EXPLANATORY MEMORANDUM TO

THE HYDROCARBON OIL (MARKING AND DESIGNATED MARKERS) (AMENDMENT) REGULATIONS 2015

2015 No. 36

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

2. Purpose of the instrument

These Regulations make provisions for a new fiscal marker for oil subject to a rebate and amend the legal composition of an existing marker in order to strengthen it.

3. Matters of special interest to the Joint Committee on Statutory Instruments.

None.

4. Legislative Context

4.1 The Hydrocarbon Oil (Marking) Regulations 2002 are being amended to introduce a new UK fiscal marker for the purposes of rebated fuel, and also increase the concentration of the current colouring substance (CI Solvent Red 24).

4.2 The Hydrocarbon Oil (Designated Markers) Regulations 1996 are being amended to designate the new UK fiscal marker.

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

7.1 The Government announced on 13th February 2014 that the UK would introduce a new product to mark rebated fuels, including off-road diesel commonly known in the UK as ‘red diesel’, in a move that will boost the fight against illegal fuel laundering.

7.2 The new marker will help HMRC tackle the criminal market in off-road diesel, marked with a red dye, and also kerosene, primarily used as heating oil.

7.3 The new marker being introduced in addition to existing markers will make rebated fuel much harder for fraudsters to "launder" (i.e. remove the marker from it) and sell on at a profit. This will be achieved because the new marker mix is more resistant to laundering. Also, as launderers filter the fuel through chemicals or acids which remain in the fuel and damage fuel pumps in diesel cars as well as avoiding excise duties, such damage will be reduced.

8. Consultation outcome

There was no consultation on the decision to introduce a new marker but affected sectors have been involved in the preparations for its implementation.

9. Guidance

HMRC guidance will be updated to include details of the new marker.

10. Impact

10.1 The impact will have limited impact on business and no impact is foreseen on charities or voluntary bodies.

10.2 The impact will have limited impact on the public sector.

11. Regulating small business

The legislation will apply to a very small number of small businesses.

12. Monitoring & review

HMRC will monitor the impact of the change through information collected from the Implementation Working Group, made up of industry representatives, and from representative organisations of those sectors that will be affected.

13. Contact

Phil Sears at HMRC Tel: 03000 585502 or email: phil.sears@hmrc.gsi.gov.uk can answer any queries regarding the instrument.