EXPLANATORY MEMORANDUM TO

THE EXCISE DUTIES (ROAD FUEL GAS) (RELIEFS) REGULATIONS 2011

2011 No. 2905

1. Introduction

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

2. Purpose of the Statutory Instrument

This instrument, which comes into force on 1 January 2012, 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 20 of the Finance Act 2011 (c.11) ("the 2011 Act"). The amount payable as a result of the application of this relief will be 24.70 pence per kilogram in relation to natural road fuel gas and 31.61 pence per kilogram in relation to other road fuel gas.

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

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 millibars 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 1 September 2004 at the same time as changes to other fuel duties.

4.3 Budget 2011 announced that, on 1 January 2012, the duty rate for natural gas would increase by 4.37 pence per kg to maintain the differential with main road fuel duty rates in pence per litre equivalents, and the duty rate for other road fuel gas,

[1]Section 8 was last amended by sections 19(3) and 20(3) of the Finance Act 2011 (c. 11).

including LPG, would increase by 5.73 pence per kg to narrow the differential with the main road fuel duty rates by the equivalent of 1 penny on a litre of petrol.

4.4 To give effect to this decision, section 20 of the 2011 Act amended the Oil Act to provide for those rates of excise duty on road fuel gas to be increased with effect from 1 January 2012. The increase in the rate for NG reflected the 3.02 pence per litre increase for liquid road fuels. The increase in the rate for other road fuel gas including 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. For NG the increase was 4.37 pence per kilogram, and for other road fuel gas, including LPG, it was 5.73 pence per kilogram.

4.5 The decision to defer the 1 January 2012 increase in fuel duty to 1 August 2012 was announced by the Chancellor on 29 November 2011.

4.6 To give effect to the decision, this instrument provides for partial relief from payment of the duty charged on road fuel gas. The instrument takes effect on 1 January 2012, and applies to road fuel gas that is charged with duty on or after 1 January and before 1 August 2012. In practical terms, a person will be liable to pay 24.70 pence per kilogram duty on natural road fuel gas and 31.61 pence per kilogram on other road fuel gas, including LPG.

4.7 This instrument applies only to road fuel gas. The changes to fuel duty rates in respect of liquid fuels made by section 20 of the 2011 Act are, in effect, negated by a separate Order, the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) Order 2011 (S.I. 2011/2904). A separate explanatory memorandum has been prepared for that Order, which has been laid before the House of Commons today.

5. Territorial Extent and Application

This instrument applies to all 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

- ***What is being done and why***

7.1 The rates of fuel duty, including those for road fuel gases, were increased by the Finance Act as a result of the Chancellor of the Exchequer's Budget 2011. Changes to the duty rates were to take effect on 1 January 2012.

7.2 The decision to defer the 1 January 2012 increase in fuel duty rates to 1 August 2012 was announced by the Chancellor on 29 November 2011.

- ***Consolidation***

7.3 There is no intention to consolidate.

8. Consultation Outcome

In line with the Government's Tax Consultation Framework, no consultation has been undertaken in relation to this instrument.

9. Guidance

Fuel duty rates are available on the HMRC website at www.hmrc.gov

10. Impact

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

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note (TIIN) covering this instrument will be published on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm

11. Regulating Small Business

11.1 The legislation applies to small business.

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 and Review

The policy will be monitored through information collected from tax receipts.

13. Contact

Ann Little at HM Revenue and Customs, Tel: 020 7147 0383, e-mail: Ann.Little@hmrc.gsi.gov.uk can answer any queries regarding the instrument.