EXPLANATORY MEMORANDUM TO

THE EXCISE DUTIES (ROAD FUEL GAS) (RELIEFS) REGULATIONS 2006

2006 No. 1980

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

2. Description

This instrument, which comes into force on 1st September 2006, 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 sections 6(5) and 7(5) of the Finance Act 2006 (c.25) ("the 2006 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

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 sustained volatility in the oil market and the risk of volatility remaining high, on 5th July 2005 ministers announced that the planned increases in fuel duties would not go ahead from 1st September 2005. In the case of road fuel gases, this was achieved by the making of the Excise Duties (Road Fuel Gas) (Reliefs) Regulations 2005. 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 2006 Act 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 2005 and they decided to continue to freeze the increases in road fuel duty rates (including those of road fuel gases) for the rest of the financial year 2005/06.

4.5 In Budget 2006, the Chancellor said:

> "It is our policy that each year fuel duties should rise at least in line with inflation, as we seek to meet our targets for reducing emissions and to fund our public services. But for the fourth successive Budget, because of high and volatile prices in the oil market, I propose to defer the usual inflation increase until 1 September. I will maintain the duty differential for rebated oils." (Hansard; 22 March 2006, Column 295)

The Budget Report 2006 section 7.72 detailed the position for road fuel gases. Natural gas would rise by the equivalent on 1.25 ppl to maintain the differential with main road fuel duty rates, while LPG would rise by the equivalent of 2.25ppl, 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, sections 6(5) and 6(7) of the 2006 Act consolidated the effect of the Excise Duties (Road Fuel Gas) (Reliefs) Regulations 2005 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 19 July 2006. Section 7(5) of the 2006 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 are to take effect from 1st September 2006. For NG the increase was 1.81 pence per kilogram and for other road fuel gas it was 3.21 pence per kilogram.

4.7 On 19th July 2006, the Financial Secretary to the Treasury (Mr John Healey) gave the following answer to a written parliamentary question:

> "The Chancellor of the Exchequer announced in the Budget that, because of continuing oil market volatility, the annual inflation-only increase in main fuel duties would be deferred until 1 September 2006.
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> Oil has been trading in recent weeks in a range of $66-$78 per barrel. The risk of oil price volatility remains high, and the Government will not therefore go ahead with the planned inflation-only increase in main road fuel duties on 1 September - and related increases for rebated oils, biofuels and road fuel gases - and will review the position again at the time of the Pre-Budget Report."(Hansard, Written Parliamentary Questions, 19 July 2006, Column 521W).

4.8 To give effect to the decision not to increase fuel duties on 1st September 2006, this instrument provides for partial relief from payment of the duty charged on road fuel gas. The instrument takes effect on 1st September 2006. 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 7(5) of the 2006 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 7 of the 2006 Act are, in effect, negated by a separate Order, the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) Order 2006 (S.I. 2006/1979). A separate explanatory memorandum has been prepared for that Order, which has been laid before the House of Commons today.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on 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 it 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 published, as part of Pre-Budget Report 2003, the alternative fuels framework. This set out the Government's approach to using incentives to support the development of alternative fuels, but stressed the need for incentives to take account of the environmental benefits a fuel offered.

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, but, following the decision in July 2004 not to go ahead with planned increases in rates owing to continuing uncertainty in the oil market, the duty rate changes were then reviewed at the time of the Pre-Budget Report.

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. Owing to sustained oil market volatility and the risk of volatility remaining high, those planned increases did not go ahead. The position was reviewed at the time of Pre-Budget Report 2005, and the freeze on road fuel rates continued for the remainder of 2005-06.

7.6 The rates of duty were increased by the 2006 Act as a result of the Chancellor of the Exchequer's Budget 2006. For NG the increase was 1.81 pence per kilogram and for other road fuel gas it was 3.21 pence per kilogram. These increases were to take effect on 1st September 2006.

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 Tim Smith at the Transport Taxes Team, HM Revenue and Customs, 3E/01, 100 Parliament Street, London SW1 2BQ (tel: 020 7147 0573 or e-mail: timothy.smith@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.