EXPLANATORY MEMORANDUM TO THE

EXCISE DUTIES (ROAD FUEL GAS) (RELIEFS) REGULATIONS 2005

2005 No. 1979

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

2. Description

2.1 This instrument, which comes into force on 1st September 2005, provides for partial relief from the payment of excise duty on road fuel gas. In particular, the purpose of this instrument is to negate, temporarily, the effect of the increases in duty on road fuel gas set out in section 8 of the Hydrocarbon Oil Duties Act 1979 (c. 5) ("the Oil Act"), as amended by section 5(5) of the Finance Act 2005 (c. 7) ("the 2005 Act"). The amount payable as a result of the application of this relief will be 9 pence per kilogram.

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[1] 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 2004 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%. The amendments made by section 6 of the Finance Act 2004 came into force on 1st September 2004 at the same time as changes to other fuel duties.

4.3 As a result of volatility in the international oil markets in the Summer of 2004, ministers announced that the planned increases in fuel duties would not go ahead from 1st September 2004, as had originally been planned. In the case of road fuel gases, this was achieved by the making of the Excise Duties (Road Fuel Gas) (Reliefs) Regulations 2004. Those regulations provided for partial reliefs from the payment of excise duty on road fuel gas. The levels of relief set were such that the amount payable as a result of the application of the relief was 9 pence per kilogram – the same level as before the changes made by section 6 of the Finance Act 2004 came into force.

[1] Relevant amendments were made to section 8(3) by section 6(2) of the Finance Act 1995 (c. 4), section 1(3) of the Finance Act 2001 (c. 9), section 6(2) of the Finance Act 2004 (c. 12) and sections 4(6) and 5(5) of the Finance Act 2005 (c. 7).

4.4 The position was reviewed by Ministers at the time of the Pre-Budget Report in December 2004 and they agreed to continue to freeze the increases in main road fuel duty rates (including those of road fuel gases) for the rest of the financial year 2004/05.

4.5 In Budget 2005, the Chancellor said:

> "I will maintain the duty differential for rebated oils as we continue to tackle oils fraud and tax evasion but because of the sustained volatility in the oil market, for the third successive budget I will this year defer this and the usual inflation increase for fuel duty until September 1st." (Hansard; 16 March 2005, Column 264)

The Budget Report 2005 section 7.44 detailed the position for road fuel gases. Natural gas would rise by the equivalent on 1.22ppl to maintain the differential with main road fuel duty rates, while LPG would rise by the equivalent of 2.22ppl, in order to narrow the differential with the main road fuel duty rates by the equivalent of 1ppl. These changes would also occur from 1st September

4.6 To give effect to this in relation to road fuel gas, and to regularise the position in primary legislation, section 4(6) and (11)(b) of the 2005 Act consolidated the effect of the Excise Duties (Road Fuel Gas) (Reliefs) Regulations 2004 by returning the rates of duty on all types of road fuel gas to 9 pence per kilogram and revoking the instrument with effect from 7th April 2005. Section 5(5) of the 2005 Act amended section 8 of the Oil Act to provide for those rates of excise duty on road fuel gas to be increased. The increase in the rate for NG reflected the inflation-based increase for liquid road fuels. The increase in the rate for LPG included an additional amount (the equivalent of 1 penny per litre) to narrow the excise duty differential between the main road fuels and LPG. This differential reduction was not made to NG because the Government considered that it offered greater environmental benefits relative to LPG. These changes took effect from 1st September 2005. For NG the increase was 1. 8 pence per kilogram and for other road fuel gas it was 3.7 pence per kilogram.

4.7 On 5th July 2005, the Financial Secretary to the Treasury (Mr John Healey) gave the following written ministerial statement:

> "The Chancellor of the Exchequer announced in the Budget that, owing to the sustained volatility in the oil market, the annual inflation-only increase in main fuel duties would be deferred until 1 September.
>
> Following sustained pressure from G8 finance ministers, OPEC have committed to increasing quotas by up to 1 million barrels a day by September.
>
> But in the short-term uncertainty, and the risk of price volatility, remains high, with oil trading last week at above $59 per barrel.
>
> The Government will not go ahead with the planned inflation increase on 1 September - including for rebated oils, biofuels and road fuel gases - and will review the position again at the time of the Pre-Budget Report." (Hansard, Written Ministerial Statements , 6 July 2005, Column 4WS)

4.8 To give effect to the decision not to increase fuel duties on 1st September 2005, this instrument provides for partial relief from payment of the duty charged on road fuel gas. The instrument takes effect on 1st September 2005. In practical terms,

the amounts payable in respect of excise duty on road fuel gas (both natural road fuel gas and all other road fuel gas) are reduced back to the levels that existed for all road fuel gases before section 5(5) of the 2005 Act came into force, namely 9 pence per kilogram.

4.9 This instrument applies only to road fuel gas. The changes to fuel duty rates in respect of liquid fuels made by section 5 of the 2005 Act are effectively negated by a separate Order, the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) Order 2005 (S.I. 2005/1978). 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 The Financial Secretary to the Treasury, Mr John Healey MP, has made the following statement regarding Human Rights:

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

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 LPG no longer justified the level of duty differential that it received. However, there was a policy case for maintaining the level of incentive for NG.

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 2004. The changes were to take effect on 1st September 2004 at the same time as other changes to fuel duty rates, and were accordingly reviewed at the time of the Pre-Budget Report alongside the other changes planned to take effect on 1st September 2004.

7.4 In the Chancellor's Pre-Budget report in December 2004, Ministers decided to continue to freeze the increases in main road fuel duty rates (including those of road fuel gases) for the rest of the financial year 2004/05.

7.5. In Budget 2005, the Chancellor announced excise duty increases on all road fuels in line with inflation from 1st September 2005. In addition, it was announced that the excise duty differential between LPG and the main road fuels would be reduced. Consequently the rates for NG and LPG would rise from 9 pence per kilogram to 10.80 and 12.70 pence per kilogram respectively.

7.6 When the Government announced that it would not go ahead with the inflation increases for the main road fuels planned for 1st September, they decided that it would be detrimental to the road fuel gas industry – an industry they wanted to encourage - if the rates for LPG and NG increased at a time when other road fuels did not. It was therefore decided that the proposed increases road fuel gases duties should not go ahead on 1st September 2005 but the position would be reviewed again at the time of the Pre-Budget Report.

8. Impact

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

8.2 There is no impact on the public sector.

9. Contact

9.1 Michael Lyttle at the Environmental Taxation Development Division, HM Revenue and Customs, Room 1, 3rd Floor, 1 Parliament Street, London SW1 2BQ (tel: 020 7147 0410 or e-mail: michael.lyttle@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.