EXPLANATORY MEMORANDUM TO THE

EXCISE DUTIES (ROAD FUEL GAS) (RELIEFS) REGULATIONS 2004

2004 No. 2069

1. 1.1 This explanatory memorandum has been prepared by HM Customs and Excise and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument provides for partial relief from payment of excise duty for road fuel gas. In particular, the purpose of this instrument is to negate, temporarily, the effect of the increases in duty set out in section 8 of the Hydrocarbon Oil Duties Act 1979 (c. 5) ("the Oil Act"), as amended by section 6 of the Finance Act 2004 (c. 12) ("the Finance Act").

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

3.1 None.

4. Legislative Background

4.1 Section 8 of the Oil Act provides that a duty of excise shall be charged on road fuel gas, defined in section 5 of the Oil Act as any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 milibars for use as fuel in road vehicles. Although a wide variety of gases could theoretically be caught by the definition in section 5 of the Oil Act only liquefied petroleum gas (LPG) and natural gas (NG) are currently regularly used as fuel in road vehicles in the UK.

4.2 Section 6 of the Finance Act amended sections 5 and 8 of the Oil Act to provide for separate rates of duty for LPG and NG. It did this by introducing a new definition of, and rate of duty for, natural road fuel gas. Natural road fuel gas is road fuel gas with a methane content of not less than 80%.

4.3 The rate of duty for natural road fuel gas was set at the rate previously applicable to all road fuel gas, increased in line with inflation. The rate of duty for all road fuel gas that is not natural road fuel gas (in practice LPG) was increased by an amount that reflected the rate of inflation plus an amount equivalent to 1 penny per litre.

4.4 In Budget 2004, the Chancellor said that while the oil industry was preparing for the introduction of "sulphur-free" fuels on 1 September 2004, he would "delay for the second year running the annual rise in fuel duty for nearly six months". The amendments made by section 6 of the Finance Act therefore come into effect on 1 September 2004 at the same time as the other changes to fuel duty.

4.5 After the OPEC meeting in Beirut of 3 June 2004, the Chancellor of the Exchequer said that the Government planned to review progress in the level of oil prices in August, and to decide then whether or not to continue with the duty increase planned for 1 September.

4.6 On 20 July 2004, the Economic Secretary to the Treasury gave the following response to a parliamentary question from Jackie Lawrence MP (Official Report, 20 July 2004, Column 189W):

"On 3 June, in recognition of the pressures in the oil market and because of a shortage of oil supply to meet demand, the Chancellor of the Exchequer announced that we would be reviewing progress of the annual fuel duty increase planned for 1 September.

The Government's focus since 3 June has been on OPEC and oil producers and their responsibilities to meet their own targets on sustainable oil prices, and we have sought to await the outcome of this month's OPEC Ministers meeting before making a further statement. I will give further details of discussions and progress to Members of the House when I appear before the Treasury Select Committee tomorrow.

With the next meeting of OPEC Ministers now moved from July to September, and in light of the continuing uncertainty in the oil market, we have decided to keep the planned increase, including for sulphur-free fuel and rebated fuels, under review, and will report back further at the time of the pre-Budget report. Because of its environmental benefits the Government remain committed to the introduction of sulphur free fuel, and will be in discussion with the industry over its availability across the country. The Chancellor of the Exchequer will also report back on this issue at the time of the pre-Budget report."

4.7 To give effect to the decision not to increase fuel duty this instrument provides for partial relief from payment of the duty charged on road fuel gas. In practical terms, the rates of duty for both natural road fuel gas and all other road fuel gas are reduced to the rate that existed for all road fuel gas before section 6 of the Finance Act came into force. The instrument will take effect on 1 September.

4.8 This relief is designed to operate on the rates of duty provided for by section 8 of the Oil Act (as amended by section 6 of the Finance Act). If those rates are amended the relief will not be afforded on any road fuel gas charged to duty at the amended rates.

4.9 This instrument applies only to road fuel gas. The changes to fuel duty rates made by sections 5 and 7 of the Finance Act are effectively negated by a separate Order, the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) Order 2004 (S.I. 2004/2063). A separate explanatory memorandum has been prepared for that Order, which has been laid before the House of Commons today.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Not Applicable.

7. Policy Background

7.1 In Budget 2003 the Government announced that they would consult stakeholders on ways to ensure that fiscal incentives and other policy measures for road fuel gas continued to reflect the Government's environmental and other policy objectives

(Chancellor's Budget Report, April 2003, Chapter 7 Para 29).

7.2 Following that consultation, the Government decided that the environmental benefits offered by liquefied petroleum gas (LPG) no longer justified the level of duty differential that it received. However, the emissions evidence for Natural Gas (NG) vehicles suggested that they offered considerable additional environmental benefits over conventional fuels, particularly in terms of air quality.

7.3 In order to recognise the different environmental benefits of LPG and NG, and to encourage the use of NG, the Government decided to introduce different rates of duty for NG and LPG in the Finance Act. The changes were to take effect on 1 September 2004 at the same time as other changes to fuel duty rates, and they will accordingly be reviewed at the time of the Pre Budget Report alongside the other changes hitherto due to take effect on 1 September.

7.7 Producers of road fuel gas registered with Customs and Excise mostly make quarterly returns. The first time that this relief will be exercised is therefore likely to be in January 2005 when duty for the period 1 September to 31 December 2004 becomes due. Customs and Excise have contacted the relevant trade associations to discuss how they will administer this relief.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

9. Contact

9.1 Michael Lyttle at the Environmental Taxation Development Division, HM Customs and Excise, 1st Floor West, New Kings Beam House, 22 Upper Ground London SE1 9PJ Tel: 020 7865 4770 or e-mail; michael.lyttle@hmce.gsi.gov.uk can answer any queries regarding the instrument.