

# EXPLANATORY MEMORANDUM

TO

## THE HYDROCARBON OIL AND BIOFUELS (ROAD FUEL IN DEFINED AREAS) (RELIEFS) (AMENDMENT) REGULATIONS 2015

2015 No. [0000]

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") and is laid before Parliament by Command of Her Majesty.

### 2. Purpose of the instrument

2.1 This instrument amends the Hydrocarbon Oil and Biofuels (Road Fuel in Defined Areas) (Reliefs) Regulations 2011 (S.I. 2011/2935) ("the principal Regulations") to extend the fuel duty relief scheme under those Regulations to other defined areas and to make some other amendments to the scheme.

2.2 Fuel retailers in the defined areas registered with HMRC are entitled to claim relief of 5 pence per litre (ppl) provided it is passed on to end consumers by a reduction in pump prices of an equivalent amount.

### 3. Matters of special interest to the Joint Committee on Statutory Instruments

[To complete]

### 4. Legislative Context

4.1 Section 20AA of the Hydrocarbon Oil Duties Act 1979 confers powers on the Commissioners of Revenue and Customs to make regulations allowing reliefs of excise duty charged on hydrocarbon oils.

4.2 The relief allowed provides, in effect, for a lower rate of excise duty on the qualifying fuels supplied by retail in the defined areas for use as road fuel. In order to provide for lower rates the United Kingdom had to apply for a derogation from Council Directive 2003/96/EC<sup>1</sup> restructuring the Community framework for the taxation of energy products and electricity ("the Energy Products Directive"). Article 19(1) of that Directive provides that the Council, acting unanimously on a proposal by the Commission, may authorise Member States to introduce reductions in taxation for specific policy considerations.

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<sup>1</sup> OJ; L 283, 31.10.2003, p 51.

4.3 By Council Decision 2011/776/EU<sup>2</sup> the United Kingdom was authorised to apply reduced levels of taxation to motor fuels supplied on the islands of Inner and Outer Hebrides, the Northern Isles, the islands in the Clyde and the Isles of Scilly, in accordance with Article 19 of the Energy Products Directive.

4.4 The United Kingdom applied for a further derogation to extend the scheme to other defined areas. The regulations extending the scheme will be brought into force after the Council Decision authorising the extension of the scheme is given.

## **5. Territorial Extent and Application**

This instrument extends to the whole of the United Kingdom.

## **6. European Convention on Human Rights**

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

## **7. Policy background**

7.1 At Autumn Statement 2012, the Government announced its intention to consider whether to apply to the EU for an extension of the current rebate scheme to other areas of the UK with similar cost characteristics to the islands.

7.2 To support this work and to ensure that the Government had the best possible data on the UK's retail fuels market in remote rural areas, the Government carried out two public calls for information in 2013.

7.3 In 2014, the Government submitted a formal request to the European Commission for a derogation from the Energy Products Directive to allow it to implement the 5ppl reduction.

*- Consolidation*

7.4 This is the first amendment to the principal Regulations and there are currently no plans for a consolidation

## **8. Consultation outcome**

The Government is consulting on the draft legislation.

## **9. Guidance**

Revenue and Customs Brief will be issued once EU approval is given.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is negligible.

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<sup>2</sup> OJ L 317, 30.11.2011, p 34.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument will be published on the Government website at <http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

## **11. Regulating small business**

11.1 The legislation applies to small business if they supply retail sales of unleaded petrol and diesel as road fuel.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to keep to a minimum any new regulatory requirements as part of this change.

## **12. Monitoring & review**

Reviews of compliance with the practical application of the new regulations will form part of the compliance review programme of the Indirect Tax Directorate of HMRC

## **13. Contact**

[Ademola Adetosoye](mailto:Ademola.Adetosoye) at HMRC Tel: 03000 586040 or email: [Ademola.adetosoye@hmrc.gsi.gov.uk](mailto:Ademola.adetosoye@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.