S.I. No. 442 of 2001

Regulations

entitled

Mineral Oil Tax Regulations, 2001

Made by the Revenue Commissioners

MINERAL OIL TAX REGULATIONS, 2001

WHEREAS Chapter 1 of Part 2 of the Finance Act, 1999, has not yet been brought into operation;

AND WHEREAS the Revenue Commissioners consider it expedient to make regulations relating to Chapter 1 of Part 2 of the Finance Act, 1999, so as to enable that Chapter to have full force and effect immediately upon some or all of it coming into operation;

AND WHEREAS section 10(1)(b) of the Interpretation Act, 1937 (No. 38 of 1937), provides for such cases;

NOW, The Revenue Commissioners, in exercise of the powers conferred on them by section 104 of the Finance Act, 1999 (No. 2 of 1999), hereby make the following regulations:

PART 1

PRELIMINARY AND GENERAL

Citation.

1. These Regulations may be cited as the Mineral Oil Tax Regulations, 2001.

Commencement.

2. These Regulations shall come into operation on 1 October 2001.

Interpretation.

3. (1) In these Regulations, except where the context otherwise requires-

“Act of 1999” means the Finance Act, 1999;

"approved" means approved by the Commissioners;

“ASTM” means the body known as the American Society for Testing and Materials;

"Colour Index" means the Colour Index, 3rd Edition (1971) (as revised from time to time), compiled by the Society of Dyers and Colourists and the American Association of Textile Chemists and Colorists;

"dark oil" means heavy oil which is darker than ASTM Colour 3.0 in the Table of Glass Colour Standards included in "Petroleum products - Determination of colour (ASTM scale)" adopted as a joint standard by—

(a) the American Society for Testing and Materials with ASTM designation D 1500 - 98, and

(b) the Institute of Petroleum, London with IP designation IP 196/97,

which appears in Volume 1 of “Standard Methods for Analysis and Testing of Petroleum and Related Products and British Standard 2000 Parts, 2000” published on behalf of The Institute of Petroleum, London, when such oil and ASTM Colour 3.0 are compared in the manner described in that publication for that method of test;

"gas oil" means heavy oil of which not more than 50 per cent by volume distils at a temperature not exceeding 240° Celsius and of which more than 50 per cent by volume distils at a temperature not exceeding 340° Celsius;

"IP" means the body known as the Institute of Petroleum, London;

“marked gas oil” means gas oil to which the markers prescribed in Regulation 34(1)(a) have been added;

“marked kerosene” means kerosene to which the markers prescribed in Regulation 34(1)(b) have been added;

“mineral oil trader” means any person who produces, manufactures, processes, imports, exports, purchases for the purpose of resale or dealing in, sells or otherwise deals in mineral oils or who stores mineral oils for any of these purposes;

“proper officer” means primarily the officer assigned responsibility for exercising control over any premises or place covered by the laws and regulations relating to mineral oils and also includes a person acting for that officer and any officer superior to that officer;

“record” means any information set down in writing, stored in a computer or other electronic medium, including information held in a non-legible form which is capable of being read in a legible form or held in any other permanent form;

“reduced rate” means a rate of mineral oil tax lower than the standard rate, and, where applicable, includes the exemption from, and full or partial remission or repayment of, the tax;

“specified description” means a description of mineral oil specified in Schedule 1 or any other description of mineral oil as the Commissioners may, from time to time, require;

“spectrophotometer” means an instrument for measuring photometric intensity of each colour or wavelength present in an optical spectrum;

“suspension arrangement” means an arrangement permitting the suspension of payment of tax on mineral oils produced, processed, held or moved during the duration of the arrangement;

“tax” means mineral oil tax imposed by section 95 of the Act of 1999;

“vessels” means containers and receptacles of every description.

(2) Unless the contrary intention appears, a word or expression used in these Regulations shall have the same meaning as it has in Chapter 1 of Part 2 of the Act of 1999.

(3) A reference in these Regulations to a Regulation or a Schedule is to a Regulation of, or Schedule to, these Regulations unless it is indicated that a reference to some other enactment is intended.

(4) A reference in these Regulations to a paragraph, subparagraph, clause or subclause is to a paragraph, subparagraph, clause or subclause of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended.

Exemption from compliance.

4. Where the Commissioners by special authority so allow and subject to any conditions which they may impose, compliance, in whole or in part, with any Regulation in these Regulations shall not be required.

PART 2

LICENSING

Oil trader’s licence.

5. A licence granted or deemed to be granted under section 101 of the Act of 1999—

(a) shall be known as a mineral oil trader’s licence,

(b)shall be in such form as the Commissioners may approve,

(c) shall be displayed on the premises to which it relates by the person to whom it was granted,

(d) shall expire each year on 30 June, and

(e) may, subject to compliance by the applicant with the requirements of subsections (3) and (4) of that section, be granted by an officer on payment of the proper licence duty.

PART 3

WAREHOUSING

Applications for approval.

6. (1) Every application for approval of any premises or place as a tax warehouse and of a person as an authorised warehousekeeper under section 109 of the Finance Act, 2001 (No. 7 of 2001), shall—

(a) be in such form and manner as the Commissioners may require,

(b) contain the particulars specified in Schedule 2, and

(c) contain such other particulars as the Commissioners may, from time to time, require.

(2) A separate application shall be made in respect of each of the premises and places for which an applicant requires approval.

(3) In respect of each application for approval under this Regulation, the applicant shall show to the satisfaction of the Commissioners that the premises or place concerned are so designed, constructed and situated as to ensure the security of any tax chargeable on mineral oil held in such premises or place.

Restrictions may apply to terms of approval.

7. (1) The Commissioners may, under the terms of any approval granted in respect of a tax warehouse, limit the extent of that approval.

(2) An authorised warehousekeeper may only hold in his or her tax warehouse mineral oil of the class or description specified in the approval granted for that tax warehouse.

(3) Production or processing of mineral oils shall not take place in a tax warehouse unless the approval granted in respect of that tax warehouse expressly allows such production or

processing. The extent of any such production or processing that may be allowed in a tax warehouse may also be limited under the terms of the approval.

Notification of changes to particulars of application.

8. (1) An authorised warehousekeeper shall give at least 2 days advance written notice to the Commissioners**,** unless in any special circumstances the Commissioners shall dispense with such notice, of his or her intention to—

(a) alter, add to, remove or demolish any vessels or pipes in his or her tax warehouse, or

(b) make any other change to the particulars contained in any application made under Regulation 6,

and the Commissioners may, subject to compliance with such conditions as they may think fit to impose, vary an approval accordingly.

(2) An authorised warehousekeeper shall give at least 2 days advance written notice to the Commissioners of his or her intention to cease production, processing or holding of mineral oils at his or her tax warehouse and, on cessation, shall also in writing, so notify the Commissioners.

Securing mineral oil and stock control in tax warehouse.

9. (1) An authorised warehousekeeper shall—

(a) take all necessary steps to ensure that there is no access to any mineral oil in his or her tax warehouse other than as allowed by or under these Regulations,

(b) promptly produce to the proper officer, if requested to do so, any mineral oil held in his or her tax warehouse, and

(c) immediately notify the proper officer, in writing, about any deficiency, surplus or discrepancy concerning stocks or stock records of mineral oil whenever or however discovered.

(2) An authorised warehousekeeper shall not make any attempt or use any device to prevent or hinder any proper officer from ascertaining the quantity or description of any mineral oil in the tax warehouse or to deceive him or her in taking the dip or gauge of any vessel**.**

Production of mineral oil in, and receipt into, tax warehouse.

10. A consignment of mineral oil is, on receipt into a tax warehouse, deemed to be warehoused once inside the tax warehouse irrespective of whether or not its quantity is known.

Irregularity during movement of mineral oil.

11. If it appears that an irregularity may have occurred in the course of a movement of mineral oil to or within a tax warehouse the authorised warehousekeeper shall—

(a) immediately inform an officer, and

(b) if required to do so by an officer, shall retain that mineral oil to enable an official examination to be carried out.

Notice of receipt or production of mineral oil.

12. An authorised warehousekeeper shall, if so required by the Commissioners, give such notice as they may require of the receipt or production of any mineral oil and of the vessels in which it is to be deposited, and of the content of such vessels before and after such oil is so deposited.

Provision of certificate to proper officer.

13. (1) An authorised warehousekeeper shall provide to the proper officer a certificate showing—

(a) the quantity and description of any mineral oil received into his or her tax warehouse, and

(b) the identity of the person from whom and the place from where it was received.

(2) The certificate referred to in paragraph (1) is required to be provided to the proper officer within 24 hours of the mineral oil being received.

Removal from tax warehouse.

14. (1) Mineral oil shall only be removed from a tax warehouse—

(a) on remission of tax where relief has been granted under section 100 of the Act of 1999,

(b) under a tax suspension arrangement,

(c) on payment of the proper tax to the Commissioners at the time of its removal, or

(d) in accordance with an arrangement approved by the Commissioners for the payment of tax on the mineral oil so removed.

(2) The Commissioners may impose conditions on any removal from a tax warehouse allowed without payment of tax, including a condition that—

(a) security for the tax is given (by bond or otherwise) to their satisfaction, and

(b) the security is to remain in force until the purpose for which the removal was allowed is satisfactorily completed.

Rate of tax chargeable.

15. Tax shall be chargeable on mineral oil released from a tax warehouse for consumption in the State at the rate in force for mineral oil of that class or description at the time of its release.

Entry and re-entry of mineral oil to tax warehouse in certain cases.

16. With the permission of the Commissioners—

(a) mineral oil which is to be placed in a tax warehouse, or

(b) mineral oil which has been lawfully removed from a tax warehouse without payment of tax,

may be entered or further entered by its proprietor for any of the purposes referred to in Regulation 14 (1) as if it were being removed from a tax warehouse.

Return of tax paid mineral oil to tax warehouse.

17. Mineral oil on which tax has been paid may be returned to a tax warehouse where the Commissioners are satisfied that—

(a) such mineral oil has become contaminated, or

(b) the mineral oil is returned for the purpose of export or shipment for use as stores, or

(c) exceptional circumstances apply and that they consider it proper to so allow.

Stocktaking and stock accounts.

18. (1) At the end of each month, or as otherwise required or allowed by the proper officer, an authorised warehousekeeper shall—

(a) take stock of mineral oil of each specified description remaining in his or her tax warehouse, and

(b) the result of each such stocktaking shall be notified to the proper officer and shall be reconciled by the authorised warehousekeeper with the stock account required to be kept under Regulation 25.

(2) The stock account kept in accordance with Regulation 25 and the result of the stocktaking carried out in accordance with paragraph (1) shall show the volume of the mineral oil at 15^{o} Celsius.

Returns required to be furnished.

19. (1) Except where the Commissioners may otherwise allow or direct and subject to compliance with such conditions as they may think fit to impose, an authorised warehousekeeper shall—

(a) furnish to the Commissioners, in a form acceptable to them, a monthly return, or a return for such other period as the Commissioners consider appropriate in the circumstances, of all mineral oil delivered from the tax warehouse for consumption in the State or otherwise disposed of in the said tax warehouse on payment of tax and the return shall—

(i) show the amount of tax payable by him or her,

(ii) contain full information in respect of the other matters specified in the form, and

(iii) contain a declaration signed by him or her that the return is true and complete,

(b) furnish to the Commissioners, in a form acceptable to them, a monthly return, or a return for such other period as the Commissioners consider appropriate in the circumstances, showing, in respect of all mineral oils for each brand of product, type and size of container—

(i) the stock balance brought forward from the previous month or such other period concerned,

(ii) the volume received into, or produced or processed in, the tax warehouse during the period concerned,

(iii) the volume delivered from the tax warehouse and otherwise disposed of during the period concerned distinguishing between—

(I) mineral oil delivered for consumption in the State or otherwise disposed of on payment of tax, and

(II) mineral oil delivered otherwise than in accordance with subclause (I),

and

(iv) the balance remaining in stock in the tax warehouse at the end of the period concerned.

(2) The returns referred to in subparagraphs (a) and (b) of paragraph (1) shall be furnished by the first working day following the end of the period to which they relate.

(3) All returns required by these Regulations shall be signed—

(a) where the authorised person is a natural person, by the authorised warehousekeeper or by a person authorised in writing by him or her to sign such returns on his or her behalf;

(b) where the authorised warehousekeeper is a body corporate, by a director, company secretary or any person authorised in writing by one of them under the company seal to sign such returns on behalf of the body, and

(c) where the authorised warehousekeeper is an unincorporated body of persons, by one of the partners or any person authorised by one of them to sign such returns on behalf of the body.

PART 4

ASCERTAINMENT OF VOLUME OR QUANTITY OF MINERAL OIL

Provision of equipment and facilities.

20. (1) This Regulation shall apply to importers, authorised warehousekeepers or any other person liable for the payment of the tax or any person claiming repayment of the tax.

(2) Every person to whom this Regulation applies shall, to the satisfaction of the Commissioners—

(a) provide equipment,

(b) provide safe means of access to vessels and dipping places, and

(c) afford such other facilities and assistance,

as may be required to enable an officer to properly examine, measure the volume or quantity of, take account of, or sample mineral oil for tax purposes.

(3) Every person to whom this Regulation applies shall, where required by the Commissioners, furnish to the proper officer tables of the capacity of all vessels intended for the reception, storage or transport of mineral oils, showing the number of litres which each vessel is capable of containing according to the depth of the liquid contained in each such vessel.

Volume or quantity of mineral oil

21. (1) The volume of any mineral oil for tax purposes shall be the actual volume determined in such manner as the Commissioners may from time to time direct.

(2) Where a volume of mineral oil would not otherwise be taken to be its volume at a temperature of 15^{o} Celsius, the volume of that mineral oil shall, for the purposes of ascertaining—

(a) the amount of tax chargeable on a quantity of mineral oil, or

(b) the amount of repayment allowable on a quantity of mineral oil,

be taken to be its volume at a temperature of 15^{o} Celsius calculated in accordance with paragraphs (3) and (4).

(3) The volume, density and temperature of the mineral oil shall be measured and, using the values obtained, the corresponding volume as at a temperature of 15^{o} Celsius shall be determined by reference to an internationally recognised conversion table approved by the Commissioners for the purpose.

(4) In the case of mineral oil imported or removed from a tax warehouse for consumption in the State, the temperature shall be taken to be 15^{o} Celsius if, in the opinion of the proper officer, it is not expedient to measure either the temperature or the density because of the quantity involved or other relevant circumstances.

(5) (a) The accuracy of any measuring instrument used in determining the volume, temperature or density of mineral oil shall comply with any minimum standards which the Commissioners may from time to time require.

(b) The testing of measuring equipment referred to in paragraph (a) shall be undertaken—

(i) by persons to whom this Regulation applies, and

(ii) in such a manner and at such frequency as the Commissioners may require.

PART 5

PAYMENT OF TAX

Time when tax payable.

22. (1) Where any suspension arrangements apply to mineral oil, the time when the tax is payable shall be—

(a) the time when the tax ceases to be suspended in accordance with those arrangements, or

(b) the time when there is any contravention of, including failure to comply with, any requirement relating to those arrangements, or

(c) the time when the tax ceases to be suspended by virtue of paragraph (2), whichever is the earliest.

(2) The tax shall cease to be suspended when—

(a) the premises in which the mineral oil is held ceases to be a tax warehouse,

(b) the person holding the mineral oil ceases to be an authorised warehousekeeper,

(c) losses, other than those provided for in section 106 of the Finance Act, 2001, are recorded,

(d) the mineral oil is consumed, or

(e) the mineral oil is removed from a tax warehouse unless it is removed under a suspension arrangement.

PART 6

RECORDS

Records to be kept by mineral oil traders.

23. (1) Every mineral oil trader shall keep all records of any description specified in Schedule 3, including documents received by him or her and copies of all documents that are issued by him or her.

(2) In the case of records to which Schedule 3 relates that are held in a non-legible form (including information held in a computer or other electronic medium) a mineral oil trader shall produce it in a legible form or reproduce it in a permanent legible form, when so required by an officer.

Details in records kept by mineral oil traders.

24. (1) Every mineral oil trader shall keep, in a form acceptable to the Commissioners, a record, in respect of each specified description of mineral oil, of—

(a) any production, buying, selling, importation, exportation, dealing in or handling of any mineral oils carried on by him or her,

(b) any financing or facilitation by him or her of any such transactions or activities (whether or not those transactions or activities are carried on by him or her), and

(c) any supplies of goods or services received by him or her to enable the undertaking of such transactions or activities or in connection with such transactions or activities.

(2) In respect of each purchase, sale, receipt or delivery of each specified description of mineral oil by a mineral oil trader, his or her records shall include the following particulars:

(a) the name and address of the seller, purchaser, consignor or consignee, as the case may be;

(b) the address of the premises or place from where the mineral oil was received or to which it was delivered;

(c) the date of the transaction;

(d) the nature of the transaction;

(e) the quantity of mineral oil involved in the transaction;

(f) whether tax has been paid**,** remitted, suspended or repaid on the mineral oil involved in the transaction and, if paid, whether at the standard or a reduced rate;

(g) a record of any payment for the mineral oil, containing such a reference to the transaction that it may be readily identified.

(3) The records required to be kept by this Regulation—

(a) shall be legible, or in the case of a record held in a non-legible form (including information held in a computer or other electronic medium) shall be produced in a legible form or reproduced in a permanent legible form where so required by an officer,

(b) shall be contemporaneous, and

(c) shall be sufficiently comprehensive so that the particulars specified in Schedule 4 may be readily ascertained.

(4) Paragraphs (1) and (2) shall not apply to individual transactions relating to the retail sale of mineral oil in the course of fuelling the fuel tank of any vehicle; however, a record of the aggregate daily quantities of such sales transactions shall be maintained by the mineral oil trader concerned.

Stock accounts.

25. (1) A mineral oil trader shall keep, in such form and in such manner as the Commissioners may from time to time direct, a stock account of each specified description of

mineral oil produced or processed in, received into, held in and delivered from, his or her premises.

(2) An entry in the stock account specified in paragraph (1) shall—

(a) be made not later than 12 o'clock midday on the next working day following the date the transaction occurred, and

(b) be balanced by the mineral oil trader at the end of each month or such other period as may be required by the proper officer.

Mineral oil tax account.

26. Every mineral oil trader who is liable to pay any amount of tax shall keep a mineral oil tax account showing the amount, date and method of payment of any tax paid by him or her in respect of each tax accounting transaction or period.

Alterations to records.

27. (1) In respect of any record required to be kept by or under these Regulations, a person shall not—

(a) obliterate any entry,

(b) make any entry which is untrue in any particular, or

(c) alter or cancel any entry except for the purpose of correcting an error.

(2) Any alterations or cancellations for the purpose of correcting an error shall only be made in a manner that does not render illegible, in part or in whole, the original entry.

Preservation of records.

28. Except where the Commissioners may otherwise allow and subject to compliance with such conditions as they may think fit to impose, the records required to be kept by or under these Regulations shall be preserved for a period of not less than 6 years from the date of the last entry in such records.

Place where records to be held.

29. Except where the Commissioners may otherwise allow or require, the records required to be kept by or under these Regulations shall be kept—

(a) where relevant, at the mineral oil trader's tax warehouse or approved place, and

(b) in any other case at the place where the mineral oil trader normally conducts his or her business.

PART 7

STORAGE AND MOVEMENT

Mixing of mineral oils.

30. Without the approval of the Commissioners and subject to compliance with such conditions as they may impose, a person shall not—

(a) mix mineral oil of different specified descriptions**,**

(b) mix mineral oil of a specified description on which tax has been paid at the standard rate with mineral oil of the same specified description on which tax at a reduced rate has been paid or on which a relief from tax, either by remission or repayment, has been granted,

(c) mix mineral oil of a specified description on which tax has been paid at a reduced rate with mineral oil of the same specified description on which tax at a different reduced rate has been paid or with mineral oil on which a relief from tax, either by remission or repayment, has been granted, or

(d) mix or blend marked gas oil or marked kerosene with fuel oil unless—

(a) such operations take place in a tax warehouse, and

(b) the mineral oil produced by such blending or mixing is fuel oil.

Movement document.

31. (1) Any person selling or delivering mineral oil (including recycled mineral oil) other than in the course of fuelling the fuel tank of any vehicle, shall at the time of each such sale or delivery give to the purchaser or the person taking delivery of such oil an invoice or other document, numbered in a consecutive series and referred to in these Regulations as a "movement document", showing the particulars specified in paragraph (4).

(2) A person referred to in paragraph (1) of this Regulation shall keep at his or her place of business a true copy of each movement document issued by him or her under this Regulation.

(3) A person in charge of any vehicle which is transporting mineral oil otherwise than in the standard fuel tank of the vehicle—

(a) shall have in his or her possession or custody at all times during the course of such transportation a movement document showing the particulars specified in paragraph (4) relating to the mineral oil being transported, and

(b) shall produce the movement document, or a true copy thereof, on demand to an officer.

(4) The movement document referred to in this Regulation shall include:

(a) the name and address of the consignor of the mineral oil and the address of the premises or place from which such oil was removed;

(b) the name and address of the person to whom the mineral oil was sold or delivered and the address of the premises or place to which such oil was delivered;

(c) the date of such sale or delivery;

(d) the full quantity of each specified description of mineral oil so removed;

(e) the registration number, or other identification number, of the vehicle being used for the purpose of such movement;

(f) in the case of mineral oil supplied at a reduced rate of tax, the following statement indelibly written or printed on the movement document:-

> "This mineral oil product is delivered at a reduced rate of tax and must not be used as a propellant or kept in the fuel tank of a motor vehicle."

and

(g) such other particulars as may be required by any other Regulation in relation to any specified description of mineral oil.

PART 8

REPAYMENT OF MINERAL OIL TAX

Repayment.

32. (1) Subject to such conditions as they may think fit to impose, the Commissioners may repay, in whole or in part, the mineral oil tax paid on mineral oil to which section 98, 99 or 100 of the Act of 1999 applies.

(2) Any person intending to claim or claiming a repayment of mineral oil tax to which this Part applies shall keep all such records as may be necessary to support his or her claim for repayment.

(3) A claim by a person for the repayment of tax on mineral oil in accordance with paragraph (1) shall—

(a) be made to the officer duly appointed for that purpose,

(b) be made in writing or in such form as the Commissioners may specify for the purpose,

(c) contain the following information in relation to the mineral oil which is the subject of the claim:

(i) the name and address of the owner of the mineral oil;

(ii) a full description of the mineral oil;

(iii) the quantity of the mineral oil;

(iv) the rate at which the mineral oil tax was paid;

(v) the name and address of the supplier and date of receipt;

(vi) such other particulars as the Commissioners may from time to time require in any particular case.

(4) Where repayment of mineral oil tax under paragraph (1) is made subject to compliance with conditions, the person to whom repayment is made shall comply with those conditions.

(5) Except where otherwise provided by this Part, this Part is in addition to and not in substitution for any other Regulation of these Regulations.

PART 9

GAS OIL AND KEROSENE

Marking requirements.

33. (1) The application of a reduced rate of tax shall not be allowed on gas oil or kerosene unless the Commissioners are satisfied that—

(a) such gas oil or kerosene is intended for use other than as a propellant,

(b) the markers prescribed in Regulation No. 34 have been added in the proportions prescribed in Regulation 34(2)(a) or 34(2)(b), as appropriate, and

(c) a written declaration that the gas oil or kerosene has been so marked is furnished to the Commissioners by the importer or authorised warehousekeeper, as appropriate, at the time of release for consumption in the State or such other time as the Commissioners may allow.

(2) Notwithstanding paragraph (1) the requirement as to marking may be dispensed with, in the case of gas oil or kerosene delivered to persons authorised in writing by the Commissioners to receive it unmarked, subject to such conditions (including the giving of security) as the Commissioners may impose.

Marker.

34. (1) Each of the following substances shall constitute a marker:

(a) for gas oil—

(i) 4-[N-ethyl-2-(1-isobutoxyethoxy) ethylamino] azobenzene, and

(ii) any blue anthraquinone dye

(b)for kerosene——

(i) 4-[N-ethyl-2-(1-isobutoxyethoxy) ethylamino] azobenzene, and

(ii) any red dye.

(2) The markers shall be added in the following proportions to every 5,000 hectolitres–

(a) of gas oil—

(i) not less than 2.5 kilogrammes of 4-[N-ethyl-2-(1-isobutoxyethoxy) ethylamino]azobenzene, and

(ii) not less than such quantity of a blue anthraquinone dye as gives a colour intensity, as measured in a spectrophotometer at 630 nanometres, corresponding to 5 milligrammes per litre of C.I. Solvent Blue 79, as defined in the Colour Index.

(b) of kerosene—

(i) not less than 2.5 kilogrammes of 4-[N-ethyl-2-(1-isobutoxyethoxy) ethylamino]azobenzene, and

(ii) not less than such quantity of a red dye as gives a colour intensity, as measured in a spectrophotometer at 500-540 nanometres, corresponding to 5 milligrammes per litre of 1-[4(phenylazo) phenylazo]-2-[ethylamino] naphthalene.

(3) The prescribed markers may be added to gas oil or kerosene, as appropriate, individually or in the form of a composite solution provided any composite solution is added in such quantity as to ensure the presence of each marker in the quantity prescribed by this Regulation.

(4) Except as may be otherwise allowed by the Commissioners and subject to such conditions as they may impose, the markers shall be added to the gas oil or kerosene in a tax warehouse and in a vessel or pipe approved for that purpose.

(5) Gas oil and kerosene marked outside the State shall have the markers added in accordance with the paragraphs (1) and (2).

Storage of marker.

35. (1) When they are not in immediate use the prescribed markers shall be stored—

(a) separately from other substances, and

(b) in a container bearing or labelled with a description of its contents.

(2) An authorised warehousekeeper shall take stock at the end of each month or at such times as the proper officer requires of any marker stored or in use at his or her tax warehouse.

Restrictions relating to gas oil and kerosene.

36. No person shall—

(a) import any gas oil containing 1:4 di-hydroxyanthraquinone except under a specific or general authorisation issued by the Commissioners,

(b) add 1:4 di-hydroxyanthraquinone to any gas oil other than with the consent of the Commissioners and subject to such conditions as they may impose,

(c) import any kerosene containing coumarin except under a specific or general authorisation issued by the Commissioners,

(d) add coumarin to any kerosene other than with the consent of the Commissioners and subject to such conditions as they may impose,

(e) add any substance to gas oil or kerosene which impedes the identification of any marker which is to be added or has been added to such gas oil or kerosene for the purpose of these Regulations,

(f) add to any mineral oil any marker except with the authority of the Commissioners,

(g) keep for sale, sell, transport or deliver any gas oil or kerosene containing any of the substances referred to in paragraphs (a) and (c), except as the Commissioners may otherwise allow and subject to such conditions as they may impose, or

(h) import, keep for sale, sell or deliver or use any gas oil or kerosene in which a marker is present unless—

(i) each of the appropriate 2 markers is present in the proportions prescribed by these Regulations, and

(ii) when the gas oil or kerosene is being delivered for use in the State by such person, a declaration is furnished to the proper officer that such gas oil or kerosene is so marked and is intended for use for a purpose other than as a propellant.

Fixing of permanent notice, etc. (Part 9).

37. A permanent, clearly legible, indelible notice shall be securely fixed, in a prominent position, to every overground vessel in which marked gas oil or marked kerosene, is stored and

on every delivery pump or other outlet by which such marked gas oil or marked kerosene is delivered, and such notice shall state——

(a) in the case of marked gas oil, the following:

> "It is an offence to keep marked gas oil in the fuel tank, or use it in the engine, of a motor vehicle." ,

and

(b) in the case of marked kerosene, the following:

> "It is an offence to keep marked kerosene in the fuel tank, or use it in the engine, of a motor vehicle.".

Approved places.

38. (1) No person shall, in respect of any premises or place other than a tax warehouse—

(a) store any gas oil or kerosene which is intended to be sent out on sale or delivery in quantities exceeding 500 litres at any one time, or

(b) sell gas oil or kerosene in quantities exceeding 500 litres at any one time other than in the course of fuelling a fuel tank, or

(c) send out any gas oil or kerosene for sale or delivery,

unless that premises or place has been approved by the Commissioners in accordance with the provisions of paragraph 2.

(2)(a) A person who wishes to obtain approval for any premises or place to which paragraph (1) relates shall make application in writing for approval to the Commissioners and shall furnish to the Commissioners such information as they may require in connection with the application.

(b) Where the Commissioners grant approval to an application under paragraph (1), they may specify such conditions as they see fit to impose in connection with the approval, and the person who made the application shall comply with those conditions.

(3) A person and a premises or place approved under this Regulation shall be referred to in these Regulations as an "approved person" and an "approved place", respectively.

(4) The Commissioners may, at any time for reasonable cause and following such notice as is reasonable in the circumstances—

(a) vary the terms of their approval of any person, premises or place under this Regulation,

(b) amend the extent of the premises or place which is so approved, or

(c) revoke the approval granted if—

(i) an approved person contravenes or fails to comply with any condition of approval imposed by them under this Regulation, or

(ii) an approved place fails to comply with any condition of approval imposed by them under this Regulation.

(5) A place approved under Regulation 16 of the Hydrocarbon (Heavy) Oil Regulations, 1989 (S.I. No. 121 of 1989), shall be deemed to be a place approved under this Regulation.

Application of Regulation 31 to Part 9.

39. Any person selling or sending out for delivery gas oil or kerosene from an approved place shall comply with the provisions of Regulation 31.

Application generally (Part 9).

40. Except where otherwise provided by this Part, this Part is in addition to and not in substitution for any other Regulation of these Regulations.

PART 10

RECYCLED MINERAL OIL

Requirements for recycling.

41. (1) A person and a premises or place granted approval under this Regulation shall be referred to in these Regulations as an “approved recycler” and an “approved place of recycling”, respectively.

(2) No person shall recycle any used mineral oil on any premises or place without the approval of the Commissioners in accordance with paragraph 4.

(3) A person who wishes to recycle used mineral oil on any premises or place to which paragraph (2) relates shall—

(a) make application in writing for approval to the Commissioners, and

(b) furnish to the Commissioners such information as they may require in connection with the application.

(4) Where the Commissioners grant approval for the purposes of this Regulation, they may specify such conditions as they see fit to impose in connection with the approval, and the person who made the application shall comply with those conditions.

(5) The Commissioners may, at any time for reasonable cause and following such notice as is reasonable in the circumstances—

(a) vary the terms of approval of any person, premises or place under this Regulation, or

(b) amend the extent of the premises or place which is so approved, or

(c) revoke the approval granted if—

(i) an approved recycler contravenes or fails to comply with any condition of approval under this Regulation, or

(ii) an approved place of recycling fails to comply with any condition of approval imposed by them under this Regulation.

(6) An approved recycler shall comply with the provisions of Regulation 31 except that where that person is selling or delivering recycled mineral oil he or she shall give to the purchaser or the person taking delivery of the recycled mineral oil a movement document containing the following statement in place of the statement prescribed in Regulation 31(4)(f):

> "This mineral oil product is recycled mineral oil on which full relief from mineral oil tax has been granted and must not be used as a propellant or kept in the fuel tank of a motor vehicle.".

Application generally (Part 10).

42. Except where otherwise provided by this Part, this Part is in addition to and not in substitution for any other Regulation of these Regulations.

PART 11

LIQUEFIED PETROLEUM GAS

Application of Regulation 31 to Part 11.

43. (1) Regulation 31 shall apply to any person who sells or delivers liquefied petroleum gas, other than in the course of fuelling the fuel tank of any vehicle.

(2) Where tax at the standard rate has been paid, the movement document (referred to in Regulation 31) shall, for the purposes of this Regulation, contain the following statement:-

> "This liquefied petroleum gas was delivered at the standard rate of tax and may be used for combustion in the engine of a motor vehicle." .

(3) This Regulation shall not apply to quantities of less than 120 litres.

Restrictions relating to liquefied petroleum gas.

44. (1) No person shall sell or deliver liquefied petroleum gas—

(a) which he or she has reason to believe will be used as a propellant, and

(b) on which tax at the standard rate has not been paid.

(2) In respect of liquefied petroleum gas on which the standard rate of tax has not been paid, a permanent, clearly legible, indelible notice shall be securely fixed, in a prominent position—

(a) to every overground vessel exceeding 120 litres capacity in which such liquefied petroleum gas is stored, and

(b) on every delivery pump or other outlet by which such liquefied petroleum gas is delivered,

and the notice shall state the following:

> "It is an offence to keep liquefied petroleum gas on which tax at the standard rate has not been paid in the fuel tank, or use it in the engine, of a motor vehicle.".

Restriction on use.

45. No person shall use for any purpose—

(a) any container or vessel to which is connected a valve or other device whereby liquefied petroleum gas may be drawn off in liquid form, or

(b) any valve or device whereby liquefied petroleum gas may be drawn off in liquid form and which is not ordinarily connected to a container or vessel,

without the prior approval of the Commissioners or without complying with such conditions as they may lay down in such approval.

Information to Commissioners.

46. Every authorised warehousekeeper, importer, vendor or user of liquefied petroleum gas shall, in relation to all containers, vessels, valves and other devices which may be used for the storage or delivery of liquefied petroleum gas whereby liquefied petroleum gas may be drawn off in liquid form, give to the Commissioners any information in his or her possession or procurement concerning the location and use or intended use of such containers, vessels, valves and other devices.

Quarterly return to Commissioners.

47. (1) In addition to the returns specified in Part 3, each authorised warehousekeeper shall submit a quarterly return of all liquefied petroleum gas delivered by him or her at the reduced rate specifying—

(a) the name and address of each consignee, and

(b) the quantity delivered to each consignee during the quarter.

(2) Paragraph (1) shall not apply to individual deliveries of less than 120 litres or deliveries in containers of less than 120 litres capacity per container.

Application generally (Part 11).

48. Except where otherwise provided by this Part, this Part is in addition to and not in substitution for any other Regulation of these Regulations.

PART 12

AVIATION GASOLINE

Tax warehouse and aviation gasoline.

49. Aviation gasoline shall be deposited in a tax warehouse prior to its delivery for consumption in the State.

Restrictions relating to aviation gasoline.

50. No person shall—

(a) use aviation gasoline otherwise than as a fuel for an aircraft, or

(b) take aviation gasoline into a fuel tank other than the fuel tank of an aircraft, or

(c) sell or deliver aviation gasoline which he or she has reason to believe will be used as a propellant, or

(d) mix aviation gasoline with any other mineral oil except with the authority of the Commissioners.

Application of Regulation 31 to Part 12.

51. (1) A person who sells or delivers aviation gasoline shall comply with the provisions of Regulation 31.

(2) The movement document (referred to in Regulation 31) shall, for the purposes of this Regulation, contain the following statement in place of the statement prescribed in Regulation 31(4)(f).

> "This aviation gasoline is delivered for use solely as fuel for aircraft and must not be used for any other purposes.".

Fixing of permanent notice, etc. (Part 12).

52. A permanent, clearly legible, indelible notice shall be securely fixed, in a prominent position—

(a) to every overground vessel in which aviation gasoline is stored, and

(b) on every delivery pump or other outlet by which aviation gasoline is delivered,

and the notice shall state the following:

> "It is an offence to keep aviation gasoline in the fuel tank, or use in the engine, of a motor vehicle.".

Application generally (Part 12).

53. Except where otherwise provided by this Part, this Part is in addition to and not in substitution for any other Regulation of these Regulations.

PART 13

SUBSTITUTE FUELS

Approval of persons and substitute fuels.

54. (1) No person, other than an authorised warehousekeeper, shall import, sell or otherwise deal in any substitute fuel unless with the prior written approval of the Commissioners.

(2) Any person requiring approval under paragraph (1) shall make written application to the Commissioners and shall supply any information the Commissioners may require in connection with such application.

(3) Where the Commissioners approve a person by virtue of paragraph (1), they may impose conditions (including the provision of security) and the applicant shall comply with these conditions.

Withdrawal of approval.

55. The Commissioners may withdraw any approval granted by virtue of Regulation 54 (1)—

(a) where the applicant fails to comply with any conditions specified in the approval, or

(b) where the substitute fuel concerned becomes the subject of a decision under paragraph (2) of Article 2a of Directive 92/81/EEC of 19 October 1992[1] to make such fuel subject to the control and movement provisions of Directive 92/12/EEC of 25 February 1992[1].

Fixing of permanent notice, etc. (Part 13).

56. A permanent, clearly legible, indelible notice shall be securely fixed in a prominent position to every overground vessel in which substitute fuel is stored and on every delivery pump or other outlet by which substitute fuel is delivered, stating that—

> "It is an offence to keep in a fuel tank, or to use in the engine, of a motor vehicle substitute fuel on which a reduced rate of tax has been paid or which has been delivered on remission of tax.".

Application generally (Part 13).

57. Except where otherwise provided by this Part, this Part is in addition to and not in substitution for any other Regulation of these Regulations.

PART 14

DARK OIL

Restriction on delivery of dark oils.

58. No person shall sell or deliver dark oil which he or she has reason to believe will be used as a propellant or keep dark oil in a fuel tank of a motor vehicle.

Application generally (Part 13).

59. This Part is in addition to and not in substitution for any other Regulation of these Regulations.

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[1] O.J. No. L316 of 31 October, 1992, p. 12
[1] O.J. No. L76 of 23 March, 1992, p. 1

PART 15

REVOCATIONS AND CONTINUITY

Transitional.

60. (1) The continuity of the operation of the law relating to excise duty charged on mineral oils shall not be affected by the substitution of these Regulations for the revoked Regulations.

(2) For the purposes of paragraph (1)—

(a) any reference in a document or enactment to a provision of these Regulations is to be construed, where necessary, as a reference to the corresponding provision in the revoked Regulations, and

(b) a reference in a document or enactment to a revoked Regulation is to be construed, where necessary, as a reference to the corresponding provision of these Regulations.

Revocations.

61. The enactments set out in Schedule 5 are revoked to the extent mentioned in the third column opposite the reference to the enactment concerned.

SCHEDULE 1

(Regulation 3)

Specified descriptions of mineral oil

Light Oil -

1. unleaded petrol,
2. super unleaded petrol,
3. aviation gasoline,
4. other light oil.

Heavy Oil -

1. marked gas oil,
2. other gas oil,
3. marked kerosene,
4. other kerosene,
5. fuel oil,
6. recycled heavy oil,
7. other heavy oil.

Liquefied Petroleum Gas -

1. for use as a propellant,
2. for other uses.

Substitute Fuels -

1. for use as a propellant,
2. for other uses.

SCHEDULE 2

(Regulation 6)

Particulars to be included in an application for approval of Tax Warehouse and Authorised Warehousekeeper

1. The name, address, VAT No. (namely, the registration number issued by the Commissioners under section 9 of the Value-Added Tax Act, 1972 (No. 22 of 1972)) and status of applicant (for example, sole proprietor, limited company, etc.).

2. The address of the premises for which approval is sought.

3. A plan showing a general outline of the premises which clearly delineates the area for which approval is sought.

4. A detailed plan of the premises showing the location of all the storage tanks, pipelines, gantries, etc..

5. The date from which the approval is to take effect.

6. A description and the projected average stockholding of each mineral oil product to be produced or stored in the tax warehouse.

7. The nature and extent of any production, processing or other operations intended to be carried out in the tax warehouse.

SCHEDULE 3

(Regulation 23)

Specified records

1. Invoices, credit notes and debit notes.

2. Records relating to importations, exportations, storage, movement, purchases and sales.

3. Statements of account.

4. Records of payments or receipts.

5. Journals and ledgers.

6. Profit and loss, trading, and management accounts and reports, balance sheets and trading forecasts.

7. Internal and external auditor's reports.

8. Records relating to any remission, repayment or reimbursement of tax.

9. Any other record relating to mineral oils which is kept for a business purpose.

SCHEDULE 4

(Regulation 24)

Particulars to be readily ascertainable

1. The amount of any tax payable.

2. Any adjustments with respect to the tax payable.

3. The time when payment is due with respect to any payable tax.

4. The date, amount and method of any payment of the tax.

SCHEDULE 5

(Regulation 61)

Revocations

Number and year	Citation	Extent of revocation
S.R. & O. No. 490 of 1941.	Hydrocarbon Oil Regulations, 1941.	The whole Regulations in so far as they are not revoked
S.I. No. 122 of 1961.	Hydrocarbon Oil (Rebated Oil) Regulations, 1961.	The whole Regulations in so far as they are not revoked
S.I. No. 219 of 1965.	Hydrocarbon (Heavy) Oil Regulations 1965.	The whole Regulations
S.I. No. 283 of 1976.	Gaseous Hydrocarbons in Liquid Form Regulations, 1976	The whole Regulations
S.I. No. 382 of 1977.	Hydrocarbon Oil (Amendment) Regulations, 1977.	The whole Regulations
S.I. No. 418 of 1979.	Hydrocarbon Oil (Amendment) Regulations, 1979.	The whole Regulations
S.I. No. 198 of 1982.	Hydrocarbon Oil (Rebated Oil) (Amendment) Regulations, 1982.	The whole Regulations
S.I. No. 140 of 1984.	Hydrocarbon Oil (Aviation Gasoline) Regulations, 1984.	The whole Regulations
S.I. No. 121 of 1989.	Hydrocarbon (Heavy) Oil Regulations, 1989.	The whole Regulations
S.I. No. 156 of 1989.	Hydrocarbon (Light) Oil Regulations, 1989.	The whole Regulations
S.I. No. 269 of 1991.	Hydrocarbon (Heavy) Oil Regulations, 1991.	The whole Regulations
S.I. No. 136 of 2000.	Hydrocarbon (Heavy) Oil (Amendment) Regulations, 2000.	The whole Regulations

GIVEN on 27 September 2001.

Josephine Feehily

Revenue Commissioner.

EXPLANATORY NOTE

(This note is not a part of the instrument and does not purport to be a legal interpretation)

These Regulations consolidate and modernise the various hydrocarbon oil excise regulations and implement the provisions of Chapter 1 of Part 2 of the Finance Act, 1999, which consolidated and modernised the corresponding primary legislation.

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