2002 No. 1471

CUSTOMS AND EXCISE

The Hydrocarbon Oil (Industrial Reliefs) Regulations 2002

Made - - - - -	*5th June 2002*
Laid before Parliament	*6th June 2002*
Coming into force	
For the purposes of regulations 5 and 6	*1st July 2002*
For all other purposes	*1st September 2002*

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by section 24(1) of, and Schedule 4 to, the Hydrocarbon Oil Duties Act 1979(**a**) and of all other powers enabling them in that behalf, hereby make the following regulations:

Citation

1. These Regulations may be cited as the Hydrocarbon Oil (Industrial Reliefs) Regulations 2002.

Commencement

2. These Regulations come into force for the purposes of regulations 5 and 6 on 1st July 2002 and for all other purposes on 1st September 2002.

Interpretation

3. In these Regulations—

"approved furnace operator" means a person approved by the Commissioners for the purposes of section 14(1) of the Oil Act (rebate of duty on light oil delivered for home use for use as furnace fuel);

"approved repayment user" means a person approved by the Commissioners for the purposes of section 9(4) of the Oil Act(**b**) (repayment of duty where duty paid hydrocarbon oil put to qualifying use);

"approved tied oil trader" means a person approved by the Commissioners for the purposes of section 9(1) of the Oil Act (delivery for home use of hydrocarbon oil without payment of duty);

"duty" means the excise duty charged on hydrocarbon oil by section 6(1) of the Oil Act(**c**);

"the Oil Act" means the Hydrocarbon Oil Duties Act 1979.

(**a**) 1979 c. 5; amendments not relevant to these Regulations have been made to section 24(1); relevant amendments to Schedule 4 were made by sections 6(3) and 139(6) of, and Part III of Schedule 19 to, the Finance Act 1981 (c. 35) and section 205 of, and Part I of Schedule 41 to, the Finance Act 1996 (c. 8); section 1(2) defines "hydrocarbon oil"; section 27(2) provides for the Hydrocarbon Oil Duties Act 1979 to be construed as one with the Customs and Excise Management Act 1979 (c. 2) and section 27(3) applies the definition of "the Commissioners" in section 1(1) of that Act.

(**b**) Section 9 was amended by S.I. 1992/3152, regulation 3(1) and S.I. 1992/3158, regulation 3(2).

(**c**) Section 6(1) was amended by section 4 of the Finance Act 1981 (c. 35), section 4 of the Finance Act 1982 (c. 39), section 1 of the Finance Act 1989 (c. 26), section 132 of, and Part I of Schedule 19 to, the Finance Act 1990 (c. 29), section 7 of the Finance Act 1997 (c. 16) and sections 6 and 165 of, and Part I(2) of Schedule 27 to, the Finance Act 1998 (c. 36).

Approvals

4.—(1) The Commissioners may approve a person as an approved furnace operator, an approved repayment user or an approved tied oil trader—

(a) individually or by reference to a class,

(b) in relation to particular descriptions of hydrocarbon oil or generally, and

(c) subject to conditions.

(2) Any such approval may be revoked, or the conditions varied, for reasonable cause.

Applications for approval

5.—(1) The Commissioners may not approve any person individually as an—

(a) approved furnace operator,

(b) approved repayment user, or

(c) approved tied oil trader,

unless he makes application on a form, or forms, provided by the Commissioners for the purpose.

(2) The applicant must fully and accurately complete the form of application and deliver it to the Commissioners at the address stated in the form.

Certificates of approval

6.—(1) The Commissioners must furnish every person approved individually as an—

(a) approved furnace operator,

(b) approved repayment user, or

(c) approved tied oil trader,

with a certificate of approval.

(2) Every certificate of approval must contain the following particulars—

(a) the name and (if different) the trading name of the person;

(b) a unique reference number assigned to the person by the Commissioners;

(c) a statement of the approval, or approvals, which the person holds;

(d) particulars of the descriptions of hydrocarbon oil to which the approval, or approvals, relates.

(3) If the Commissioners revoke an individual approval of a person, he must immediately return his certificate of approval to the Commissioners.

Restriction on supply of rebated and duty free oil

7.—(1) Tied oil may be supplied only to an approved tied oil trader.

(2) "Tied oil" means hydrocarbon oil that the Commissioners permit to be delivered for home use to an approved tied oil trader, without payment of duty in accordance with section 9(1) of the Oil Act.

(3) Light oil in respect of which rebate has been allowed under section 14(1) of the Oil Act and not repaid may be supplied only to an approved furnace operator.

Security

8. The Commissioners may grant permission under section 9(1) of the Oil Act subject to conditions as to the giving of security or otherwise.

Claims for repayment

9. Claims by an approved repayment user for repayment of duty—

(a) must be made no later than 3 months after the period to which they relate, and that period must not be shorter than 2 months nor longer than 3 years, and

(b) shall not lie where the amount to be paid is less than £250.

No drawback allowable where repayment permitted

10. No drawback of duty shall be allowed on any hydrocarbon oil for which a claim for repayment of duty lies under section 9(4) of the Oil Act.

Consequential amendments

11. In the Hydrocarbon Oil Regulations 1973(**a**)—

(a) in regulation 2, omit the definitions "approved furnace operator" and "approved repayment user",

(b) in regulation 5(1), for the words "under regulation 38" to the end substitute "for the purposes of sections 9 or 14(1) of the Hydrocarbon Oil Duties Act 1979", and

(c) omit regulations 37 to 42.

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22 Upper Ground,
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M J Eland
5th June 2002 Commissioner of Customs and Excise

(**a**) S.I. 1973/1311; relevant amending instruments are S.I. 1981/1134, regulation 3(e)(i) and S.I. 1992/3149, regulation 3.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st July 2002 for the purposes of regulations 5 and 6 (applications for, and certificates of, approval) and on 1st September 2002 for all other purposes, replace regulations 37 to 42 of the Hydrocarbon Oil Regulations 1973 (S.I. 1973/1311) ("the Oil Regulations").

These Regulations regulate how persons are to be approved for the purposes of sections 9 (oil for certain industrial processes) and 14 (rebate on light oil used as furnace fuel) of the Hydrocarbon Oil Duties Act 1979 (c. 5) ("the Oil Act") and impose certain requirements upon such persons.

Regulation 3 defines certain terms used in the Regulations, such as "approved furnace operator", "approved repayment user" and "approved tied oil trader".

Regulation 4 enables the Commissioners of Customs and Excise to approve persons for the purposes of section 9 or 14 of the Oil Act individually or by reference to a class, in relation to particular descriptions of oil or generally and subject to conditions. It also enables the Commissioners to revoke such approval and vary the conditions of approval for reasonable cause.

Regulation 5 prescribes the method of application for individual approval.

Regulation 6 requires the Commissioners to provide each individually approved person with a certificate containing details of their approval. It also provides for the return of the certificate to the Commissioners when an approval is cancelled.

Regulation 7 imposes the restriction that tied oil may be supplied only to an approved tied oil trader. It also defines the term "tied oil". This regulation also imposes the restriction that light oil in respect of which rebate has been allowed under section 14(1) of the Oil Act may be supplied only to an approved furnace operator.

Regulation 8 enables the Commissioners to grant permission under section 9 of the Oil Act that oil be delivered to an approved tied oil trader without payment of duty subject to conditions, including that security be given.

Regulation 9 requires claims by an approved repayment user for repayment of duty to be made within a prescribed time limit, prescribes the minimum and maximum period of claim and provides that such claim shall not lie where the amount to be paid is less than £250.

Regulation 10 imposes the restriction that no drawback of duty is allowed where an approved repayment user can make a claim for repayment of duty on oil used in industrial processes.

Regulation 11 omits regulations 37 to 42 of the Oil Regulations and makes consequential amendments to that instrument.

A Regulatory Impact Assessment in respect of the changes made by regulations 4 to 8 of these Regulations was published in April 2002 as part of the publication Oils Fraud Strategy (summary of consultation responses and regulatory impact assessment). This publication is available from—

HM Customs & Excise,
Tax Practice — Environmental Taxes,
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