EXPLANATORY MEMORANDUM TO

THE EXCISE DUTIES (SURCHARGES OR REBATES) (HYDROCARBON OILS ETC.) ORDER 2022 (CONTINUATION) ORDER 2024

2024 No. 300

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Declaration

2.1 Gareth Davies MP, Exchequer Secretary to the Treasury at His Majesty's Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Rachel Nixon, Director for Indirect Tax at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Neil Mills at HMRC Telephone: 03000 588 066 or email: neil.mills@hmrc.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument extends the current temporary cut in the rates of excise duty on fuel products[1] provided for by the orders referred to in the Policy Context section 5.1 for a further year.

Where does the legislation extend to, and apply?

4.2 The territorial extent of this instrument (that is the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom (UK).

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the UK.

[1] Unleaded petrol; Light oil other than unleaded petrol; Heavy oil (diesel and kerosene); Aviation gasoline; Biodiesel; Bioblend; Bioethanol; Bioethanol blend; Aqua methanol; Liquified Natural Gas (LNG); Road fuel gas other than natural road fuel gas (Liquified Petroleum Gas); Fuel oil; Marked gas oil (red diesel); Heavy oil used for heating; Light oil used as furnace fuel; and biodiesel not used for fuel as a road vehicle, propelling a private pleasure craft, or an additive or extender to fuel used for those two purposes.

5. Policy Context

What is being done and why?

5.1 The Chancellor of the Exchequer has decided to extend the temporary reduction in the amount of fuel duty payable, made by the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) Order 2022 (the 2022 Order), and extended by the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) Order 2022 (Continuation) Order 2023 (the 2023 Order), for a further year. This provides support to households and businesses.

What was the previous policy, how is this different?

5.2 The Hydrocarbon Oil Duties Act 1979 (HODA) currently requires the payment of fuel duty on hydrocarbon oils imported or produced in the UK for use within the UK. These hydrocarbon oil products are generally used to power an engine, motor, or other machinery. The duty rates before 2022's cut took effect varied from 67.67 pence per litre for light oil (other than unleaded petrol and aviation gasoline) to nil for kerosene used for heating.

5.3 The 2022 Order temporarily lowered the fuel duty rates payable by importers and producers of hydrocarbon oil products intended for the UK market for a period of one year.

5.4 The 2022 Order cut duty rates in HODA by 5 pence per litre or kilogram (as appropriate), or by 8.63% if this would result in a duty decrease in excess of 10% (the maximum permitted by the Excise Duties (Surcharges or Rebates) Act 1979), and by 5% for Aviation Gasoline.

5.5 The 2023 Order extended this cut for a further year.

6. Legislative and Legal Context

How has the law changed?

6.1 The effect of this instrument will be to extend the effect of the 2022 Order for a further year.

Why was this approach taken to change the law?

6.2 To extend the temporary reduction on the taxation of fuel that ultimately impacts on consumers and businesses.

7. Consultation

Summary of consultation outcome and methodology

7.1 This instrument effectively legislates to extend the original cut in the liabilities to duty made by the 2022 Order and this is a matter for the Chancellor of the Exchequer. The Government does not consult on tax rates as these are commercially sensitive.

8. Applicable Guidance

8.1 As fuel duty rates will not change, guidance published on the fuel duty section of GOV.UK[2] does not need to be updated to coincide with the introduction of this instrument.

[2] Fuel duty rates: https://www.gov.uk/government/publications/rates-and-allowances-excise-duty-hydrocarbon-oils/excise-duty-hydrocarbon-oils-rates

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Information and Impact Note covering this instrument will be published on GOV.UK.[3]

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is an extended, temporary reduction in fuel costs which will particularly benefit those where fuel is a significant part of ongoing running costs.

9.3 The legislation does impact small or micro businesses.

9.4 No mitigating actions are needed to minimise the impact of the requirements on small businesses (employing up to 50 people) as this legislation will positively impact all businesses who use fuel by extending the temporary reduction of excise duty in the cost of fuel.

9.5 The impact on the public sector is an extended, temporary reduction in fuel costs which will particularly benefit those where fuel is a significant part of ongoing running costs.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 This measure will be monitored through information collected from tax receipts. Continued collaboration with Department for Transport will also allow monitoring of traffic levels and emissions.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Gareth Davies MP has made the following statement:

"Under section 28(3)(a) a review clause is not required as the regulations make or amend provisions relating to a duty".

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The instrument comes into force less than 21 days after it was laid. It extends for another year the existing temporary cut in the rates of excise duty on products within scope of HODA. This policy was announced in the Budget Statement on 6 March 2024. Given the legislation could not be laid before the policy has been announced, the Government has had to breach the 21-day rule to the minimum extent possible by laying the instrument as soon as possible after announcement.

[3] https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").

13.2 All fuel duty rates will remain above the minimum rates set in the Energy Taxation Directive (2003/96/EC) and therefore the instrument meets the UK government's commitment in Article 8 of the Protocol on Ireland/Northern Ireland in the European Union Withdrawal Agreement that this directive shall apply to the UK in respect of Northern Ireland.