Natural road fuel gas" has the same meaning as in the 1979 Act(**9**).

(7) "Natural gas" means any gas derived from natural strata.

(8) "Petroleum products" means the following substances produced directly or indirectly from crude, that is to say, fuels, lubricants, bitumen, wax, industrial spirits and any wide-range substance (meaning a substance whose final boiling point at normal atmospheric pressure is more than 50°C higher than its initial boiling point).

(9) "Rebated" has the same meaning as in the 1979 Act(**10**).

(10) "Relevant hydrocarbon oil" means hydrocarbon oil which is—

(a) fossil fuel,

(b) chargeable to the duty of excise on hydrocarbon oil under section 6 of the 1979 Act(**11**), and

(c) for use as fuel in road vehicles (whether or not it may also be used in other vehicles).

(11) "Road transport fuel" means transport fuel which is for use as fuel in road vehicles (whether or not it may also be used in other vehicles).

(12) For the purposes of this Order and of the definition of "renewable transport fuel" in section 132(1) of the 2004 Act, biodiesel and natural road fuel gas are designated as renewable transport fuel.

PART 2

RENEWABLE TRANSPORT FUEL OBLIGATIONS

The renewable transport fuel obligation

4.—(1) A renewable transport fuel obligation is imposed on every transport fuel supplier who in a specified period—

(a) owns relevant hydrocarbon oil at the time when the requirement to pay the duty of excise with which the oil is chargeable takes effect, and

(b) supplies that oil at or for delivery to places in the United Kingdom.

(2) But this obligation does not apply to a transport fuel supplier who, in a specified period, supplies less than 450,000 litres in total of the oil (a "non-obligated supplier").

(3) For the purposes of section 124(2) of the 2004 Act and this Order—

(a) a "specified period" means a period beginning on 15th April in a year and ending on 14th April in the following year, and this period is referred to in this Order as an "obligation period";

(b) the "specified date" means 5th October (or the next working day after 5th October, if 5th October is not a working day) following the end of the obligation period in question; and

(c) the evidence which is required is one or more RTF certificates issued by the Administrator in accordance with this Order.

(**9**) The expression "natural road fuel gas" is defined in section 5(2) of the 1979 Act, as inserted by the Finance Act 2004 (c.12), section 6(1).

(**10**) The expression "rebated" is defined in section 27(1) of the 1979 Act, as amended by the Finance Act 2002, Schedule 3, Part 2, paragraphs 5 and 9, the Finance Act 1987 (c.16), section 1(3), and the Finance Act 2001 (c.9), section 3(3).

(**11**) Section 6 was amended by: the Finance Act 1982 (c.39), section 4(2); the Finance Act 1989 (c.26), section 1; the Finance Act 1990 (c.29), Schedule 19, Part 1; the Finance Act 1981 (c.35), section 4(1); the Finance Act 1997 (c.16), section 7(2), (3) and (4); the Finance Act 2000 (c.17), section 5(3); the Finance Act 2006 (c.25), section 7(1) and (2); the Finance Act 2004 (c.12), section 7(5); the Finance Act 2005 (c.7), section 4(1) and (3); and the Finance Act 2007 (c.11), section 10. There are also other amendments to section 6 which are not yet in force.

(4) For the purposes of section 124(2) of the 2004 Act and this Order, "the specified amount" of renewable transport fuel is determined as follows—

(a) calculate the volume of relevant hydrocarbon oil which the supplier has supplied at or for delivery to places in the United Kingdom during the obligation period in question;

(b) in any case where the supplier has supplied less than 10 million litres in total of relevant hydrocarbon oil, deduct the first 450,000 litres of such oil; and

(c) in relation to the volume of such oil calculated in accordance with sub-paragraphs (a) and (b)—

(i) for the obligation period beginning on 15th April 2008, the specified amount is an amount equal to 2.5641% of that volume;

(ii) for the obligation period beginning on 15th April 2009, the specified amount is an amount equal to 3.8961% of that volume; and

(iii) for each subsequent obligation period, the specified amount is an amount equal to 5.2632% of that volume.

Determinations of amounts of transport fuel

5.—(1) Where, in relation to an amount of transport fuel, it is shown that a person owns the fuel at the time when the requirement to pay the duty of excise with which the fuel is chargeable takes effect, it is to be presumed, unless the contrary is shown, that that amount of fuel is supplied by that person at or for delivery to places in the United Kingdom at that time.

(2) An amount of renewable transport fuel only counts towards the discharging of a person's renewable transport fuel obligation for an obligation period if—

(a) it is for use as fuel in road vehicles (whether or not it may also be used in other vehicles),

(b) it is of one of the descriptions set out in paragraph (3), and

(c) the condition set out in paragraph (4) is satisfied.

(3) The descriptions are—

(a) biodiesel in relation to which a duty of excise is chargeable under the 1979 Act(**12**);

(b) the biodiesel component in bioblend, where a duty of excise is chargeable in relation to that bioblend under the 1979 Act(**13**);

(c) the biodiesel component in a mixture which is produced by mixing—

(i) fully or partially rebated heavy oil, with

(ii) biodiesel or a substance containing biodiesel,

where a duty of excise is chargeable in relation to that mixture under the 1979 Act(**14**);

(d) bioethanol in relation to which a duty of excise is chargeable under the 1979 Act(**15**);

(e) the bioethanol component of bioethanol blend, where a duty of excise is chargeable in relation to that bioethanol blend under the 1979 Act(**16**); or

(**12**) The duty of excise on biodiesel is chargeable under section 6AA of the 1979 Act, as inserted by the Finance Act 2002 (c.23), section 5(1) and (4), and amended by the Finance Act 2004 (c.12), Schedule 42, Part 1(1), and section 11(1), and the Finance Act 2007 (c.11), section 10(1) and (3).

(**13**) The duty of excise on bioblend is chargeable under section 6AB of the 1979 Act, as amended by the Finance Act 2002, section 5, Schedule 2, paragraphs 1, 7(1) and (2), and Schedule 40, Part 1(2) .

(**14**) The duty of excise on such a mixture is chargeable under section 20AAA of the 1979 Act, as inserted by the Finance Act 2004 (c.12), section 9(1).

(**15**) The duty of excise on bioethanol is chargeable under section 6AD of the 1979 Act, as inserted by the Finance Act 2004, section 10(3), and amended by the Finance Act 2007 (c.11), section 10(1) and (4).

(**16**) The duty of excise on bioethanol blend is chargeable under section 6AE of the 1979 Act, as inserted by the Finance Act 2004, section 10(3).

(f) natural road fuel gas—

(i) in relation to which a duty of excise is chargeable under the 1979 Act(**17**); and

(ii) which is produced wholly from biomass.

(4) The condition is that the person who applies for the fuel to count is the person who owns the fuel at the time when the requirement to pay the duty of excise with which the fuel is chargeable takes effect.

(5) For the purposes of calculating the specified amount under article 4(4), one kilogram of the renewable transport fuel referred to in paragraph (3)(f) must be treated as equivalent to one litre of a renewable transport fuel referred to in paragraph (3)(a) to (e).

(6) The amount of the biodiesel component referred to in paragraph (3)(b) or (c), and of the bioethanol component referred to in paragraph (3)(e), must each be measured by its volume.

PART 3

THE ADMINISTRATOR

The Administrator

6.—(1) The Office of the Renewable Fuels Agency is established as a body corporate and is appointed as the Administrator pursuant to section 125 of the 2004 Act.

(2) The Schedule (which makes provision about the Administrator) has effect.

Establishment of RTF Accounts

7.—(1) The Administrator must establish and maintain an account, in which the balance of RTF certificates held and other matters are to be recorded, for each person who—

(a) is, or is likely to become, subject to a renewable transport fuel obligation,

(b) applies for an account, and

(c) satisfies the Administrator that the person is a transport fuel supplier.

(2) A person must apply for an account under paragraph (1) not later than the end of the period of 28 days beginning on the date on which the person becomes an obligated supplier.

(3) The Administrator may establish and maintain an account for each of the following who applies for an account—

(a) any transport fuel supplier who is not, and is not likely to become, subject to a renewable transport fuel obligation, and

(b) any other person who intends to trade or invest in RTF certificates.

(4) The Administrator may not establish an account for a supplier or other person referred to in paragraph (3) unless the Administrator is satisfied that the supplier or other person—

(a) has good reason to hold an account, and

(b) has consented to allowing the Administrator such access to premises (other than a dwelling), computers, records, or documents, as the Administrator may require in order to verify information given by the supplier or other person.

(**17**) The duty of excise on road fuel gas is chargeable under section 8 of the 1979 Act, as amended by the Finance Act 1995 (c.4), sections 9 and 162, Schedule 29, Part 2, the Finance Act 2004, section 6(2), and the Finance Act 2007 (c.11), section 10(1) and (5). The expression "road fuel gas" is defined in section 5(1) of the 1979 Act as amended by the Finance Act 2004 (c.12), section 6(4).