

## Mineral Oil Traders' Excise Licences Manual

### (Auto Fuel & Marked Fuel Traders' Licences)

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A more recent version of this manual is available.



## Section 1. Introduction

### 1.1. This Manual

The Mineral Oil Traders' Licences Manual is a Revenue operational manual which provides information and guidelines for staff dealing with Auto-Fuel Trader's Licences (AFTLs) and Marked Fuel Trader's Licences (MFTLs) introduced by the [Finance Act 2012](#) and the [Mineral Oil Tax Regulations 2012 \(S.I. No. 231 of 2012\)](#).

The manual is structured in separate sections as set out in the **Table of Contents**.

This is Revision 11 (published December 2016) of the manual. It restructures and updates previous iterations of the manual and includes new or additional guidelines summarised below:

- Revised guidelines on the Right of Appeal to take account of the new procedures provided for in the Finance Act (No 2) 2013 ([paragraph 1.6](#)) including excise assessment appeals ([see paragraph 15.8](#)),
- New guidelines relating to where a trader makes an application for an AFTL and/or a MFTL, any additional information required by the Revenue Commissioners pursuant to section 101(6)(a) of the Finance Act 1999 may only refer to information relating to subsections (7) and (8) of section 101 of the Finance Act 1999 ([see paragraph 2.2](#)),
- New guidelines regarding the licensing of Unmanned Fuel Stations and the keeping of books & records ([see paragraph 2.4.2](#)),
- New paragraph summarising different types of fuel fraud including designer fuels ([see paragraph 2.5](#)),

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

- Introduction of a new Licence Condition regarding complying with Excise Law ([see paragraph 4.5](#)),
- Revised instruction regarding Outstanding ROM1 Returns ([see paragraph 7.6.1](#)),
- New instruction regarding late ROM1 Returns ([see paragraph 7.6.2](#)),
- New instruction regarding Addressing and Prioritising ROM1 Anomalies. ([see paragraph 7.6.3](#))
- New instruction regarding Consultation with other Revenue Branches ([see paragraph 7.6.4](#))
- New instruction requiring officers to advise NELO where a licensed trader has ceased trading ([see paragraph 7.8](#)),

- New, revised and updated guidelines on procedures relating to the Refusal to Grant an AFTL or MFTL (see [Section 8](#)). Officers should pay particular attention to:
  - Revised guidelines where an applicant or licensee has contravened or failed to comply with Excise Law (see [paragraph 8.1](#) and [paragraph 8.2.4](#)),
  - New guidelines relating to the realisation of profits from legitimate trade (see [paragraph 8.2.6](#)),
  - New guidelines relating to beneficial ownership (see [paragraph 8.2.7](#)),
  - Updated guidelines relating to the systems and procedures of the business providing a full and true record of all mineral oil transactions (see [paragraph 8.2.8](#)),
  - Revised guideline requiring consultation with Assistant Secretary in advance of decision to refuse to grant a licence (see [paragraph 8.4.3](#)).
- New, revised and updated guidelines on procedures relating to the Revocation of an AFTL or MFTL (see [Section 9](#)). Officers should pay particular attention to:
  - Revised guidelines where an applicant or licensee has contravened or failed to comply with Excise Law (see [paragraph 9.1](#) and [paragraph 9.2.2](#)),
  - Updated guidelines where a licence holder provided information that was false or misleading in a material way when applying for a licence (see [paragraph 9.2.4](#)),
  - Updated guidelines relating to the realisation of profits from legitimate trade (see [paragraph 9.2.5](#)),
  - Updated guidelines relating to beneficial ownership (see [paragraph 9.2.6](#)),
  - Updated guidelines relating to the systems and procedures of the business providing a full and true record of all mineral oil transactions (see [paragraph 9.2.7](#)),
  - Revised guideline requiring consultation with Assistant Secretary in advance of decision to revoke a licence (see [paragraph 9.4.3](#)).

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

- Updated guidelines on Cross Border Movements (see [paragraph 14.3](#)).
- Guidelines on simplified procedure for the cross-border movements of Mineral Oil Products by road (see [paragraph 14.3.1](#)).
- New Instruction regarding Excise Penalty (see [paragraph 15.5.3](#)).
- New section on Summary & Indictable Prosecutions (see [section 16](#)).

### 1.1.1. Previous Instructions

This manual consolidates and supersedes the following:

Instruction Ref	Title
O.I. No 084 of 2011	Mineral Oil Trader's Manual
O.I. No 022 of 2012	Mineral Oil Trader's Manual –(Revised April 2012)
O.I. No 034 of 2012	Guidelines on Auto-Fuel and Marked Fuel Traders' Licences
O.I. No 058 of 2012	Consolidated - Mineral Oil Trader's Licence Manual
O.I. No 014 of 2013	Mineral Oil Trader's Manual – (Revised Feb 2013)
O.I. No 066 of 2013	Mineral Oil Trader's Manual – (Revised July 2013)
O.I. No 023 of 2014	Mineral Oil Trader's Manual – (Revised Feb 2014)
O.I. No 080 of 2015	Mineral Oil Trader's Manual – (Revised April 2015)

### 1.1.2. Associated Instructions

The guidelines contained in this Manual are to be read in conjunction with the following Tax and Duty Manuals (TDMs):

- [Mineral Oil Manual – Part 3: Marking of Gas Oil and Kerosene](#)
- [Customs & Excise Enforcement Procedures Manuals](#)

Officers should also refer to section 4 of the [Movement of Excisable Products Manual](#) in relation to guidelines on the importation of duty-suspended mineral oil by road from Northern Ireland.

## 1.2. Legislation

### 1.2.1. Primary Legislation

Section 101 of the [Finance Act 1999](#) (as amended), provides the legislative basis for the licensing of mineral oil traders through the granting of an Auto Fuel Trader's Licence (AFTL) and/or a Marked Fuel Trader's Licence (MFTL).

Holders of an AFTL or MFTL are subject to certain conditions as set out in [Appendix I](#).

More detailed guidelines on key aspects of the legislative and regulatory requirements are set out in [Section 5](#) of this manual.

**Traders who deal in both auto-fuel and any gas oil or kerosene that is liable to a rate lower than the appropriate standard rate are required to hold both an AFTL and a MFTL.**

### 1.2.2. Secondary Legislation

Mineral oil traders are required to comply with the [Mineral Oil Tax Regulations 2012 \(S.I. No. 231 of 2012\)](#) and the [Mineral Oil Tax \(Amendment\) Regulations 2015 \(S.I. No. 19 of 2015\)](#).

### 1.2.3. Penalties and Offences

Section 102 of the Finance Act 1999 provides for a range of offences in relation to marked oils.

## 1.3. Accessing Excise Licence Information

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

## 1.4. Reference to Officers

References in this manual to "Revenue officers" or "officers" should be taken to refer to the officers who have particular responsibility for carrying out the specific duties or functions set out in the relevant part of the manual. In cases of doubt or difficulty, local management should be consulted on this matter.

## 1.5. Reference to the Commissioners, Revenue and Revenue Commissioners

References in this manual to 'The Commissioners', 'Revenue', or 'the Revenue Commissioners' should be taken to refer to the Office of the Revenue Commissioners at all times. The various uses of language reflect the general use of these terms within the Office of the Revenue Commissioners and by the general public.

## 1.6. Right of Appeal – Tax Appeals Commission (TAC)

Section 146(1A)(f) of the Finance Act 2001 (as amended by section 50 of the [Finance \(No 2\) Act 2013](#)) provides for a right of appeal against a decision to refuse, or to revoke, a licence granted under section 101 of the Finance Act 1999. Details of appeal procedures are available from the Revenue [website](#) and the [Tax and Duty Appeals Manual](#).

Where a trader wishes to appeal a decision by the Revenue Commissioners to refuse or revoke the granting of a licence under section 101 of the Finance Act 1999, the trader may appeal such a decision directly to the Tax Appeals Commission.



Where a trader indicates to an officer that s/he wishes to appeal the decision of the Revenue Commissioners, they should be advised to contact the Tax Appeals Commission (TAC). Information on the TAC can be found at [www.taxappeals.ie](http://www.taxappeals.ie).

Where a trader wishes to appeal the revocation of an AFTL and/or a MFTL, the appeal procedure will not hinder the continuance of the revocation process, i.e. the revocation process will continue notwithstanding the lodging of an appeal.

However, officers should facilitate such appeals in a manner that they can be presented before the Appeal Commissioners in a timely manner and should ensure that their actions do not in any manner or form hinder the process.

A more recent version of this manual is available.



## Section 2. Mineral Oil Licences

### 2.1. Auto-Fuel Trader's Licence (AFTL) and Marked Fuel Trader's Licence (MFTL)

With effect from 1 July 2012, every person who:

- (a) produces, sells or deals in,
- (b) keeps for sale or delivery, or
- (c) delivers,

any mineral oil (other than additives) for use as a propellant (mainly petrol or road diesel but including LPG, etc.), or any aviation gasoline, must hold an **Auto-Fuel Trader's Licence (AFTL)** for each premises or place from which they operate.

With effect from 1 October 2012, every person who:

- (a) produces, sells or deals in,
- (b) keeps for sale or delivery, or
- (c) delivers,

any gas oil or kerosene that is liable to a rate lower than the appropriate standard rate, must hold a **Marked Fuel Trader's Licence (MFTL)** for each premises or place from which they operate.

A list of all current AFTLs and MFTLs is available from the Revenue [website](#). Persons who deal in both auto-fuel and any gas oil or kerosene that is liable to a rate lower than the appropriate standard rate from the same premises are required to hold both licences in respect of the premises.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

### 2.2. Legislative Requirements – Licence Applications

Section 101(6) of the Finance Act 1999 states that the Revenue Commissioners may, subject to subsections (7) and (8), grant to a person an Auto Fuel Trader's Licence (AFTL) or a Marked Fuel Trader's Licence (MFTL) on application to the Commissioners in writing and on receipt by them of such information as they may reasonably require ([see paragraph 2.3](#)) and where the appropriate excise duty has been paid.

Traders must:

- (i) Satisfy tax clearance requirements (see [paragraph 3.2.2](#)),
- (ii) Not have been convicted of an indictable offence under tax law in the ten years previous to the lodging of the licence application or a corresponding offence under the law of another Member State (see [paragraph 3.2.3](#)),
- (iii) Can show, when required by the Commissioners, that the applicant and the place or premises concerned, satisfy the conditions attaching to the licence (see [Section 4](#)),
- (iv) Can show, to the satisfaction of the Commissioners, that where there has been a contravention of, or failure to comply with, a requirement of excise law relating to mineral oil by the applicant or at the place or premises concerned, that the contravention or failure has been remedied (see [paragraph 5.2](#)),
- (v) Can show to the satisfaction of the Commissioners, where in the case of a licence previously granted, there has been a contravention of, or failure to comply with, a condition of an AFTL or a MFTL that the contravention or failure has been remedied (see [paragraph 4.7](#)),
- (vi) Can show when required to the satisfaction of the Commissioners that the activity to be carried out under the licence is to be undertaken with a view to the realisation of profits from legitimate trade in mineral oils (see [paragraph 5.3](#)),
- (vii) Can show when required to the satisfaction of the Commissioners that the activity to be carried out under the licence will be conducted solely for the benefit of the applicant (see [paragraph 5.3](#))
- (viii) Can show when required to the satisfaction of the Commissioners that the systems (including the measuring systems) and procedures of the business to which the licence application relates will provide a full and true record of all mineral oil transactions of that business, in a form readily accessible to the Commissioners (see [paragraph 5.3](#)).

Where the officer is of the opinion that information relating to criteria (i)-(viii) above is required from the trader in order to be satisfied that the relevant requirements are being complied with, the officer should contact the trader and, in requesting the information, **MUST** advise the trader of the specific sub-section under which the information is being requested **AND** that the request for information is provided for by section 101(6)(a) of the Finance Act 1999.

Officers should note that information sought under the above criteria may also be relevant to considering whether additional licence conditions may be required (see [paragraph 4.10](#)).

**Officers should note that the information that Revenue may reasonably require with regard to a licence application may only refer to information relating to subsections (7) and (8) of section 101 of the Finance Act 1999.**

Where an officer is satisfied that an application for, or the holder of, an AFTL/MFTL does not comply with the above requirements, s/he should follow the procedures as set out in [section 8 - Refusal to Grant Licence](#) or [section 9 – Revocation of an AFTL/MFTL](#) of this manual.

### 2.3. Mineral Oil Traders – Business Models

As well as the key legislative requirements governing the issue of mineral oil licences outlined above, officers should be aware of important information regarding the nature and conduct of the fuel trade sector set out in the following paragraphs.

A range of different business models can be found within the fuel trade sector. These models are set out below and should assist officers in determining who is required to be licensed / make the ROM1 return for each model.

In particular, officers when assessing which business models should be used, should be cognisant of section 101(8)(g) of the Finance Act 1999 in the case of new applicants and section 101(9)(e) of the Finance Act 1999 in the case of existing licence holders with regarding to the requirement of the applicant/licence holder to show to the satisfaction of the Commissioners that the activity to be carried out under the licence is undertaken with a view to the realisation of profits from legitimate trade in mineral oils ([see paragraph 5.3](#)).

- **Model 1: Forecourt is owned / leased by a fuel supplier and operated by an employee**

In this instance, the forecourt is owned or leased by a fuel supplier and is operated by an employee. As the ownership of the fuel remains with the fuel supplier at all times, the mineral oil licensing and ROM1 reporting obligation rests with the forecourt owner/fuel supplier.

- **Model 2: Forecourt is owned / leased by a fuel supplier and operated by a 'self-employed' manager**

In this instance the forecourt is owned or leased by a fuel supplier who claims that the forecourt is operated by a 'self-employed' manager. The 'self-employed' manager is not independent and has no proprietorial control over the business. As the ownership of the fuel remains with the supplier at all times, the Revenue position is firstly that the 'self-employed' manager is not self-employed but is an employee and secondly that licensing and reporting obligation rests with the supplier.

- **Model 3: Forecourt is owned / leased by an independent 'self-employed' dealer**

In this instance the forecourt is owned or leased by an independent 'self-employed' dealer who has proprietorial control over the non-oil business, but the fuel supplied to the forecourt remains in the ownership of the supplier until it is sold to the end customer. As the ownership of the fuel remains with the supplier at all times, the mineral oil licensing and ROM1 reporting obligation rests with that supplier.

- **Model 4: Forecourt is owned / leased by an independent sole trader**

In this instance the forecourt is owned or leased by an independent sole trader who has proprietorial control over the entire business; the fuel supplied to the forecourt is purchased, either under a franchise arrangement or from multiple suppliers, by the sole trader who in turn sells it to the end customer. As the sole trader has purchased and owns the fuel, the mineral oil licensing and ROM1 reporting obligation rests with the sole trader.

- **Model 5: Automated Forecourt owned / leased by a fuel supplier**

In this instance the forecourt is fully automated and wholly controlled by the fuel supplier.

As the ownership of the fuel remains with the supplier at all times, the mineral oil licensing and ROM1 reporting obligation rests with the fuel supplier.

- **Model 6: Forecourt is owned / leased by a fuel supplier and operated by an employee of an employment agency or by a self-employed person provided by an employment agency**

In this instance the forecourt is owned or leased by a fuel supplier. The person supplied by the employment agency may have proprietorial control over the non-oil business, but the fuel supplied to the forecourt remains in the ownership of the supplier until it is sold to the end customer. As the ownership of the fuel remains with the supplier at all times, the mineral oil licensing and ROM1 reporting obligation rests with the supplier.

It should be obvious from the above scenarios that the key to ensuring appropriate treatment for both licensing and other tax obligations is to properly assess the real independence of the forecourt retailer from the supplier.

### 2.3.1. Business Models - Cases of Doubt or Difficulty

At times, and depending on the circumstances, it may still be difficult for Revenue officers to determine the correct person to hold the AFTL/MFTL, especially when a new licence application is being assessed. Where officers are not satisfied as to the declared status of the applicant or the applicant disputes the Revenue officer's determination regarding that status, the officer should report the facts to the Branch Assistant Principal who will liaise with LCD – Mineral Oil Branch in order to make a final determination, after examining all the relevant documentation and facts.



## 2.4. Unmanned Fuel Stations and Unmanned Dispensing Pumps

### 2.4.1. Unmanned Fuel Stations

An unmanned fuel station is a self-service fuel forecourt that is not manned by the trader or his/her representatives. It is also known as an OPT (Outdoor Payment Terminal).

Where a Mineral Oil Trader applies for an AFTL or MFTL for an OPT, officers must carry out a compliance visit to the premises to ensure that it is in compliance with excise law and licence conditions.

The operator of such an unmanned self-service forecourt must hold an AFTL and/or MFTL in respect of the premises.

### 2.4.2. Unmanned Dispensing Pumps

An unmanned dispensing pump is a fuel-dispensing pump located within the boundary of an existing forecourt. In such circumstances, where the pump is operated independently (usually remotely) of the operator of the forecourt, it is not covered by the AFTL and/or MFTL for that premises.

The operator of such pumps must hold a separate AFTL and/or MFTL in respect of each place where pumps dispensing Auto-Fuel and/or Marked Fuel are located. The normal licence conditions as well as the relevant requirements of the Mineral Oil Tax Regulations, 2012, apply.

### 2.4.3. Holding of Books and Records at an Unmanned Fuel Station or an Unmanned Dispensing Pump

Where there is no facility at the unmanned station or dispensing pump to keep books & records, the trader must make an application in writing to the local Revenue officer seeking permission to keep the books and records at an alternative site (generally the 'Head Office') and where they will be available for inspection by Revenue officers.

Such a request must be made pursuant to Regulation 41(3) of the Mineral Oil Tax Regulations 2012 and must set out the reason the books and records cannot be kept at the Unmanned Fuel Station /OPT. The trader must propose an alternative permanent location for holding the books and records that is acceptable to Revenue.

Where books and records are held in an alternative location to the Unmanned Fuel Station /OPT, the trader must, when requested, make the books and records immediately available to the Revenue officer with responsibility for the Revenue Branch where the books and records are actually held.

Where an officer receives a written request from a trader to hold the books and records at an alternative location to the OPT, the officer must contact the Revenue officer with responsibility for that alternative location and inform him/her of the



request. The officer with responsibility for the alternative location must visit the location and satisfy himself/herself that the location being proposed is suitable for the holding of the relevant books and records.

When the officer with responsibility for the OPT and the officer with responsibility for the alternative location to hold the books and records are both satisfied that the trader is in full compliance with the licence conditions and excise law, the officer with responsibility for the OPT will inform the trader in writing that s/he may hold the books at the alternative location. The trader is to be informed that s/he must produce the books and records immediately, on request, to a Revenue officer when requested. The trader is to be informed that failure to comply with this requirement may lead to the withdrawal of the concession.

## 2.5. Types of Fuel Fraud

Officers should be aware that while fuel laundering has been the most common type of fuel fraud to date (apart from offences relating to the misuse of MGO), there are a number of other types of fuel frauds that they may encounter, and which are set out below.

Where officers suspect, or have evidence of, fuel fraud, they should, in consultation with their manager, consider the appropriate action necessary, including initiating an investigation with a view to licence refusal/revocation, tax assessment and prosecution, and seizure of the product.

### 2.5.1. Designer Fuels/Substitute Fuels

The fraudulent use of designer fuels/substitute fuels is an emerging risk, particularly since the successful introduction of the new additional mineral oil marker, Accutrace S10, in April 2015.

Designer Fuels also known as Base Oils, generally refer to products that are predominantly hydrocarbon based with similar properties to road diesel fuel, but with a different chemical make-up.

The chemical make-up of designer fuels ensures that they do not fall within the excise regime (EMCS) and are therefore not controlled products.

Such products are likely to be declared or described as non-road fuel products, e.g. as rust cleaner, pipeline or tank cleaner, oil, metal protection oil or even as a wood preservative. Such products are not excisable and can move across EU frontiers outside the normal EMCS control regime that applies to the movement of excisable products.

However, these products or similar hydrocarbon-based products, where used, or intended for use, as a propellant or heating, come within the legislative provisions for 'Substitute Fuels'. A Substitute Fuel is defined in legislation as any product in liquid form, other than mineral oils or lubricants, that is **"...used, intended for use, or suitable for use as motor or heating fuel.."**, e.g. fuel used as a substitute for petrol, road diesel, marked gas oil, kerosene.

Any product that can be used as a substitute for petrol, road diesel, ULSMGO, is subject to the same tax and duty charges that apply to the fuel it is replacing, while substitute fuels that cannot be used as a substitute for petrol or diesel are subject to the same tax and duty charges that apply to MGO (other heavy oil).

A more recent version of this manual is available.

### 2.5.2. Stretching (Road Diesel (Derv))

The addition of kerosene to road diesel allows the criminal to stretch the legitimate high tax diesel with a low tax product thus increasing yield and profit. Similarly, designer fuels may be fraudulently added to road diesel as a stretching agent.

Road diesel may also be fraudulently stretched by the addition of laundered marked gas oil (MGO), usually ultra low sulphur marked gas oil (ULSMGO), i.e. where the fiscal marker dyes have been removed. However, the stretched product would still retain small percentages of Accutrace S10. The percentage of Accutrace S10 would depend on the volume of laundered mineral oil added to the road diesel and is detectable by analysis using Revenue's portable analysers and the State Laboratory.

### 2.5.3. Stretching - Petrol

The addition of Methanol or Ethanol, i.e. non-taxed / low-taxed industrial alcohol products, to petrol allows the criminal to fraudulently stretch the legitimate petrol, thus increasing yield and profit.

### 2.5.4. Smuggling

Depending on the retail price difference of fuel between Northern Ireland and the Republic, it may be financially beneficial to smuggle fuel in either direction.

This entails purchasing the fuel, duty and VAT paid, in one State and smuggling to the other State without payment of the duties/taxes due in the State of destination. The fuel is then sold at the higher retail price with the difference in price being taken by the smuggler.

Officers should be aware that products smuggled to N.I. will usually be included in ROM1 returns as legitimate movements through the supply chain. However, the final movement to N.I. will be hidden within ROM1 transactions as a supply to a licensed trader or end-user in the State. Officers, in analysing ROM1 returns, should pay particular attention to ensure that supplies and receipts of duty-paid products are commensurate with the business of both licensed traders and end-users.

## 2.6. Fuel Cards/Bunkering

The industry term bunkering relates to the selling of mineral oil via a fuel outlet to customers holding fuel cards on behalf of the fuel card company. The fuel outlet, while not profiting directly from the sale, receives a commission from the card company. In this case, the fuel outlet is responsible for the mineral oil as the outlet is 'selling' the mineral oil on an agency basis for the card company and therefore it is the fuel outlet that is licensed. Likewise, if the outlet receives the mineral oil as part of their normal delivery from a mineral oil supplying company, it is the fuel outlet that makes the ROM1 return for the premises, both in relation to the receipts and deliveries of mineral oil.

## 2.7. Car Hire Companies and Haulage Companies

A number of car hire companies and haulage companies operate fuel-dispensing pumps in order to fuel their own vehicle fleet but do not retail the fuel, i.e. the company itself is the end user of the product.

In the above circumstances, and once the officer is fully satisfied that the fuel dispensed is for the purpose of fuelling the company's own vehicle fleet, an Auto-Fuel Trader's Licence is not required.

However, if the car hire company or haulage company is found to be fuelling staff vehicles, vehicles belonging to other companies or selling it to any other entity, they are deemed to be acting illegally and they are to be instructed to cease immediately.

## 2.8. Owner Operated Tankers

In instances where a trader does not own premises to store mineral oil but sells direct from a road tanker, i.e. purchases the mineral oil from a warehouse and sells directly to end users from the tanker, s/he is required to have a valid mineral oil licence and to make the monthly ROM1 return to Revenue.

In circumstances where a third-party haulier transports mineral oil on behalf of a licence holder to another licence holder and does not own or sell the mineral oil, the haulier is not required to have a mineral oil licence. However, at all times the haulier must comply with the Mineral Oil regulations regarding accompanying documents.

## 2.9. Trading from Private Residence

A small number of owner-operated tanker traders, see paragraph 2.8 above, may not have a fuel dispensing premises or business office from which they operate. In such circumstances the officer may allow the issue of the mineral oil licence to the trader's place of business, which, in such cases, is likely to be his/her private residence. However, the officer must be satisfied that the trader is complying with the licensing conditions and regulations, including maintaining and making available relevant books and records.

## 2.10. VAT Registration

All applicants for an AFTL and a MFTL are to be encouraged to register for VAT. The threshold for VAT registration is €75,000 annually and it would be expected that the vast majority of AFTL/MFTL applicants' turnover would be in excess of this figure. However, in a small number of circumstances, traders' turnover may be below the threshold and such traders are not required to register for VAT.

In the event of a trader not registering for VAT, NELO, in advance of processing the application, will require that the trader supplies certified turnover figures or a letter from the trader's accountant stating that: (i) the accountant has advised them to not register and (ii) the reasons for not registering.



## Section 3. Granting of Licences – Procedures

### 3.1. Introduction

Revenue's [National Excise Licence Office \(NELO\)](#), located in Waterford, is responsible for processing and issuing excise licences. As all mineral oil licences are valid from July 1st to June 30th every year, NELO's role includes the processing and issuing of licences for both new and existing licensed traders.

Under the legislation, licences are not 'renewed' but are granted by Revenue on an annual basis. Therefore, any references in this manual to a licence 'renewal' refers to the annual process of granting a licence to an existing licensed trader.

Where officers receive enquiries from persons who wish to trade in mineral oil, they should advise these persons to complete the appropriate [AFTL](#) and [MFTL](#) application forms and forward it directly to NELO. Such persons should be advised that it is illegal to trade until such time as a person holds a valid licence. Traders involved in unlicensed trading are likely to have product seized and be prosecuted for unlicensed trading.

Officers should also ensure that such persons are aware of the licensing conditions and legislative requirements, including ROS registration and monthly reporting requirements (ROM1), see [section 4 – Licence Conditions](#) and [section 5 – Legislative/Regulatory Requirements](#). Details on ROS registration are available on the [ROS](#) section of the Revenue website.

Officers should also advise applicants for a Marked Fuel Trader's Licence (MFTL) of the Reckless Trading provisions (see [paragraph 5.6](#)) once their MFTL Application has been approved and issued by Revenue.

#### 3.1.1. Licence Status

All excise licences are recorded on Revenue's National Excise Licence Database, (see [paragraph 3.2.6.3](#)). All licence records are assigned a licence 'status'. The 'status' of an AFTL/MFTL may change depending on whether:

- the new licence application is being assessed,
- the licence has been designated High Risk and is under enquiry,
- the licence has been refused or revoked,
- the licensee continues to trade,
- the licensee is not trading.

Listed below are the different licence 'statuses' and the circumstances under which they are assigned.



- **'New Licensed Premises'**

All new AFTL and/or MFTL applications will be assigned the status 'New Licensed Premises' by NELO on receipt of the application. The 'New Licensed Premises' status will change to 'Live & Trading' when the new licence is granted by Revenue.

While a licence application is assigned the 'New Licensed Premises' status, the trader cannot trade until the licence has been issued.

- **'Live and Trading'**

Following assessment of an AFTL/MFTL application by the Branch, NELO must be informed that the licence may issue. NELO will then issue a pay-notice to the applicant. Following receipt of payment of the appropriate licence duty by the Collector General's Division (CG's), and subject to the applicant holding a valid Tax Clearance Certificate (TCC), the licence will then be issued by Revenue. At this point the status of the licence will change to 'Live and Trading'.

- **'Under Enquiry'**

In High Risk cases or where cases are not registered for VAT (certified turnover is required each year before the licence can issue) or where the trading entity has changed (i.e. change of ownership), NELO will mark the licence 'Under Enquiry'.

Once the Revenue officer has completed his/her enquiries/investigations regarding the licence, the officer must decide either to allow or refuse (in consultation with Branch management) the granting of the licence and inform NELO of his/her decision. NELO will update the licence status to 'Live & Trading' or 'Refused' as advised by the Branch.

- **'Refused'**

Where a Branch informs NELO that a licence application has been refused (see [paragraph 3.2.6.7](#)), NELO will immediately change the licence status to 'Refused'. This will allow the trader and his/her customers to continue to make ROM1 returns for the reporting period +25 days. After this period, NELO will change the status from 'Refused' to 'Left Off' to ensure that further ROM1 returns cannot be made against this licence number.

- **'Revoked'**

Where a Branch informs NELO that a licence has been revoked (see [section 9](#)), NELO will immediately change the licence status to 'Revoked'. This will allow the trader and his/her customers to continue to make ROM1 returns for the reporting period +25 days. After this period, NELO will change the status from 'Revoked' to 'Left Off' to ensure that further ROM1 returns cannot be made against this licence number.

- **'Left Off'**

When a licence has not been renewed following the expiry date of the licence (normally 30th June), NELO will change its status to 'Left Off' after the expiry date +25 days. This will ensure that the trader and any traders who have traded with this trader during the valid period of the licence will be able to make ROM1 returns against the trader's licence number.

**Please note that where a licence is marked 'Left Off', ROM1 returns cannot be submitted using this licence number.**

### 3.2. New Licences - Application & Assessment

#### 3.2.1. Introduction

All new applications for an AFTL or MFTL will be subject to an assessment of suitability for a licence by the local Revenue Branch officer. NELO will therefore refer all new licence applications to the local Revenue Branch where the premises/place is located and impose a stay on issue of the licence to allow the application to be assessed by the local Revenue officer.

NELO, on receipt of an advice from the officer that it is in order to issue the First Time Application Notice, will then issue a First Time Application Notice to the applicant, who must return this Notice signed, with payment of the appropriate excise licence duty to the Collector General's Division. If a current Tax Clearance Certificate is in place, the licence will be issued. If there is no Tax Clearance in place, the procedures set out in [paragraph 8.2.3](#) should be followed.

NELO, on advice from the officer that the licence is refused, and the trader has already paid the excise duty to the Collector-General, will arrange for the excise licence duty to be refunded. NELO will advise the trader to contact the Revenue officer in the branch with regard to any follow up queries.

#### 3.2.2. Tax Clearance Requirement for AFTL/MFTL Applicant

All applicants for an AFTL/MFTL must hold a current tax clearance certificate. Section 101(8)(b) of the Finance Act 1999 (as amended) states that an AFTL or a MFTL shall not be granted 'where the applicant (or, where the applicant is a company, any director or person having control, within the meaning of section 11 of the Taxes Consolidation Act 1997, of that company) does not hold a current tax clearance certificate issued under section 1094 of the Taxes Consolidation Act 1997'.

Where an applicant does not hold a valid tax clearance certificate, the procedures set out in [paragraph 8.2.3](#) should be followed.

### 3.2.3. Licence Refusal - Previous Conviction

A licence shall not be granted to a person who has been convicted of any indictable offence under the Taxes, Excise or Customs Acts referred to in section 1078(1) of the Taxes Consolidation Act 1997, or any corresponding offence under the law of another Member State, in the 10 years before the application.

Where a licence application is made by a person who has been convicted of any indictable offence under the Taxes, Excise or Customs Acts, the application should be refused, [see paragraph 8.2.1.](#)

### 3.2.4. Use of Nominee on Licence Applications

The use of a Nominee name on an application for an AFTL and/or a MFTL is not allowed and any applications in the name of a Nominee are to be rejected.

### 3.2.5. Short Certificate of Incorporation / Certificate of Registration of Business Name

At the time of application for an AFTL and/or a MFTL, the following documents must be provided:

- **Limited Company:** If the applicant is a limited company, a copy of the Short Certificate of Incorporation dated not earlier than 4 weeks before the date of application, will be required to be submitted with the application form.
- **Business Name:** If the Applicant trades using a business name which is not that of the beneficial owner of the business, a copy of the Certificate of Registration of the Business Name will be required to be submitted with the application form.

Officers should note that duplicates of the Short Certificate of Incorporation and the Certificate of Registration of the Business Name are available at [CRO - Companies Registration Office Ireland](#), or telephone (01) 804 5200.

The Application should be signed by the Licensee if a Sole Trader, by one of the Partners if a Partnership or, in the case of an Incorporated Firm, by the Company Secretary or a Director of the Company.

If the above required documentation is not provided by the applicant, NELO will reject the application.

### 3.2.6. Action by Officer

For all new licence applications, officers should carry out whatever enquiries they deem necessary to establish that the applicant satisfies each and every [Licence Condition](#) and [Legislative Requirement](#) for the holding of an AFTL/MFTL.

**All applications for an AFTL or MFTL must be assessed and either approved or refused by the branch within 3 weeks following receipt of the application from NELO.**

#### 3.2.6.1. Site Visit

The officer should follow the procedures for assessment of the trader's compliance with the licence conditions as set out in [section 4](#) and regulatory requirements as set out in [section 5](#). Part of the assessment may include a site visit to the premises concerned, as well as an interview with the licence holder. Where a site visit takes place, officers should complete the Site Inspection Checklist at [Appendix XIX](#).

#### 3.2.6.2. Photographic I.D.

Where an officer has any concerns regarding the bona fides of a new applicant for an Auto Fuel Trader's Licence and/or a Marked Fuel Trader's Licence, s/he should, before making a decision on whether to grant a licence or not, invite the applicant to present himself/herself along with all relevant documentation at their Local Revenue Office or the place/premises to be licensed. The applicant should also be requested to bring an official form of photographic identification, i.e. passport, driving licence etc., in order to confirm their identity. The officer should take a file copy of the identity produced or where the meeting is not held in a Revenue Office, request the applicant to provide same.

Where suspicions continue to exist about the bona fides of an applicant(s), the Central Investigations Branch of IPD should be consulted.

#### 3.2.6.3. Revenue's National Excise Licence Database

As part of the assessment process, officers must ensure that all the particulars entered on Revenue's National Excise Licence Database are accurate and correct. In particular, officers must ensure that:

- (a) The name and the Tax Reference Number quoted on the application are correct and correspond to the records held by Revenue for that applicant.
- (b) The address of the proposed premises is correct and corresponds to the correct postal address of the premises from which the trader is operating.
- (c) The Tax Clearance Certificate relates to the applicant and is current at the time of assessment.
- (d) The applicant or directors of the applicant company have not been convicted of an indictable offence in the previous ten years.



#### 3.2.6.4. Incorrect/Inaccurate Information Supplied

In the event that any of the particulars provided in relation to the application for a new AFTL and/or MFTL are found to be incorrect or not fully accurate, the licence application is to be rejected by the local Revenue officer and returned to the applicant with a letter outlining the reason(s) for rejection and inviting a new application.

However, where it is suspected that an attempt has been made to provide fraudulent documents or information to Revenue for the purpose of (fraudulently) obtaining an AFTL and/or a MFTL, the officer should report the facts to his/her Assistant Principal. The Assistant Principal, if satisfied that the evidence indicates that a fraudulent attempt has been made to obtain an AFTL and/or MFTL, s/he should report the facts to Investigations and Prosecutions Division (IPD), along with all supporting documentation, for further investigation.

If the trader is registered under other Revenue tax heads, the officer should insert a note on the trader's file regarding the suspected fraudulent application (as it is a clear risk indicator of non-compliance with other taxes).

**In no circumstances are Revenue Staff to correct, amend or change any details of a Licence Application on behalf of an applicant or his/her agent.**

#### 3.2.6.5. Rejected Licences – Inform NELO

The officer is to immediately contact the National Excise Licence Office (NELO) by e-mail at [exciselicences@revenue.ie](mailto:exciselicences@revenue.ie) informing the office that the licence application has been rejected. This will ensure that NELO are aware that an AFTL and/or MFTL application has been rejected and no new licence will issue to the trader, place or premises until a new application has been approved. The officer should also place his/her own notes on ITP.

#### 3.2.6.6. Issue Licence – Inform NELO

Once the officer is satisfied that the applicant and premises has satisfied the licence conditions, s/he should advise NELO accordingly and that it is in order for them to issue the First Time Application Notice. NELO will then remove the "New Licensed Premises" status on CIF and arrange for the issue of the licence.

#### 3.2.6.7. Refuse Licence – Contact NELO

In circumstances where the officer is satisfied that the licence should not issue s/he should recommend refusal of the licence in accordance with the guidelines set out in [section 8](#) and also advise NELO by email to [exciselicences@revenue.ie](mailto:exciselicences@revenue.ie).



The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

### 3.3. Existing Licences - Application & Assessment

AFTLs and MFTLs are effective from 1st July each year. Existing licence holders will automatically receive an application form in early May for the licence year beginning on the following 1st July.

The licences of traders, who have not been designated as High Risk, will automatically be granted, provided they have completed the application form correctly, are still tax cleared (see [paragraph 3.2.2](#)) and pay the appropriate excise licence duty.

#### 3.3.1. Risk Rated Traders

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

#### 3.3.2. Tax Clearance – Outstanding ROM1 Returns

For the purposes of section 1094(2)(ii) of the Taxes Consolidation Act 1999 (as amended), the requirement to make a ROM1 return is an obligation under this Act and failure to make same to Revenue on the date specified is grounds to refuse an application for a TCC.

Accordingly, where an officer is satisfied that a trader has failed to make ROM1 returns over a period of three or more reporting periods (months), the officer should report the facts through his/her Assistant Principal to the Tax Clearance Unit in the Division/Branch where the trader is based. See [paragraph 8.2.8](#) regarding Licence Refusal for outstanding ROM1 returns and [paragraph 9.2.7](#) regarding Licence Revocation for outstanding ROM1 Returns.

#### 3.3.3. Tax Clearance - Genuine Engagement

Genuine engagement is where the trader submits all outstanding returns and payments to the C-G's or submits acceptable proposals to the C-G's to conclude a tax payment arrangement in line with TDM [Revenue's Guidelines on Tax Instalment/Phased Payment Arrangement](#) and Tax Clearance Guidelines.

Based on the level of genuine engagement by a trader, the relevant Debt Management Unit in the C-G's, in consultation with the Branch Assistant Principal, should decide whether to issue a TCC for a fixed agreed period in order to allow the issue of the AFTL/MFTL.

### 3.4. Mineral Oil Licence – Change of Ownership

Section 101(12A) of the Finance Act 1999 (as introduced by section 57 of the [Finance Act 2014](#)) requires that where the holder of an AFTL/MFTL ceases to produce, sell or deal in, keep for sale or delivery, or deliver mineral oil under that licence at the premises to which the licence relates:

- The licence shall cease to have effect, and
- The holder of the licence shall notify the Commissioners, in writing, of the cessation of the activity for which the licence was granted at the premises concerned not later than **7 days** after the licence ceases to have effect.

Any other person who wishes to trade in mineral oil from that place or premises must apply for an AFTL/MFTL in respect of those premises and may not engage in trading unless and until a licence is granted.

If trading, for which an AFTL/MFTL is required, takes place and where no application for a licence has been made, or where an application for an AFTL/MFTL has been made but has not been granted, that trading is illegal and the procedures outlined in paragraph 13.2.2 should be followed.

### 3.5. Publication of Licences

Section 101(13) of the Finance Act 1999 (as amended) legislates for Revenue to compile a list of persons who hold an auto-fuel trader's licence or a marked fuel traders licence, and of the premises or places in respect of which those licences are in force. Notwithstanding and data protection issues, Revenue may make available these lists to the public.

Details of the current period auto fuel and mark fuel trader's licences can be found on the [Revenue website](#).

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

## Section 4. Licence Conditions

### 4.1. Introduction

Under section 101 of the Finance Act 1999 (as amended), Revenue may specify conditions under which a licence is granted. These conditions, specified for AFTLs and MFTLs, are set out in [Appendix I](#). If it is found that mineral oil traders do not comply with the conditions, their licence application may be refused. Existing licence holders who do not comply with the conditions or any regulatory requirement may have their licence revoked. Any subsequent trading without a licence may result in prosecution and seizure of product.

The following paragraphs provide guidelines for officers in assessing the compliance of Auto-Fuel Traders and/or Marked Fuel Traders and their premises with the licensing conditions as set out in [Appendix I](#).

While these guidelines are general in nature, they apply in respect of each premises or place for which an AFTL or a MFTL application is being made. It is emphasised that all assessments must be considered on a case-by-case basis and take account of the particular circumstances of each application.

### 4.2. Secure and Suitable Premises

**'The premises or place in respect of which the person/entity holds an AFTL/MFTL must be secure and suitable for the sale, keeping for sale, delivery or keeping for delivery of mineral oil, to the satisfaction of Revenue.'**

In reaching a decision on whether a premises or place complies with the above condition, an officer may take into consideration whether the appropriate **Planning Approval** is in place, **Fire Safety** requirements are being met, and **Health & Safety** regulations are being complied with.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

#### 4.2.1. Planning Approval

If deemed necessary, the officer should make enquiries with the relevant Planning Authority to confirm that the premises or place has the correct planning approval to operate as a mineral oil retailer.

#### 4.2.2. Fire Safety

If deemed necessary, the officer should make enquiries with the relevant local fire authorities to ensure that the premises or place has complied with any fire safety requirements as a mineral oil retailer.

#### 4.2.3. Health & Safety

In order to form an opinion as to whether a premises or place is in compliance with Health & Safety legislation, the officer should request the site specific 'Safety Statement', evidence of planning approval to operate as a commercial fuel outlet, and evidence of compliance with Fire Safety requirements.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

#### 4.3. Safe and Secure Means of Access for Revenue Officers

**'The Auto-Fuel/Marked Fuel Trader shall provide safe and secure means of access for Revenue officers to all parts of the premises or place.'**

Safe access includes unimpeded access to all vessels, tanks, pumps, lines and meters where fuel is stored or suspected to be stored. Any locks or other impediments should be removed immediately upon request to allow the officer(s) free access to inspect any vessels, tanks, pumps, lines and meters where the fuel is stored or present. All passageways and access points to vessels, tanks, pumps, lines and meters where fuel is stored should be kept clear at all times. Any doors, gates, shutters, etc., should be opened immediately upon request to allow Revenue officers access to vessels, tanks, pumps, lines and meters where mineral oil is stored or present.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

#### 4.4. Pumps and Meters

**'All fuel dispensed at the premises must be dispensed using fuel pumps and meters that accurately measure and record the volume of fuel dispensed'.**

Section 101(8)(h) of the Finance Act 1999 (as amended) states that the granting of an AFTL/MFTL shall be conditional on the applicant or holder of a licence complying with excise law in relation to the production, sale or dealing in, keeping for sale or dealing in, keeping or delivery of mineral oil. These requirements include the provision that the measuring systems used by the applicant or holder of an



AFTL/MFTL will provide a full and true record of all mineral oil transactions in a form readily accessible to the Commissioners.

All fuel must be dispensed using fuel pumps and meters that accurately measure and record the volume of fuel dispensed.

Officers should be aware that fuel pumps are normally equipped with a visible meter that provides a reading of the quantity of fuel dispensed and the price charged. Such meters should normally be calibrated to conform to the requirements of the Legal Metrology Service (LMS) of the National Standards Authority of Ireland (NSAI).

Officers should also be aware that fuel pumps are also normally equipped with an accumulator device, which may or not be visible, and which records the accumulated quantity of fuel dispensed by the pump. While the accumulator does not come within the competence of the LMS (see above), it is nevertheless a key recording requirement and any interference with this device should be considered as a breach of this condition.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

#### 4.4.1. Fuel Management Systems

Some forecourt service stations operate fuel management systems which can monitor the fuel movements into and from the tanks and pumps without recourse to an actual fuel pump dispensing meter. Such fuel monitoring systems are normally, but not exclusively, combined with POS (Point of Sale) systems and can be accessed in the outlet as well as remotely by the operator of the system and/or the fuel company. In such circumstances and where there is no suspicion of fraud, tampering etc. with the systems or other suspicions regarding the accuracy of the fuel readings, such readings may be accepted by Revenue officers in lieu of meter readings from the pumps.

#### 4.5. Complying with the Requirements of Excise Law

**'The mineral oil trader shall comply with all of the requirement of the laws relating to excise regarding the sale, dealing in, keeping for sale or delivery, or delivery of mineral oil and the keeping and furnishing of records relating thereto.'**

Section 102(1)(a) of the Finance Act 1999 (as amended) states that it shall be an offence for a person to contravene or fail to comply, whether by act or omission, with the provisions of this Chapter (i.e. sections 94 – 109 FA 1999) or any regulation made under section 104 (i.e. [Mineral Oil Tax Regulations 2012 \(S.I. No. 231 of 2012\)](#)) or any condition imposed under this Chapter or under such regulation.

The inclusion of the above condition which is visible on the face of all AFTLs and MFTLs (with effect from 1<sup>st</sup> July 2016) ensures the awareness of mineral oil traders of their obligation to comply with all excise law relating to Mineral Oil Tax.

#### 4.6. Dangerous Substance Regulations 2019

**'Pursuant to Regulation 10(1) Dangerous Substances (Flammable Liquids and Fuel Retail Stores) Regulations 2019 (S.I. Number 630 of 2019), all retail stores which store flammable liquids and fuels for sale or supply to the public to be used in the propulsion of a vehicle must have a licence to operate granted by the appropriate licensing authority. "Licensing Authority" means a local authority for the purposes of the Local Government Act 2001 (as amended) or a harbour authority within the meaning of section 2(2) of the Dangerous Substances Act 1972 (as amended).'**

A retail store which stores flammable liquids and fuels for sale or supply to the public should, in addition to a safety statement, have been issued with a licence by the local authority, under regulation 10(1) of the [Dangerous Substances \(Flammable Liquids and Fuel Retail Stores\) Regulations 2019 \(S.I. 630 of 2019\)](#), for the premises or place to store those flammable liquids and fuels.

The Dangerous Substances (Flammable Liquids and Fuel Retail Stores) Regulations 2019 cover both retail stores and kerbside retail stores. The [Dangerous Substances \(Flammable Liquids and Fuels Distribution and Commercial Supply Stores\) Regulations, 2019 \(S.I. Number 631 of 2019\)](#), apply, under certain conditions, to stores which hold flammable liquids and fuels for the following purposes:

- (a) for supply or sale to commercial enterprises;
- (b) for supply to the licensee's own vehicles; or
- (c) for use in any engine under the licensee's control.

#### 4.7. Non-Compliance with Licence Conditions

In determining that a trader is not complying with the Revenue conditions attaching to an AFTL/MFTL, an officer may take into consideration the various statutory authorities' requirements as set out above. However, it is important to note that it is the Revenue officer who makes this determination and not the relevant Regulatory Authority. Accordingly, all correspondence to the trader setting out the areas of non-compliance with the conditions must state:

- The precise reasons for non-compliance with the conditions,
- The Revenue officer has made the determination based on the information available to him/her.

Template letters are available at [Appendices V to XV](#).

#### 4.8. Non- Compliance with a Condition of a Previous Licence

Where there has been a contravention of, or a failure to comply with, a condition of an auto fuel trader's licence and/or a marked fuel trader's licence that was previously granted to the applicant or in respect of the place or premises in respect of which the application has been made and the applicant has not shown to the satisfaction of the Commissioners that the contravention or failure has been remedied, the Revenue officer should consider refusing the granting of the licence in accordance with the procedures set out in [paragraph 8.2.5](#).

#### 4.9. Prosecution

Where officers are satisfied that a licensed trader has contravened or failed to comply with excise law, they should consider, in consultation with the Assistant Principal, the prosecution of the trader (see [section 16](#)).

#### 4.10. Additional Conditions

Revenue may impose additional licence conditions in certain circumstances as allowed by section 101(7)(b)(ii) of the Finance Act 1999 (as amended). Such conditions are additional to the standard conditions applicable to all licence holders and may be specific to certain traders, certain places or premises or category of traders. In all cases, the trader/s must be informed of the additional conditions being imposed in writing in advance of issue of the licence and the reason for imposing such additional conditions.

Where it is decided to impose additional conditions on an AFTL and/or a MFTL, the officer should, in the first instance, be satisfied that such additional conditions are necessary in order to ensure that the trader complies with excise legislation. This may be due to the trader having previously failed to fully comply with such legislation.

Additional conditions imposed on an AFTL and/or MFTL will be visible to the licence holder on the face of the licence. These conditions will also be visible to members of the public as the licence must be clearly displayed at the place or premises in respect of which the licence has been granted pursuant to section 101(11) of the Finance Act 1999 (as amended).

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

## Section 5. Legislative/Regulatory Requirements

### 5.1. Introduction

Mineral oil traders are required to comply with excise law (see [paragraph 5.2](#)) including the [Mineral Oil Tax Regulations 2012 \(S.I. No. 231 of 2012\)](#).

[Section 7](#) of this manual provides detailed instructions on the Return of Oil Movements (ROM1) provided for by section 101B of the Finance Act 1999 and the associated compliance procedures.

### 5.2. Complying with Excise Law

Section 101(6A) of the Finance Act 1999 (as inserted by section 57(a) of the [Finance Act 2014](#)) provides that the granting to, or the holding by, an applicant or holder, as the case may be, of an AFTL or a MFTL shall be conditional on the applicant or holder complying with excise law in relation to mineral oil.

The reference to excise law refers to the Mineral Oil Tax law provisions contained in the Finance Act 1999 (as amended) and the Finance Act 2001 (as amended), and in particular, the provisions contained in section 101(8)(h) of the Finance Act 1999 (as amended) as they relate to the systems (including measuring systems) and procedures of the business to which the AFTL and/or MFTL relates.

Where an applicant or a holder of an AFTL and/or MFTL is found not to be compliant with the provisions of excise law in so far as they relate to mineral oil matters, officers should, depending on the nature of the contravention or failure, consider instigating a summary prosecution, or for more serious failures, the refusal or revocation of the AFTL and/or MFTL using the procedures set out in [Section 8 – Licence Refusal](#) or [Section 9 – Licence Revocation](#).

### 5.3. Records

Mineral oil traders, in addition to records required under section 886 of the Taxes Consolidation Act 1997 and section 84 of the Value-Added Tax Consolidation Act 2010, must, in respect of each description of mineral oil, keep records relating to:

- The selling or dealing in, receiving, keeping for sale or delivery, or delivery,
- The financing or facilitation of any transactions or activities,
- Any supplies of goods or services received in connection with such transactions or activities.

Records must be kept in such form as the Commissioners may require. However, the normal commercial records of a business will suffice provided such records include for each purchase, sale (except for pump sales), supply or delivery of mineral oil:



- The nature and date of each purchase, sale, delivery or supply and the quantity of mineral oil concerned,
- For purchases and sales, the name and address of supplier or customer,
- For all supplies and deliveries made by the mineral oil trader, the name, VAT number (where applicable), mineral oil trader's licence number of the person to whom the mineral oil was supplied or delivered, and the address of every premises or place concerned,
- For deliveries of mineral oil received by the mineral oil trader, the name, and, where applicable, the Value-Added Tax registration number and mineral oil trader's licence number of the person from whom the delivery was received, and the address of the premises or place from which that delivery was dispatched,
- A record of every payment made or received, with a clear reference to the transaction concerned,
- Daily measurements or meter readings of the volume of mineral oil of each specified description held by that mineral oil trader in a storage tank or other vessel, and
- The aggregate quantities of each specified description of mineral oil supplied on each day in the course of fuelling the fuel tanks of vehicles.

Mineral oil traders, other than authorised warehousekeepers, must also keep a stock account of each specified description of mineral oil received into, held in, or delivered or supplied from, that mineral oil trader's premises or place.

An entry in the stock account must be made not later than 12 noon on the next working day following that on which the mineral oil concerned was received into or delivered or supplied from the mineral oil trader's premises or place.

A mineral oil trader shall, at the end of each month or at such time as the Commissioners may require, take stock of the mineral oil held at a premises or place of that mineral oil trader, and reconcile the result with the stock account referred to above.

Mineral oil traders must keep separate records for each premises or place at which mineral oil is sold, dealt in or kept for sale or delivery.

#### 5.4. Delivery Document

Consigning mineral oil traders must, for each delivery of mineral oil and before the mineral oil concerned is consigned for delivery from the premises or place concerned, complete an approved document (referred to as a "delivery document") in three copies (referred to as "copy one", "copy two" and "copy three") and numbered in a consecutive series.

Regulation 23(4) of the [Mineral Oil Tax Regulations 2012 \(S.I. No. 231 of 2012\)](#) states that a delivery document shall include:

- The name, address, Value-Added Tax registration number and the Mineral Oil Trader's licence number of the consigning mineral oil trader,
- The address of the premises or place from which the mineral oil is to be consigned for delivery,
- The name, address and, where applicable, the Value-Added Tax registration number and mineral oil trader's licence number of each person to whom the mineral oil is to be delivered<sup>1</sup>,
- The address of every premises or place to which a delivery is to be made,
- The date on which the delivery is dispatched,
- The quantity and specified description of mineral oil to be delivered,
- The registration number of the vehicle used for the delivery,
- In the case of deliveries of marked gas oil or marked kerosene, or any other mineral oil supplied at a reduced rate of tax or subject to a relief from tax, the following statement:

**“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.”**

The consigning mineral oil trader shall retain copy one and, before the mineral oil concerned is consigned for delivery, give copy two and copy three to the person in charge of the delivery vehicle.

The person in charge of the delivery vehicle shall:

- Retain copies two and three during the course of the delivery and, except for deliveries not exceeding 2,000 litres (see below), give copy three to the person receiving the delivery,
- Following the delivery, endorse copy two with details of:
  - the quantity actually delivered, and
  - the date and time when that delivery was made,and return that copy so endorsed to the consigning mineral oil trader.

Any mineral oil trader who is required to retain copy one, or to whom copy two is returned, and any person to whom copy three is given, must keep such copy as a record.

Where a trader to whom mineral oil is being delivered is registered for VAT, the VAT Number must be displayed on the Delivery Document.

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<sup>1</sup> Where the trader to whom mineral oil is being delivered has an AFTL and/or a MFTL, the AFTL and/or the MFTL number must be displayed on the delivery document.

#### 5.4.1. Composite Delivery Documents

Where a trader is delivering mineral oil from a warehouse or distributor to his/her customer and, for commercial reasons, does not wish to show the source of the product on his/her customer's delivery document, a 'Composite Delivery Document' is acceptable to Revenue.

The Composite Delivery Document must include all necessary information as set out in [paragraph 5.4](#). The Composite Delivery Document may consist of two or more documents. The first document should include details relating to the origin of the product from the supplier **to** the trader/distributor while the second document should include details relating to the same product **from** the trader/distributor to the end customer. The essential requirement is that the combination of documents includes all necessary information as set out in [paragraph 5.4](#). On the first document, the trader/distributor will be shown as the 'customer' while on the second document, the trader/distributor will be shown as the 'supplier'.

Where a trader uses a Composite Delivery Document, all parts of the document/s must be produced to a Revenue officer when the 'Delivery Document' is requested.

#### 5.4.2. Deliveries Not Exceeding 2,000 litres

For deliveries not exceeding 2,000 litres of marked gas oil or marked kerosene, to a person other than a mineral oil trader:

- A single delivery document may be used where several such deliveries are made in the course of a single journey by the delivery vehicle,
- The person in charge of the delivery vehicle may, instead of a copy of the delivery document, provide the person concerned with any other record that includes the information set out in [paragraph 5.4](#) that is relevant to that person,
- An additional delivery that is not included in the delivery document at the time the marked gas oil or marked kerosene is consigned for delivery may be made where—
  - the details of the delivery are not known at the time the marked gas oil or marked kerosene is removed for delivery, and
  - those details are entered on the copy of the delivery document to be returned to the consigning mineral oil trader.

#### 5.4.3. Electronic Delivery Documents

Officers should be aware that many mineral oil traders utilise electronic hand-held devices to store delivery document details. The storing of delivery document data on such devices is acceptable provided all the necessary details are included and available for inspection by officers.

Hardcopy delivery documents must however be provided to customers, and where such customers are licensed mineral oil traders, the delivery documents must be retained as a record.

#### 5.4.4. Fixing of Permanent Notice

Regulation 32 of the [Mineral Oil Tax Regulations 2012 \(S.I. No. 231 of 2012\)](#) stipulates that all over ground vessels in which marked gas oil or marked kerosene is stored and every pump or other outlet which dispenses marked gas oil or marked kerosene must have a permanent, clearly legible, noticed fixed to it in a prominent position and the notice shall state:

- In the case of marked gas oil: 'It is an offence to keep marked gas oil in the fuel tank, or use it in the engine, of a motor vehicle',
- In the case of marked kerosene: 'It is an offence to keep marked kerosene in the fuel tank, or use it in the engine, of a motor vehicle'.

#### 5.5. Return of Oil Movements (ROM1)

Section 101B of the Finance Act 1999 makes provision for the furnishing of an electronic Return of Oil Movements (ROM1) by every AFTL and/or MFTL holder to Revenue on a monthly basis.

The return requires mandatory e-filing by all authorised warehousekeepers, distributors and forecourt retailers in respect of each licence held, showing:

- Opening Balance by Product Type,
- Closing Balance by Product Type,
- Each Inward Movement by Product Type, Date, Quantity, Invoice, Supplier (quoting licence no./VAT no.),
- Each Outward Movement by Product Type, Date, Quantity, Invoice, customer (quoting licence ref / VAT number or aggregate Forecourt Sales,
- Aggregate Sales by Oil Product Type for Domestic Customers and Commercial Customers who receive less than 2,000 litres per month and who are not required to be licensed.

The ROM1 must be submitted through Revenue's Online Service (ROS). All licence holders must be registered for ROS prior to 1 January 2013, except where a ROS registered agent undertakes the monthly reporting requirements on behalf of the



trader. Options available to traders for submission of the ROM1 are ROS online, ROS offline or using in-house software that complies with the Revenue Schema.

Details on ROS registration are available on the ROS section of the Revenue website. Traders may get assistance with ROS registration by emailing [roshelp@revenue.ie](mailto:roshelp@revenue.ie) or by contacting the ROS Helpdesk at 01 738 36 99.

Compliance by licensed traders with ROM1 requirements is a key element of Revenue's strategy to combat the trade in illicit mineral oil. Officers should familiarise themselves with the procedures relating to ROM1 compliance set out in [Section 7](#).

## 5.6. Reckless Trading

Section 99(10A) of the Finance Act 2001 (as introduced by [section 47 of the Finance \(No. 2\) Act, 2013](#)), provides for the liability of any person who makes a supply or delivery of marked fuel knowing that, or is reckless as to whether, the transaction is connected to the evasion of Mineral Oil Tax. This provision includes mineral oil traders who may not be directly involved in the evasion or whether the evasion has been effected by the customer to whom the supply or delivery is made or at a subsequent point in the supply chain.

Where a mineral oil trader supplies or delivers marked oil (MGO, ULSMGO and/or Marked Kerosene), knowing that in doing so, or where s/he is reckless as to whether in doing so, s/he is participating in a transaction or series of transactions connected to the evasion of Mineral Oil Tax, that mineral oil trader is liable to be assessed for payment of the excise duty on the excisable products concerned at the appropriate rate, without the benefit of such relief, rebate, repayment or lower rate.

Where an officer suspects that a trader has engaged in reckless trading, the procedures set out in [paragraph 15.3](#) regarding the raising of an excise assessment should be followed.

### 5.6.1. Responsibility of Mineral Oil Traders

It is the responsibility of a supplying mineral oil trader to apply due diligence with regard to the supply and delivery of marked mineral oils by such trader and to establish the bona fides of all customers before a supply of delivery is made. Traders should take adequate steps to know each customer and should establish the purpose for which the marked oil is required. Traders should take particular care in any case where the customer is unwilling to provide information required in that regard.

### 5.6.2. Indicators of Fraudulent Evasion of Excise Duty

Officers should use the following indicators to assist them in forming an opinion as to whether a supply or delivery of marked fuel by a mineral oil trader may be

connected to the fraudulent evasion of Mineral Oil Tax. The quantity of marked fuel concerned is an important factor in any judgement:

- The customer has no obvious requirement for the marked fuel concerned. Particular attention should be given to purchases of ULSMGO,
- Orders for large volumes of marked fuel by or for transport operators,
- Payment by cash, bank draft, third party cheque, cheque with payee's name omitted, or by any other means that might hinder the tracing of the payment,
- Large volumes to be delivered to a domestic address or other "non-commercial" location,
- Delivery to be made into a road tanker at a place other than the address of the customer (e.g. on the roadside or in a field),
- Delivery to be made into an unmarked road tanker or a tanker with poor quality or out of date livery,
- Delivery to be made into temporary or mobile storage tanks,
- Delivery is to be made to a place that is not the premises or address of purchasing customer,
- A mobile phone number is given as the only point of contact for the customer,
- The customer does not appear to have adequate storage facilities for the quantities of marked fuel concerned,
- Delivery is to be made to a mineral oil trader who does not hold a marked fuel trader's licence (a register of licences is available at Excise & Licences). It is important to note, however, that the holding of a marked fuel trader's licence is not in itself a sufficient assurance that the supply or delivery is not connected to fraudulent evasion,
- Delivery is to be made to a business customer who is not registered for VAT,
- The customer does not appear to be particularly concerned about the price of the marked fuel or the payment terms. Here again, particular attention should be given to purchases of ULSMGO where regular MGO is available at a lower price.

## Section 6. Compliance Procedures – General

### 6.1. Introduction

Assistant Principals, in consultation with their Principal Officers, are to ensure that all compliance and enforcement functions set out in these instructions are assigned to, and carried out efficiently and effectively, by officers within the relevant Revenue Branch.

### 6.2. Compliance Interventions

Officers should be aware that all compliance interventions should be carried out as efficiently and as effectively as possible. Once cases are profiled and risks identified, interventions should be commensurate with the particular circumstances, and the degree of risk involved. High Risk cases should be prioritised for early intervention.

As with all other forms of non-compliance there is a range of possible interventions open to the officer following examination of the ROM1 and depending on the risk identified. The range of interventions includes:

- telephone call,
- letter,
- compliance visit,

and where prima facie evidence exists that the nature of the non-compliance is likely to be fraud, the range of interventions will likely relate to:

- investigation or audit (across all tax heads esp. VAT),
- assessment (as above),
- interest & penalties,
- licence revocation,
- prosecution.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

### 6.3. Identification of Unlicensed Trading

Every person that produces, sells, deals in, keeps for sale or delivery or delivers mineral oil, must hold a valid Auto Fuel Trader's Licence (AFTL) and/or a Marked Fuel

Trader's Licence (MFTL). Licensing of such persons prior to trading is fundamental to Revenue's strategy to combat the illicit trade in mineral oil. The identification of unlicensed trading is therefore critical to the success of the strategy.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

#### 6.4. Action by Officers

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

##### 6.4.1. Licensed Traders (Non- Compliant with Conditions/ Regulations)

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

##### 6.4.2. Traders Who Have Not Reapplied for a Licence

Traders who have not reapplied for an AFTL/MFTL should be visited as soon as possible after 1 July by an officer to establish their trading status.

If it is established that a trader has ceased trading, the officer should inform NELO and the relevant Branch Registration Unit so that the customer and licence information is updated.

Traders who do not have a current licence and are found to be trading are in breach of the law under section 102 of the Finance Act 1999 (as amended). Such traders should be dealt with as per instructions set out in [paragraph 14.2.2.2](#).

##### 6.4.3. Official Notes

Officers should consider using the official issue Revenue Notebook C&E 1110 when taking formal notes of visits, etc., so that the notebook may be referenced later in possible prosecution proceedings or Judicial Reviews arising from the refusal or revocation of a licence. Please refer to paragraph 2.4 'Note Taking' in the [Customs & Excise Enforcement Procedures Manual](#).



## Section 7. Compliance Procedures - ROM1

### 7.1. Introduction

This section provides guidelines for staff on the steps required to ensure that licensed traders are compliant in respect of their obligations to submit an electronic Return of Oil Movements (ROM1) by the 25<sup>th</sup> of every month in respect of oil movements in the preceding month.

Ensuring compliance by licensed traders with ROM1 requirements is a critical element of Revenue's strategy to combat illicit trade in mineral oil. Timely submission of the ROM1 and subsequent analysis of ROM1 data provides the basis for the identification of material gaps or anomalies in the supply chain, identification of risks, as well as providing key data that supports follow-up investigation and audit.

A nil return must be submitted by every licensed trader where no movement of auto-fuel or marked fuel occurred in a month.

Officers should also be aware that submitted ROM1s may subsequently be amended by the trader for a period of three months following the month of report.

### 7.2. Mineral Oil Dashboard

Officers should familiarise themselves with the functionality of the Mineral Oil Dashboard set out in [Section 10](#). The dashboard provides access to a series of useful reports that support the compliance functions of officers in relation to licensed traders.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

### 7.3. LCD and Other GCD Cases

Branch officers should be aware that they will have responsibility for carrying out compliance functions for certain licensed traders, which although geographically located in their branches, have head offices managed by LCD (the corresponding GCD in CRS will indicate that the trader is an LCD case). Contact with such cases may be either to the local address or to the head office, depending on the nature and circumstances that arise. Branch officers should liaise with the appropriate area in LCD as necessary.

## 7.4. Case Management on RCM

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

## 7.5. Exemption from e-Filing of ROM1

An exemption from filing a ROM1 on-line may be granted under Regulation 26 of the [Mineral Oil Tax Regulations 2012 \(S.I. No. 231 of 2012\)](#). Only officers authorised under section 917EA of the Taxes Consolidation Act 1997 may make a decision regarding the granting or refusing of an exemption request.

It is important that applications for exemption from e-filing of a ROM1 are dealt with in a manner that ensures consistency with exemptions from mandatory e-filing of other tax returns for any given trader. For that purpose, a Mandatory (e-Filing) Steering Group, consisting of representatives from all Divisions, has been established.

### **Applications for exemption must be in writing.**

Officers in receipt of an application for exemption from e-filing of ROM1s must first establish whether the applicant has been granted or refused an exemption in relation to the mandatory e-filing of other tax returns, by reference to ITS / CRS.

Where such enquiries establish that an application was made, and refused, the application should be refused.

Where such enquiries establish that an application was made, and allowed, the application should be allowed, unless the officer has reason to believe that the person can now make a return by electronic means.

Where such enquiries establish that no previous application was made, the officer should establish whether the person is already e-filing other tax returns by electronic means. If so, the application should be refused.

If such person is not e-filing other tax returns, the officer should ensure that the person provides full details of the reasons s/he cannot e-file.

A full report, including recommendation, should then be forwarded via local management to the Divisional Mandatory e-Filing Steering Group Representative and Planning Division.

Following a decision by the Mandatory (e-Filing) Steering Group member, the applicant should be advised immediately by the officer of the decision.

Applications for exclusions should be dealt with promptly. Once a decision has been made either to grant or refuse a request for exclusion, officers should:

- Write to the taxpayer notifying them of the decision,
- Upload the correspondence in IC, and

- If granting an exclusion:
  - Mark the exclusion box,
  - input a CRS note under the topic 'Mandatory e-Filer' outlining the relevant reasons,  
and
  - issue paper copies of the ROM1 to the trader on a monthly basis in order that s/he continues to be compliant with legislation.

The trader may submit the paper based ROM1 to their Local Revenue Compliance Officer. Details on these returns, including any subsequent amendments advised by the exempt person, should then be input onto ITP by the Local Revenue Compliance Officer.

Sample standard wording of refusal letters is attached at [Appendix XXI](#).

Where an application has been refused, the applicant should be advised of his/her right to appeal the decision to the Tax Appeals Commission (TAC) within 30 days of the date on which they received notice of the decision ([see paragraph 1.6](#)).

Sample standard wording for exclusion approval letters is attached at [Appendix XXII](#).

## 7.6. ROM1 Compliance - Action by Officers

Failure to submit ROM1 returns to Revenue is a breach of section 101B of the Finance Act 1999. The following paragraphs outline the key procedures that officers should follow to ensure compliance by licensed traders in relation to the timely submission of the ROM1 return.

### 7.6.1. Late ROM1 Returns

Where a ROM1 return is not received by Revenue on the due date (i.e. the 25th day of the month following the reporting period) an automatic work item will be generated and forwarded to the relevant Branch for action.

The procedures to be followed on receipt of the work item are as follows:

#### **Step 1 – Make Contact with Trader:**

The trader must be contacted within 7 days of the ROM1 return due date. Contact should be made initially by phone and in some circumstances, esp. where a trader cannot be contacted by phone, a visit may be necessary. The trader is to be provided with the details of the outstanding ROM1 and request that it is submitted to Revenue within 7 days at the latest.

#### **Step 2 - Issue 'Outstanding ROM1 Returns' Letter:**

Following a seven day period from initial contact, if the ROM1 is still outstanding, the officer should issue the template letter at [Appendix VII](#) titled 'Outstanding ROM1 Returns', suitably amended, to the trader immediately. This letter seeks the outstanding ROM1s within seven days of the date of the letter.

The letter informs the trader:

- of their obligations under excise legislation and that they have failed to make ROM1 returns by the required date.
- sets out specifically the dates the ROM1 returns were due and the actual date of receipt by Revenue.
- that having outstanding ROM1s may stop the issue of a Tax Clearance Certificate (which will automatically prevent renewal of his/her licence),
- that it is an offence contrary to excise law and the trader is liable to summary prosecution for the non-return of a ROM1,
- that failure to return a ROM1 on time increases the risk of a Revenue tax audit or other compliance interventions.

**The above Step 2 is to be followed each time the trader has failed to make a ROM1 return for any three months within the licensing year with the letter suitably amended, before commencing steps 3 – 5 outlined in paragraph 7.6.2 – ROM1s Outstanding.**

#### 7.6.2. ROM1s Outstanding

##### **Step 3 – Failure to make ROM1 returns on three or more occasions:**

Where a trader has failed to make a ROM1 return on three or more occasions and the officer has issued the 'Outstanding ROM1 Returns' letter to the trader on each occasion, the officer is to report the facts to the Branch Assistant Principal.

##### **Step 4 – Commence Summary Prosecution Proceedings:**

Where the procedures set out in steps 1 – 3 above have been followed and the Assistant Principal is satisfied that the trader has failed to make ROM1 returns for any three months within the licensing year, a summary prosecution of the trader for failing to make a ROM1 return for each incidence of such failure should be considered.

Officers, in consultation with their manager, should then consider inclusion of the trader in the Branch audit programme.

#### 7.6.3. Addressing and Prioritising ROM1 Anomalies



The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

#### 7.6.4. Consultation with other Revenue Branches

Officers must ensure early consultation with colleagues in other Branches/Divisions in circumstances where links with other traders (suppliers/retailers), located in such Branches/Divisions, are identified as relevant to any enquiries being made.

Following such consultation, the officer in the Branch where the associated supplier/retailer is located, must review all fuel movements for that supplier/retailer within their Branch and ensure that any ROM1 mismatches or anomalies are addressed.

Where the associated trader is a LCD case or a trader with a Head Office or associated office located in another Revenue Branch, the instructions set out in [paragraph 7.3 - LCD and Other GCD Cases](#) should be followed.

Where officers consult with other Revenue Branches in relation to ROM1 anomalies or other issues in relation to mineral oil traders, these consultations must be recorded in RCM ([see paragraph 8.3](#)) and cross referenced with all relevant traders.

#### 7.7. Examination of ROM1s – Risk Management Process

Data provided in the ROM1 return provides valuable information to Revenue, which supports the identification and management of risk in the mineral oil sector.

This data is made available to officers via a series of standard reports, which can be accessed via the mineral oil dashboard, see [Section 10](#). These reports allow officers to identify anomalies and/or irregular occurrences or patterns of behaviour for each mineral oil trader and provide the basis for follow-up enquiries.

The reports also provide the opportunity for officers to familiarise themselves with trading patterns of traders, which in turn will facilitate identification of irregular trading and potential revenue risk.

Detailed guidelines related to accessing and interrogating these reports are set out in [Section 10](#).

##### 7.7.1. Local Analysis and Profiling Using IBI reports

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

### 7.7.2. Central Analysis

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

### 7.8. Company Ceased Trading – NELO to be Notified

When a company ceases to trade, either as a consequence of Revenue action or by its own volition, officers must immediately notify NELO and the Branch Registration Unit of this fact.

NELO will change its status to 'Left Off' after the expiry date + 25 days. This will ensure that the trader and any traders who have traded with this trader during the valid period of the licence will be able to make ROM1 returns against the trader's licence number.

**Please note that where a licence is marked 'Left Off', ROM1 returns cannot be submitted using this licence number.**

## Section 8. Refusal to Grant an AFTL/MFTL

### 8.1. Introduction

Revenue may refuse the granting of a licence in certain circumstances as prescribed in law. Officers should be mindful that the refusal to grant an AFTL/MFTL is a very significant action and it should therefore be taken only in cases where the grounds for such action are proportionate, reasonable and have been clearly established and documented. Refusal to grant a licence can apply to an application for a new (first time) licence or an application to renew an existing licence (on 1st July annually).

Licences may only be refused where the applicant or premises, or in the case of a licence renewal, the licence holder or premises, does not satisfy one or more of the legislative criteria under which a licence may be granted ([see paragraph 8.2](#)).

It is imperative that before any decision is taken to refuse to grant an AFTL/MFTL, the trader should be:

- Informed in writing of the exact nature of the non-compliance and the specific relevant provisions of section 101(8) of the Finance Act 1999 that refer; and
- Provided with the opportunity to rectify the non-compliance.

Where a decision has been made to refuse to grant a licence, it is important that officers and their managers follow the detailed procedures set out in [paragraph 8.4](#). This is to ensure that the refusal to grant a licence is carried out strictly in accordance with both the governing legislation and best practice.

The licensing year for all mineral oil licences begins on July 1<sup>st</sup> each year. The period before the renewal date provides an opportunity for officers to examine the compliance of all mineral oil licence holders, particularly those who are considered to be Risk rated. A decision to refuse to grant a licence needs to be taken in advance of the licensing year; otherwise the appropriate action is to revoke the licence – See [Section 9](#).

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

### 8.2. Grounds for Licence Refusal

The Commissioners may refuse to grant a licence in accordance with section 101(8) of the Finance Act 1999 in circumstances where:

- (i) The applicant (or company director etc.) has, in the 10 years prior to the date of the application, been convicted of an indictable tax, customs or excise offence (section 101(8)(a) – see [paragraph 8.2.1](#)),

- (ii) The applicant does not hold a current Tax Clearance Certificate (TCC) (section 101(8)(b) – see [paragraph 8.2.2](#)),
- (iii) The applicant or premises has failed to satisfy a Licence Condition(s) (section 101(8)(c) – see [paragraph 8.2.3](#)),
- (iv) The applicant has contravened or failed to comply with Excise Law (section 101(8)(d) - see [paragraph 8.2.4](#)), where:
  - the non-compliance is of a serious nature,
  - has not been remedied, **and**
  - investigations into the trader's activities have established that the trader fails to satisfy or is in breach of one or more of the conditions or criteria set out in subsections 101(8)(c), (e), (f), (g) or (h), as summarised in (iii) above, and (v), (vi) (vii) and (viii) below,
- (v) The applicant or premises has failed to comply with a condition in relation to a previously held licence (section 101(8)(e) – see [paragraph 8.2.5](#)),
- (vi) The applicant, when required to do so, fails to satisfy Revenue that the activity carried out under the licence is for the realisation of profits from legitimate trade in mineral oils (section 101(8)(f) - see [paragraph 8.2.6](#)),
- (vii) The applicant, when required to do so, fails to satisfy Revenue that the activity carried out under the licence is for the sole benefit of the licence holder (section 101(8)(g) – see [paragraph 8.2.7](#)),
- (viii) The applicant, when required to do so, fails to satisfy Revenue that the systems (including the measuring systems) and procedures of business do not provide a full and true record of all Mineral Oil Transactions (section 101(8)(h) – see [paragraph 8.2.8](#)).

Officers should also be aware that existing licences can be revoked in certain circumstances (see [Section 9](#)).

#### 8.2.1. Licence Refusal - Previous Conviction

Section 101(8)(a) of the Finance Act, 1999 (as amended) states that a licence shall not be granted to a person who has been convicted of any indictable offence under the Taxes, Excise or Customs Acts referred to in section 1078(1) of the Taxes Consolidation Act 1997, or any corresponding offence under the law of another Member State, in the 10 years before the application.

This restriction applies to all applications for an AFTL and/or a MFTL and relates to a conviction for an indictable offence at any time in the 10 years preceding the application for a licence. Where a licence application is made by a person who has been convicted of any indictable offence under the Taxes, Excise or Customs Acts, the application should be refused.



Officers should contact Prosecutions Unit, Bridgend, Business Division, and IPD, Ashtowngate for enquiries on previous indictable excise or customs offences. Guidelines relating to indictable tax offences will be included in due course.

Where it is suspected/known that an applicant for an AFTL/MFTL or the holder of an AFTL/MFTL has been convicted of an indictable offence as set out above, the Excise Working Group in Planning Division must be consulted before any procedures relating to the revocation or refusal to grant the licence commences.

EWG, in consultation with RSO, will provide all necessary support in relation to the drafting of appropriate letters.

#### 8.2.2. Licence Refusal - No Tax Clearance

Officers should note that it is only at the point where a trader, who is not tax compliant, submits the Pay Notice to the Collector-General's Division (C-G's), either by post or through ROS, that the payment will not be processed on the grounds of the trader not holding a valid Tax Clearance Certificate (TCC) and consequently no licence will issue.

In such circumstances a letter will automatically issue to the trader informing him/her that the licence cannot be granted and to contact NELO. Where the matter is not resolved within 10 working days (14 calendar days) after the issue of this letter, NELO will refund the payment to the trader.

In order to ensure that branch staff are fully aware of all cases where a licence has not been granted due to tax clearance, the local Revenue officer should check the tax clearance status for their cases using the 'Look Up' facility for Tax Clearance Certificates in ITP. This will inform the officer regarding the Tax Clearance status of the applicant and the reason for the refusal of the TCC.

The officer may also need to check with the relevant Debt Management Unit in the CG's to confirm if the trader has genuinely engaged with Revenue (see [paragraph 3.3.3](#)) regarding outstanding Revenue issues.

If the officer, and his/her Assistant Principal/Principal Officer, in consultation with the Tax Clearance Unit and/or the relevant Debt Management Unit in the C-G's, is satisfied that the trader is genuinely engaging with Revenue with regard to his/her tax clearance status, it may be in order to issue a TCC to facilitate the granting of the AFTL/MFTL. Where it is likely that a TCC may be issued to the trader, the officer should immediately contact NELO to ensure that the trader's licence payment is not refunded until a final decision on whether or not to issue a TCC is taken.

However, where the Tax Clearance Unit and/or the relevant Debt Management Unit in the C-G's confirms that the trader is not genuinely engaging with Revenue (see [paragraph 3.3.3](#)), a TCC should not be issued until the problems identified have been addressed. A 'Licence Not Granted – No Tax Clearance' letter should be forwarded by the officer to the trader immediately. Please see template letter at [Appendix XXVII](#).

The letter should inform the trader that in accordance with section 101(8)(b) of the Finance Act 1999 (as amended), an AFTL/MFTL shall not be granted where the applicant does not hold a current Tax Clearance Certificate issued under section 1094 of the Taxes Consolidation Act 1997.

The letter should also inform the trader that trading without a valid AFTL/MFTL is an offence under section 102 of the Finance Act 1999 (as amended) and if s/he trades without a valid licence, s/he is liable to prosecution and the product is liable to seizure.

**The officer should consult with NELO at the time the letter is issued to ensure that any licence payment made by the trader to Revenue is refunded.**

If the trader continues to trade after the expiry of 14 days following the issue of the above letter and a valid AFTL/MFTL has not been issued, the Assistant Principal in consultation with the Principal Officer should issue an 'Instruction to Cease Trading' letter as set out in [Appendix XVII](#).

Following a period of 7 days after the issue of the 'Instruction to Cease Trading' letter and where the trader continues to trade without a valid AFTL/MFTL, the instructions set out in [paragraph 14.2.5 \(Seizure of Mineral Oil\)](#) should be following as well as prosecution of the trader as set out in [section 16 \(Prosecution\)](#).

### 8.2.3. Licence Refusal - Non-Compliance with Licence Conditions

Section 101(8)(c) of the Finance Act 1999 (as amended) states that a licence shall not be granted where an applicant does not, when required, show to the satisfaction of the Commissioners that the applicant, and the place/premises concerned, can satisfy such conditions as may be imposed by the Commissioners.

In determining that a trader is not complying with the conditions attaching to an AFTL/MFTL, an officer may take into consideration the various statutory authorities' requirements in relation to areas such as Planning Approval, Health & Safety and Fire Safety – see [Section 4](#).

Accordingly, all correspondence with the trader setting out the areas of non-compliance with the conditions must state:

- The precise reasons for non-compliance with the conditions,
- The Revenue officer has made the determination based on the information available to him/her.

The trader must also be advised immediately to take all necessary steps to remedy the areas of non-compliance immediately.

Once the officer is satisfied that the trader has not taken the necessary steps to remedy the areas of non-compliance and consequently there are grounds to refuse the granting of the AFTL and/or MFTL, the procedures set out in [paragraph 8.4](#) should be followed.

#### 8.2.4. Licence Refusal - Non-Compliance with Excise Law

Section 101(8)(d) of the Finance Act 1999 (as amended) states that a licence shall not be granted where there has been a contravention of, or a failure to comply, with a requirement of excise law in relation to the production, sale or dealing in, keeping for sale or delivery of mineral oil by the applicant or in respect of the place/premises for which a licence has been applied for and the applicant has not shown to the satisfaction of the Commissioners that the contravention or failure has been remedied.

As referred to earlier in this section, officers and managers should not instigate a licence refusal process where the non-compliance or failure is of a minor nature and where they have not been crystallised by means of a summary conviction.

In circumstances where:

- the applicant or licence holder has not shown to Revenue's satisfaction that the contravention or failing has been remedied, and
- there is no evidence to indicate that the licensee is involved in mineral oil fraud, e.g. storing, retailing or delivering illicit fuel.

Officers should consider instigating a summary prosecution for the contravention or failing. In such circumstances, officers should refer to [section 16 – Prosecution](#).

However, in circumstances where the applicant, or licence holder, has contravened or failed to comply with Excise Law, where:

- the non-compliance is of a serious nature,
- has not been remedied, **and**
- investigations into the trader's activities have established that the trader fails to satisfy or is in breach of one or more of the conditions or criteria set out in subsections 101(8)(c), (e), (f), (g) or (h).

Officers, in consultation with their Managers, should consider refusal of the trader's licence and the procedures set out in [par. 8.4](#) should be followed.

#### 8.2.5. Licence Refusal - Failure to Comply with a Condition in Relation to a Previously Granted Licence

Section 101(8)(e) of the Finance Act 1999 (as amended) states that a licence shall not be granted where there has been a contravention of, or a failure to comply, with a condition of an AFTL or a MFTL by the applicant or in respect of the place/premises for which a licence has been applied for and the applicant has not shown to the satisfaction of the Commissioners that the contravention or failure has been remedied.

In determining whether there has been a contravention of, or a failure to comply, with a condition of an AFTL/MFTL, an officer may take into consideration the various statutory authorities' requirements - see [section 4](#).

In such circumstances, the Revenue officer should formally report the matter to the Assistant Principal in the Branch setting out the specifics of the case. **Having assessed the matter, and if satisfied that the trader contravened or failed to comply with a condition in relation to a previously granted licence and the trader has not taken the opportunity to remedy it, the Assistant Principal, following consultation with the Principal Officer, should issue the template letter at [Appendix XIII](#) titled 'Licence Refusal Letter', suitably adapted, to the trader immediately.**

The officer should also notify NELO immediately by email to [exciselicences@revenue.ie](mailto:exciselicences@revenue.ie) in order to prevent the issue of a licence before a final decision is made on the matter.

If a trader continues to trade following the decision of the officer to refuse the application and the issue of the 'Licence Refusal Letter – Non-Compliance with Conditions for a Licence Previously Granted', the procedures set out in [paragraph 14.2.2.3](#) (Licence Application Refused) should be followed which includes the seizure of all mineral oil products held on the premises and the prosecution of the offender.

No enforcement action is to be taken against the trader without the trader being formally informed that the licence application has been refused as set out in the 'Licence Refusal Letter' ([Appendix XIII](#)).

#### 8.2.6. Licence Refusal – Realisation of Profits from Legitimate Trade

Under section 101(8)(f) of the Finance Act 1999 (as amended) an officer may refuse the granting of a licence where an applicant for, or a holder of an AFTL and/or a MFTL, when required to do so by the Commissioners, has not shown to the satisfaction of the Commissioners that the activity to be carried out under the licence is to be undertaken with a view to the realisation of profits from legitimate trade in mineral oils.

Where an officer is of the opinion that the commercial viability of the mineral oil business is questionable due to such factors as the location of the business, strong established competition in the locality, uncertainty regarding suppliers or other such factors, the officer should request the following from the applicant:

- Business Plan.
- Evidence of Finance.
- Evidence of Suppliers.
- Proposed Market Share of Business.
- Any other evidence relating to the bona fides of the business.

##### 8.2.6.1. Business Plan

Revenue would expect a business plan for a new mineral oil business to contain a number of key elements including:



- (i) Estimated business costs, including fixed assets and operating costs;
- (ii) Finance of business by reference to (i);
- (iii) Business suppliers, including price and credit terms;
- (iv) Market description and identification of customers and targeting of key customer segments, including details on oil pricing and credit terms relative to competitors in the applicant's identified markets; and
- (v) Business knowledge and expertise of the business owner.

The purpose of supplying a business plan to Revenue is to provide evidence that informs how the business will operate. Furthermore, providing such information should satisfy Revenue that the activity to be carried out under the licence would be undertaken with a view to the realisation of profits from legitimate trade in mineral oils.

#### 8.2.6.2. Evidence of Finance

Revenue would expect any new business to be in a position to provide the following information on its financing:

- (i) Analysis of the business's capital requirements. Details would include fixed costs relating to lease of the premises, insurance, wages, commercial rates, advertising, security, as well as working capital to finance the purchase of oil for resale;
- (ii) Details of capital available from Directors, banks, other investors;
- (iii) Credit terms available from suppliers;
- (iv) Credit terms to be offered to customers.

The purpose of supplying evidence of finance to Revenue is to allow it to be satisfied that the financial support arrangements for the proposed business are consistent with a business intended to realise profits from legitimate trade in mineral oils.

#### 8.2.6.3. Evidence of Suppliers

Revenue would expect a new business to have available the following information on its suppliers:

- (i) Names of suppliers;
- (ii) Details on process, volumes and credit terms;
- (iii) Proposed suppliers would be licensed by Revenue and be of a scale consistent with the proposed volume supplies and sales.

The purpose of supplying evidence of suppliers to Revenue is to allow it to be satisfied that the arrangements proposed in relation to business supplies are

consistent with a business activity being undertaken with a view to the realisation of profits from legitimate trade in mineral oils.

#### 8.2.6.4. Proposed Market Share of Business

Revenue would expect a person proposing to establish a new business to have information available on the market opportunities available, including the following information:

- (i) Geographical area of operation;
- (ii) The size of overall market in that area for each fuel type and information on potential customers and potential market share;
- (iii) Prevailing market conditions, in terms of existing suppliers, prices and credit terms;
- (iv) Interest shown by potential customers;
- (v) Pricing structure and/or other factors that would attract new customers, including comparison with competitors;
- (vi) Letters of contract or agreements to purchase from potential customers;
- (vii) Sales and marketing plan.

Where the officer is not satisfied with the information provided and therefore not satisfied that the business can be undertaken with a view to the realisation of profits from legitimate trade in mineral oils, the officer should contact the licence holder or applicant informing him/her that the information provided is not satisfactory. The officer should set out the specific reasons for his/her dissatisfaction and request the matter to be addressed within seven days.

Following the above request, where the officer does not receive a response from the licence holder or applicant which satisfactorily addresses the concerns of the officer, s/he should report the matter to the Branch Assistant Principal. The report should set out the basis for the officer's concerns and include all relevant supporting documentation for consideration regarding the granting or refusal/revocation of the licence.

Having assessed the matter, the Assistant Principal, if satisfied that there are sufficient serious concerns regarding the realisation of profits, **should follow the specific procedures beginning at [paragraph 8.4.2](#) for licence refusal or beginning at [paragraph 9.4.2](#) for licence revocation.**

#### 8.2.7. Licence Activity Solely for Benefit of Applicant

Under section 101(8)(g) of the Finance Act 1999 (as amended) an officer may refuse the granting of a licence where an applicant for, or a holder of an AFTL and/or a MFTL, when required to do so by the Commissioners, has not shown to the

satisfaction of the Commissioners that the activity to be carried out under the licence will be conducted solely for the benefit of the licence applicant (or holder).

An applicant for, or a holder of, an AFTL and/or a MFTL must, when required to do so by the Commissioners, show to their satisfaction that the activity carried out under the licence will be, or is conducted solely, for the benefit of the licence applicant (or holder).

Where a Revenue officer is of the opinion that the ownership or control of the mineral oil business is not held by the licence applicant or holder, the officer should request evidence of such ownership or control.

The evidence to be provided by the licence holder or applicant should include such details as:

- a lease for the place/premises,
- evidence of ownership through land registry deeds or a formal contract between the licence applicant and the owner/lessee of the place/premises,
- information regarding credit arrangements on purchases and sales by the business,
- employment and business record of licence applicant (or holder),
- evidence of independent financial resources consistent with the licensed activity or proposed licence activity, including bank account details and other relevant financial information concerning the business and the owner/operator.

Where such evidence is not provided to the satisfaction of the officer, the officer should contact the licence holder or applicant informing him/her that the information provided is not satisfactory. The officer should set out the specific reasons for his/her dissatisfaction and request the matter to be addressed within seven days.

Following the above request, where the officer does not receive a response from the licence holder or applicant which satisfactorily addresses the concerns of the officer, s/he should report the matter to the Branch Assistant Principal. The report should set out the basis for the officer's concerns and include all relevant supporting documentation for consideration regarding the granting or refusal/revocation of the licence.

Having assessed the matter, the Assistant Principal, if satisfied that there are sufficient serious concerns regarding whether the activity carried out under the licence will be conducted solely for the benefit of the applicant or holder of an AFTL and/or a MFTL, **should follow the specific procedures beginning at [paragraph 8.4.2](#) for licence refusal or beginning at [paragraph 9.4.2](#) for licence revocation.**

#### 8.2.8. Systems to Provide Full and True Record of Mineral Oil Transactions

An applicant for an AFTL and/or a MFTL must, when required to do so by the Commissioners, show to their satisfaction that the systems (including the measuring systems) and procedures of the business to which the licence relates will provide a

full and true record of all mineral oil transactions of that business in a form readily acceptable to the Commissioners.

Such systems should include all business-related systems such as a Point-Of-Sale, stock control or any other measuring system that a legitimate business would be expected to have in place to record, maintain and provide (usually by reports) standard business information relating to the conduct and management of the business. This would include information relating to all mineral oil transactions such as product receipts and deliveries, cash and credit transactions including receipts and payments, invoices, bank accounts, stock records including daily and cumulative readings of both pumps and storage tanks, as well ROM1 and other tax return data.

Where a Revenue officer is not satisfied that the systems and procedures of the business provide, or are capable of providing, a full and accurate record of all mineral oil transactions, the officer should request, in writing, evidence that proper systems and procedures are put in place (see [paragraph 5.3](#) in relation to the proper holding of records).

Following such correspondence and where the officer is not satisfied that the mineral oil licence applicant or holder has taken satisfactory steps to correct the issues highlighted in the correspondence, the officer should contact the applicant or licence holder informing him/her that the information provided is not satisfactory. The officer should set out the specific reasons for his/her dissatisfaction and request the matter to be addressed within seven days.

Following the above request, where the officer does not receive a response from the licence holder or applicant which satisfactorily addresses the concerns identified, s/he should report the matter to the Branch Assistant Principal. The report should set out the basis for the officer's concerns and include all relevant supporting documentation for consideration regarding the granting or refusal/revocation of the licence.

Having assessed the matter, the Assistant Principal, if satisfied that there are sufficient serious concerns regarding the adequacy of the systems and/or measuring systems and/or procedures of the business, **should follow the specific procedures beginning at [paragraph 8.4.2](#) for licence refusal or beginning at [paragraph 9.4.2](#) for licence revocation.**

#### 8.2.9. Unlicensed Trading Following Licence Refusal

In instances where a licence application has been refused, officers should be vigilant to ensure that no unlicensed trading is taking place on the premises (see [paragraph 14.2.2](#) on enforcement procedures for unlicensed trading).



### 8.3. Case Management on RCM

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

### 8.4. Licence Refusal Procedure

The refusal to grant a licence consists of 5 key stages which must be followed in full by officers and their managers:

1. 'Report and Recommendation' to Assistant Principal ([paragraph 8.4.1](#))
2. Issue of '14 Day Warning Letter – Intention to Refuse Licence' ([paragraph 8.4.2](#))
3. 'Decision to Refuse to Grant a Licence' by Principal Officer in consultation with assistant Secretary ([paragraph 8.4.3](#))
4. Issue of '7 Day Warning Letter – Intention to Refuse Licence' ([paragraph 8.4.4](#))
5. Issue of 'Refuse to Grant a Licence' Letter ([paragraph 8.4.5](#))

#### 8.4.1. Report and Recommendation

In the first instance the officer should report the matter via local management to the Assistant Principal who is responsible for the Revenue Branch where the Mineral Oil Trader's premises is located, setting out the nature of the non-compliance with the conditions and/or any of the legislative and regulatory requirements. The officer should include all supporting correspondence with the trader and a recommendation regarding the refusal to grant the trader's licence.

#### 8.4.2. 14 Day Warning Letter – Intention to Refuse Licence

The Assistant Principal, having examined the report and recommendation, and following consultation with the Principal Officer, should sign and forward a 14-day warning letter to the trader.

The contents of the letter must specifically state the breaches of the conditions and/or legislative and regulatory requirements and, most importantly, give a full list of documents and/or invoices etc. not produced when requested and/or state whether documents/invoices were deficient in their contents i.e. no supplier name & address/ VAT Number / product details/ delivery address/ product cost breakdown etc. If the trader has been visited previously and certain deficiencies were identified on that previous visit, these must also be set out in the letter. The letter should also refer to any previous correspondence from Revenue to the trader on the matter.

A copy of the relevant excise legislation (section 101(8) [Finance Act 1999](#) and legislative and regulatory requirements being breached as extracted from the [Mineral Oil Tax Regulations, 2012](#) should accompany the 14 Day Warning Letter.

The letter should warn the trader that failure to comply with these conditions and/or legislative and regulatory requirements within a fourteen (14) day period from the date of this notification could lead to the refusal to grant his/her licence by Revenue

In consultation with the Assistant Principal, and where there is no risk of obstruction or intimidation, a copy of this letter should be hand delivered to the Mineral Oil Trader's premises and its contents explained to the Mineral Oil Trader or his/her agent or representative. The consequences of not complying with the contents of the letter should also be explained.

The appeal provisions, as set out in [paragraph 1.8](#), should also be outlined to the trader and the trader should be provided with a copy of the leaflet on appeal procedures.

The officer should monitor the movement of the Registered Letter on the An Post '[Track & Trace](#)' facility, which will indicate whether the letter was successfully delivered.

A copy of the letter must be retained as it may form part of the evidence in any subsequent prosecution proceedings.

See template letters at [Appendix VII](#) for non-compliance with ROM1 requirements and [Appendix XI](#) for non-compliance with other requirements, which should be suitably redrafted to reflect the particular circumstances of each individual case.

#### 8.4.3. Decision to Refuse an AFTL and/or MFTL by Principal Officer and Assistant Secretary

If no response to the 14-day warning letter has been received, the Assistant Principal should forward a report outlining the full facts of the case to the Principal Officer recommending that the granting of the licence should be refused.

**The Principal Officer must consult with his/her Assistant Secretary, in advance of a final decision to refuse to grant a licence. Once a decision to refuse to grant a licence has been made, the procedures outlined in the following paragraphs should be followed.**

#### 8.4.4. 7 Day Warning Letter – Intention to Refuse Licence

The Principal Officer, having decided to proceed with the refusal to grant the licence, should sign and forward a 7-day letter of intention to refuse to grant the licence, by registered post to the trader.

The letter should include the specific information relating to breaches of the conditions/regulations already included in the 14-day warning letter.

A copy of the relevant Regulations being breached as extracted from the [Mineral Oil Tax Regulations, 2012](#) should accompany the Warning Letter as well as any extracts from the Finance Act, 1999 referred to in the letter.

The letter should state unequivocally that failure to comply with the conditions / regulations of the AFTL/MFTL within 7 days will lead to refusal to grant the Auto-Fuel/Marked Fuel Trader's Licence. A template letter, which should be suitably redrafted to reflect the particular circumstances of each individual case, can be found at [Appendix XII](#).

In consultation with the Assistant Principal, and where there is no risk of obstruction or intimidation, the officer should hand-deliver a copy of this letter to the Mineral Oil/Auto-Fuel Trader's premises and its contents explained to the Trader or his/her agent or representative. The consequences of not complying with the contents of the letter should also be explained.

The appeal provisions, as set out in [paragraph 1.6](#), should also again be outlined to the trader and the trader should be provided with a copy of the leaflet on appeal procedures.

The officer should monitor the movement of the Registered Letter on the An Post 'Track & Trace' facility, which will indicate whether the letter was successfully delivered. This may form part of evidence in any subsequent proceedings Revenue may take against the AFTL/MFTL holder.

A copy of the letter must be retained as it may form part of the evidence in any subsequent prosecution proceedings.

#### 8.4.5. Letter Refusing an AFTL and/or MFTL

Following the process outlined in [paragraph 8.4.2](#), and after the 7-day period has elapsed without the trader complying with the conditions and/or regulatory and legislative requirements, the Principal Officer is to issue a letter of notification by registered post informing the trader that the granting of an AFTL/MFTL has been refused.

In consultation with the Assistant Principal, and where there is no risk of obstruction or intimidation, the officer should hand-deliver a copy of this letter to the Mineral Oil Trader's premises and its contents explained to the mineral oil trader or his/her agent or representative. The consequences of not complying with the contents of the letter should also be explained.

The letter should inform the AFTL/MFTL holder of the following:

- The letter should set out the reason for refusing to grant the licence and specify which licence conditions and/or regulatory and legislative requirements have been breached. It should also give the exact reason for the breaches, i.e. incorrect documentation available etc.,
- The letter must be comprehensive and set out the full history of the case,

- A copy of the relevant Regulations being breached as extracted from the [Mineral Oil Tax Regulations, 2012](#) should accompany the Warning Letter as well as any extracts from the Finance Act, 1999 referred to in the letter.

A template letter, which should be suitably redrafted to reflect the particular circumstances of each individual case, can be found at [Appendix XIII](#).

A copy of the letter must be retained as it may form part of the evidence in any subsequent prosecution proceedings.

Once the Principal Officer has refused the granting of the AFTL/MFTL, Revenue's National Excise Licence Office (NELO) is to be informed immediately by e-mail at [exciselicences@revenue.ie](mailto:exciselicences@revenue.ie). The email should include the effective date of refusal to grant the licence. This action is to be recorded by the branch on ITP Notes.

#### 8.4.5.1. Action by NELO

Once NELO has been notified, by the Assistant Principal that Revenue has refused to grant the licence as per [paragraph 8.4.3](#), NELO will update the status of the licence on ITP.

Officers can access the NELO database using the instructions set out in [paragraph 1.3](#) and [Appendix II](#).



## Section 9. Revocation of an AFTL/MFTL

### 9.1. Introduction

Revenue may revoke a licence in certain circumstances as prescribed in law. Officers should be mindful that the revocation of an AFTL/MFTL is a very significant action and it should therefore be taken only in cases where the grounds for such action have been clearly established and documented.

It is imperative that before any decision is taken to revoke an AFTL/MFTL, the trader should be:

- Informed in writing of the exact nature of the non-compliance and the specific relevant provisions of section 101(9) of the Finance Act 1999 that refer; and
- Provided with the opportunity to rectify the non-compliance.

Officers and their managers should follow the detailed refusal to grant a licence procedure set out in [paragraph 9.4](#). This is to ensure that the revocation of a licence is carried out strictly in accordance with both the governing legislation and best practice.

In cases of doubt or difficulty in relation to the non-compliance with section 101(8) of the Finance Act 1999, the local Branch Manager should be consulted who will liaise with the Excise Working Group, as necessary.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

### 9.2. Licence Revocation

The Commissioners may revoke a licence in accordance with section 101(9) of the Finance Act 1999 in circumstances where:

- (i) The licence holder (or company director etc.) has in the preceding 10 years has been convicted of an indictable tax, customs or excise offence (section 101(9)(a) – see [paragraph 9.2.1](#)),
- (ii) The licence holder has contravened or failed to comply with Excise Law (section 101(9)(b) – see [paragraph 9.2.2](#)), where:
  - the non-compliance is of a serious nature,
  - has not been remedied, **and**
  - investigations into the trader's activities have established that the trader fails to satisfy or is in breach of one or more of the conditions or criteria set out subsections 101(9), (c), (d), (e), (f), (g) or (h), as summarised in (iii), (iv), (v), (vi) and (vii) below,

- (iii) The licence holder or premises has contravened or failed to comply with a Licence Condition (section 101(9)(c) – see [paragraph 9.2.3](#)),
- (iv) The licence holder provided information that was false or misleading in a material way when applying for a licence (section 101(9)(d) – see [paragraph 9.2.4](#)),
- (v) The licence holder does not satisfy Revenue that the activity carried out under the licence is for the realisation of profits from legitimate trade in mineral oils (section 101(9)(e) -see [paragraph 9.2.5](#)),
- (vi) The licence holder does not satisfy Revenue that the activity carried out under the licence is for the sole benefit of the licence holder (section 101(9)(f) - see [paragraph 9.2.6](#)),
- (vii) The licence holder does not satisfy that the systems (including the measuring systems) and procedures of business provide a full and true record of all Mineral Oil Transactions (section 101(9)(g) - see [paragraph 9.2.7](#)).

#### 9.2.1. Licence Revocation - Previous Conviction

Section 101(9)(a) of the Finance Act, 1999 (as amended) states that the Commissioners may revoke a licence where the holder has been convicted of any indictable offence under the Taxes, Excise or Customs Acts referred to in section 1078(1) of the Taxes Consolidation Act 1997, or any corresponding offence under the law of another Member State, in the 10 years before the application.

If a licence holder is convicted of an indictable offence as set out above, an officer may commence the revocation procedure as set out in [paragraph 9.4](#) of this manual immediately the conviction is confirmed.

Officers should contact Prosecutions Unit, Bridgend, Business Division and IPD, Ashtowngate for enquiries on previous indictable excise or customs offences. Guidelines relating to indictable tax offences will be included in due course.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

#### 9.2.2. Licence Revocation - Non-Compliance with Excise Law

Section 101(9)(b) of the Finance Act 1999 (as amended) states that the Commissioners may revoke a licence where there has been a contravention of, or a failure to comply, with a requirement of excise law in relation to the production, sale or dealing in, keeping for sale or delivery of mineral oil by the holder of the licence or at the place/premises for which a licence was granted and the licence holder has not shown to the satisfaction of the Commissioners that the contravention or failure has been remedied.

As referred to earlier in this section, officers and managers should not instigate a licence revocation process where the non-compliance or failure is of a minor nature and where they have not been crystallised by means of a summary conviction.

In circumstances where:

- the licence holder has not shown to Revenue's satisfaction that the contravention or failing has been remedied, and
- there is no evidence to indicate that the licensee is involved in mineral oil fraud, e.g. storing, retailing or delivering illicit fuel,

officers should consider instigating a summary prosecution for the contravention or failing. In such circumstances, officers should refer to [Section 16 – Prosecution](#).

However, in circumstances where the licence holder has contravened or failed to comply with excise law where:

- the failure or non-compliance is of a serious nature,
- has not been remedied, **and**
- investigations into the trader's activities have established that the trader fails to satisfy or is in breach of one or more of the conditions or criteria set out in subsections 101(9) (c), (d), (e), (f), (g) or (h),

officers, in consultation with their managers, should consider revocation of the trader's licence and the procedures set out in [paragraph 9.4](#) should then be followed.

In cases of doubt or difficulty in relation to the non-compliance with section 101(9) of the Finance Act 1999, the local Branch Manager should be consulted who will liaise with the Excise Working Group, as necessary.

### 9.2.3. Licence Revocation - Non-Compliance with Licence Conditions

Section 101(9)(c) of the Finance Act 1999 (as amended) states that states that the Commissioners may revoke a licence where there has been a contravention of, or a failure to comply, with any of the conditions specified in relation to the licence by the holder of the licence or at the place/premises for which a licence was granted and the licence holder has not shown to the satisfaction of the Commissioners that the contravention or failure has been remedied.

In determining that a trader is not complying with the conditions attaching to an AFTL/MFTL, an officer may take into consideration the various statutory authorities' requirements – see [Section 4](#).

Accordingly, all correspondence to the trader setting out the areas of non-compliance with the conditions must state:

- The precise reasons for non-compliance with the conditions,
- The Revenue officer has made the determination based on the information available to him/her.

The trader must also be advised to take all necessary steps to remedy the areas of non-compliance immediately.

Once the officer is satisfied that the trader has not taken the necessary steps to remedy the areas of non-compliance and consequently there are grounds to revoke the AFTL and/or MFTL, the procedures set out in [paragraph 9.4](#) should be followed.

#### 9.2.4. Licence Revocation – Provision of Information that was False or Misleading in a Material Respect When Applying for a Licence

Section 101(9)(d) of the Finance Act 1999 (as amended) states that a licence may be revoked by the Commissioners where the holder, when applying for that licence, provided information that was false or misleading in a material respect.

Where an officer is of the opinion that false or misleading information was provided to Revenue for the purposes of obtaining an AFTL/MFTL, the officer should establish the facts and make necessary enquiries to confirm the information provided was false or misleading; this may include contacting the licence applicant in writing to confirm the authenticity of the information provided. The officer should report the matter to the Assistant Principal Officer, setting out the specifics of the case and include supporting documentation.

Once it has been established that the information provided was false or misleading the officer should assess whether such information was directly relevant to incorrectly satisfying any of the criteria under which a licence is granted (see [paragraph 8.2](#)) and material to the subsequent decision to grant the licence. If so the information may be considered as false or misleading in a material respect.

The Assistant Principal, if satisfied that false or misleading information was provided to Revenue in a material respect for the purposes of obtaining an AFTL/MFTL, s/he should report the facts to Investigations and Prosecutions Division (IPD), along with all supporting documentation, for further investigation.

If the trader is registered under other Revenue tax heads, the officer should insert a note on the trader's file regarding the suspected fraudulent application (as it is a clear risk indicator of non-compliance with other taxes).

If, following investigation, it is established that false or misleading information was provided to Revenue for the purposes of obtaining an AFTL/MFTL; the licence revocation procedure set out in [paragraph 9.4](#) should be followed.

#### 9.2.5. Licence Revocation – Realisation of Profits from Legitimate Trade

Under section 101(9)(e) of the Finance Act 1999 (as amended) an officer may revoke a licence where a holder of an AFTL and/or a MFTL, when required to do so by the Commissioners, has not shown to the satisfaction of the Commissioners that the activity carried out under the licence has been undertaken with a view to the realisation of profits from legitimate trade in mineral oils.



Detailed guidelines are set in [paragraph 8.2.6](#) in relation to the factors that officers should examine in order to satisfy themselves that a licence holder is in compliance with this provision.

Having assessed the matter, the officer, if satisfied that the licence holder is not compliant with this provision, should report the matter to the Assistant Principle. If it is decided that the grounds are serious enough to revoke the licence **the specific procedures set out at [paragraph 9.4.2](#) for licence revocation should be followed.**

#### 9.2.6. Licence Revocation – Licence is not for Sole Benefit of Applicant

Under section 101(9)(f) of the Finance Act 1999 (as amended) an officer may revoke of a licence a holder of an AFTL and/or a MFTL, when required to do so by the Commissioners, has not shown to the satisfaction of the Commissioners that the activity carried out under the licence has been conducted solely for the benefit of the applicant or holder.

Detailed guidelines are set in [paragraph 8.2.7](#) in relation to the factors that officers should examine in order to satisfy themselves that the activity carried out under the licence is for the sole benefit of the licence.

Having assessed the matter, the officer, if satisfied that the licence holder is not compliant with this provision, should report the matter to the Assistant Principle. If it is decided that the grounds are serious enough to revoke the licence **the specific procedures set out at [paragraph 9.4.2](#) for licence revocation should be followed.**

#### 9.2.7. Licence Revocation – Systems and Procedures not Providing Full and True Record of all Mineral Oil Transactions

Revenue is responsible, through its licensing powers, for ensuring that an AFTL/MFTL is held by a mineral oil trader only in circumstances where the trader's business meets the criteria set out in section 101 of the Finance Act 1999 as substituted by section 57(b) of the [Finance Act 2014](#). In this context, **it is of particular importance that a trader satisfies Revenue that the his/her systems (including measuring systems) and procedures provide or are capable of providing a full and true account of all mineral oil transactions in a readily accessible format.**

Detailed guidelines are set in [paragraph 8.2.8](#) in relation to the factors that officers should examine in order to satisfy themselves that the systems (including measuring systems) and procedures provide or are capable of providing a full and true account of all mineral oil transactions in a readily accessible format.

Having assessed the matter, the officer, if satisfied that the licence holder is not compliant with this provision, should report the matter to the Assistant Principle. If it is decided that the grounds are serious enough to revoke the licence **the specific procedures set out at [paragraph 9.4.2](#) for licence revocation should be followed.**

### 9.3. Publication of Revoked Licences

Section 101(13) of the Finance Act 1999 (as amended) legislates for Revenue to compile a list of persons who hold an auto-fuel trader's licence or a marked fuel traders licence where that licence has been revoked under section 101(9) of the Finance Act 1999 (as amended). This list would be made available to the public and include the details of the name of the person who held the licence, the details of the premises or place concerned and the date of revocation of the licence.

Details of revoked auto fuel and mark fuel trader's licences can be found on the [Revenue website](#).

Persons included on the list of licence revocations published by Revenue would be removed from the published list after two years.

### 9.4. Case Management on RCM

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

### 9.5. Revocation Procedure

The revocation process consists of 5 key stages which must be followed in full by officers and their managers:

1. Report and Recommendation to Assistant Principal ([paragraph 9.4.1](#)),
2. Issue of '14 Day Warning Letter – Intention to Revoke Licence' ([paragraph 9.4.2](#)),
3. Decision to Revoke by Principal Officer in consultation with Assistant Secretary ([paragraph 9.4.3](#)),
4. Issue of '7 Day Warning Letter - Intention to Revoke' ([paragraph 9.4.4](#)),
5. Issue of 'Revocation Letter' ([paragraph 9.4.5](#)).

#### 9.5.1. Report and Recommendation

In the first instance the officer should report the matter via local management to the Assistant Principal who is responsible for the Revenue Branch where the mineral oil trader's premises is located, setting out the nature of the non-compliance with the conditions and/or any of the legislative and regulatory requirements. The officer should include all supporting correspondence with the trader and a recommendation regarding the revocation of the trader's licence.

#### 9.5.2. 14 Day Warning Letter – Intention to Revoke Licence

The Assistant Principal, having examined the report and recommendation, and following consultation with the Principal Officer, should sign and forward a 14-day warning letter to the trader.

The contents of the letter must specifically state the breaches of the conditions and/or legislative and regulatory requirements and, most importantly, give a full list of documents and/or invoices etc. not produced when requested and/or state whether documents/invoices were deficient in their contents i.e. no supplier name & address/ VAT Number / product details/ delivery address/ product cost breakdown etc. If the trader has been visited previously and certain deficiencies were identified on that previous visit, these must also be set out in the letter. The letter should also refer to any previous correspondence from Revenue to the trader on the matter.

A copy of the relevant excise legislation (section 101(9) [Finance Act 1999](#) and legislative and regulatory requirements being breached as extracted from the [Mineral Oil Tax Regulations, 2012](#) should accompany the 14 Day Warning Letter.

The letter should warn the trader that failure to comply with these conditions and/or legislative and regulatory requirements within a fourteen (14) day period from the date of this notification could lead to revocation of his/her licence by Revenue and possible prosecution and seizure of mineral oil in the event of trade continuing after licence revocation.

In consultation with the Assistant Principal, and where there is no risk of obstruction or intimidation, a copy of this letter should be hand delivered to the Mineral Oil Trader's premises and its contents explained to the Mineral Oil Trader or his/her agent or representative. The consequences of not complying with the contents of the letter should also be explained.

The appeal provisions, as set out in [paragraph 1.6](#), should also be outlined to the trader and the trader should be provided with a copy of the leaflet on appeal procedures.

The officer should monitor the movement of the Registered Letter on the An Post '[Track & Trace](#)' facility, which will indicate whether the letter was successfully delivered. This may form part of evidence in any subsequent proceedings Revenue may take against the AFTL/MFTL holder.

A copy of the letter must be retained as it may form part of the evidence in any subsequent prosecution proceedings.

See template letters at [Appendix VII](#) for non-compliance with ROM1 requirements and [Appendix XIV](#) for non-compliance with other requirements, which should be suitably redrafted to reflect the particular circumstances of each individual case.

#### 9.5.2.1. Contact with NELO

The officer is to immediately contact the National Excise Licence Office (NELO) by e-mail at [exciselicences@revenue.ie](mailto:exciselicences@revenue.ie) and request that the status of the AFTL/MFTL for the premises stated is to be changed to the 'under enquiry' status with immediate effect. This will ensure that NELO are aware that the licence status is under enquiry

and no new licence will issue to the trader or premises unless this status is changed. The relevant officer should place his/her own case notes on ITP.

#### 9.5.3. Decision to Revoke by Principal Officer and Assistant Secretary

If no response to the 14-day warning letter has been received, the Assistant Principal should forward a report outlining the full facts of the case to the Principal Officer recommending that the licence should be revoked.

**The Principal Officer must consult with his/her Assistant Secretary, in advance of a final decision to revoke the licence. Once a decision to revoke the licence has been made, the procedures outlined in the following paragraphs should be followed.**

#### 9.5.4. 7-day Warning Letter – Intention to Revoke

The Principal Officer, having decided to proceed with the revocation of the licence, should sign and forward a 7-day letter of intention to revoke, by registered post to the trader.

The letter should include the specific information relating to breaches of the conditions/regulations already included in the 14-day warning letter.

A copy of the relevant Regulations being breached as extracted from the [Mineral Oil Tax Regulations, 2012](#) should accompany the Warning Letter as well as any extracts from the Finance Act, 1999 referred to in the letter.

The letter should state unequivocally that failure to comply with the conditions/regulations of the AFTL/MFTL within 7 days will lead to revocation of the Auto-Fuel/Marked Fuel Trader's Licence. A template letter, which should be suitably redrafted to reflect the particular circumstances of each individual case, can be found at [Appendix XV](#).

In consultation with the Assistant Principal, and where there is no risk of obstruction or intimidation, the officer should hand-deliver a copy of this letter to the Mineral Oil/Auto-Fuel Trader's premises and its contents explained to the Trader or his/her agent or representative. The consequences of not complying with the contents of the letter should also be explained.

The appeal provisions, as set out in [paragraph 1.6](#), should also again be outlined to the trader and the trader should be provided with a copy of the leaflet on appeal procedures.

The officer should monitor the movement of the Registered Letter on the An Post ['Track & Trace'](#) facility, which will indicate whether the letter was successfully delivered. This may form part of evidence in any subsequent proceedings Revenue may take against the AFTL/MFTL holder.

A copy of the letter must be retained as it may form part of the evidence in any subsequent prosecution proceedings.



### 9.5.5. Letter of Revocation

Following the process outlined in [paragraph 9.4.2](#), and after the 7-day period has elapsed without the trader complying with the conditions and/or regulatory and legislative requirements, the Principal Officer is to issue a letter of notification by registered post informing the trader that the AFTL/MFTL has been revoked.

In consultation with the Assistant Principal, and where there is no risk of obstruction or intimidation, the officer should hand-deliver a copy of this letter to the Mineral Oil Trader's premises and its contents explained to the Mineral Oil Trader or his/her agent or representative. The consequences of not complying with the contents of the letter should also be explained.

The letter should inform the AFTL/MFTL holder of the following:

- The AFTL/MFTL has been revoked with immediate effect and no longer has any legal standing,
- The trader is to be informed that s/he may not continue trading in mineral oils and any further trading in mineral oils is an offence under section 102 of the Finance Act 1999,
- The trader is liable to prosecution if s/he continues trading on the premises and all mineral oil being traded on the premises is liable to seizure,
- The trader should return the actual AFTL/MFTL to Revenue's National Excise Licence Office (NELO) immediately,
- The letter should set out the reason for the revocation and specify which licence conditions and/or regulatory and legislative requirements have been breached. It should also give the exact reason for the breaches, i.e. incorrect documentation available etc.,
- The letter must be comprehensive and set out the full history of the case,
- A copy of the relevant Regulations being breached as extracted from the [Mineral Oil Tax Regulations, 2012](#) should accompany the Warning Letter as well as any extracts from the Finance Act, 1999 referred to in the letter.

A template letter, which should be suitably redrafted to reflect the particular circumstances of each individual case, can be found at [Appendix XVI](#).

A copy of the letter must be retained as it may form part of the evidence in any subsequent prosecution proceedings.

Once the Principal Officer has revoked the AFTL/MFTL, Revenue's National Excise Licence Office (NELO) is to be informed immediately by e-mail at [exciselicences@revenue.ie](mailto:exciselicences@revenue.ie). The email should include the effective date of revocation. This action is to be recorded by the branch on ITP Notes.

#### 9.5.5.1. Action by NELO

Once NELO has been notified, by the Assistant Principal that the licence has been revoked as per [paragraph 9.4.3](#), NELO will update the status of the licence on ITP.

Officers can access the NELO database using the instructions set out in [paragraph 1.3](#) and [Appendix II](#).

### 9.6. Exceptional Circumstances

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

## Section 10. Mineral Oil Dashboard and Reports

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

## Section 11. Geographical Intelligence System for Mineral Oils (GISMO)

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

## Section 12. Inputting and Amending a ROM1 by Revenue

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

A more recent version of this manual is available.



## Section 13. Excise Interventions in RCM

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

A more recent version of this manual is available.

## Section 14. Enforcement

### 14.1. Authorised Officers

All enforcement action under [section 134 to section 140 \(inclusive\) of the Finance Act 2001](#) can only be performed by officers authorised by the Revenue Commissioners for the stated purpose. Assistant Principals are to ensure that all officers taking action under the above legislative provisions are appropriately authorised by Revenue.

### 14.2. Enforcement Action

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

#### 14.2.9. Exercising Statutory Powers

When exercising statutory powers such as stopping (vehicles) searching (persons, premises and vehicles), detaining and/or seizing untaxed or prohibited goods, arrest of persons, etc., officers should always explain to the person or persons who are the subject of the exercise of such powers, the reasons why the powers are being exercised, and quote the specific legislation governing such powers.

### 14.3. Cross Border Movements

Officers should also refer to section 4 of the [Movement of Excisable Products Manual](#) in relation to guidelines on the importation of duty-suspended mineral oil by road from Northern Ireland.

#### 14.3.1. Simplified Cross Border Movements of Mineral Oils

Paragraph 4.11 of the [Movement of Excisable Products Manual](#) sets out the requirements in relation to the Direct Delivery of Consignments of Mineral Oil from Northern Ireland.

In particular, the following conditions must be complied with:

- The designated consignee must be a Registered Consignee or a Warehousekeeper approved and authorised as such by Revenue.
- In the case of marked fuels, the Registered Consignee must submit an advance declaration to Revenue at least three hours before dispatch.

- In the case of all mineral oils, the Registered Consignee must submit a 'Notification of Actual Loading' to Revenue prior to dispatch of the mineral oil from the Warehouse in Northern Ireland.
- All consignments of mineral oils must be accompanied by a paper copy of the e-AD (electronic Accompanying Document) for the consignment.

**Please note that these simplified procedures only relate to mineral oil movements and do NOT extend to other excisable products.**

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

## Section 15. Assessments

### 15.1. Introduction

Section 99A of the Finance Act 2001 provides for the making of an assessment of excise duty (with the exception of betting duty) by authorised officers. "Authorised officer" means an officer authorised in writing by the Commissioners to exercise the powers conferred by this section.

### 15.2. Liability of Persons to Pay

Section 99 of the Finance Act 2001 provides for the liability of persons for payment of excise duty on excisable products (Mineral Oil Tax, Alcohol Products Tax, and Tobacco Products Tax) in certain specific circumstances, as set out in the following paragraphs.

#### 15.2.1. Warehousing and Consignments under Duty Suspension

Subsections (1) to (5) provide for the liability of authorised warehousekeepers, and of other operators with responsibility for excisable products consigned under a suspension arrangement.

Subsection (1) provides for the liability of an authorised warehousekeeper for the excise duty on excisable products released for consumption by that authorised warehousekeeper from a tax warehouse.

That subsection also provides for the liability of an authorised warehousekeeper for the excise duty on excisable products consigned from the tax warehouse under a suspension arrangement. This is qualified by subsection (2) which provides that this liability is discharged where the excisable products concerned are shown to have been delivered to the correct destination.

Subsection (3) provides that a registered consignor is liable for the excise duty on excisable products consigned by him or her under a suspension arrangement. This is qualified by subsection (2) which provides that this liability is discharged where the excisable products concerned are shown to have been delivered to the correct destination.

Under subsection (4) a registered consignee is liable for the excise duty on excisable products delivered to that consignee under a suspension arrangement.

Subsection (5) however provides that, regardless of the liability of any person under subsections (1) to (4), any person who knowingly participates in "irregular release" for consumption (diversion fraud) of excisable products from a suspension arrangement is liable for payment of the excise duty on those products.



### 15.2.2. Distance Sales of Duty-Paid Excisable Products

Subsection (6) provides for the liability of a tax representative, acting for a non-State vendor for the excise duty on distance sales of excisable products, tax-paid in another Member State.

### 15.2.3. Importation from a Third Country

Subsection (7) provides for where excise products are imported into the State from outside the EU, and not placed under a suspension arrangement, the person liable for payment of the excise duty is the person who declares such products for free circulation in accordance with Article 79 of [Council Regulation \(EEC\) No.2913/92](#).

Where the products are not declared for free circulation the person who is liable is the person who imports the products, and any person who arranged for importation of the products, or on whose behalf such importation was arranged.

### 15.2.4. Illicit Production

Subsection (8) provides that in the case of illicit production of excisable products (i.e. otherwise than under a suspension arrangement in a tax warehouse), the producer, and any person who arranged for the production or on whose behalf it was carried out, is liable.

### 15.2.5. Dealing with/In Untaxed Excisable Products

Subsection (9) provides for the liability of persons concerned in illegal dealing in, or with, excisable products on which the appropriate excise duty has not been paid.

Any person who has:

- sold or delivered the excisable products, or
- kept them or sale or delivery,

is liable for payment of the unpaid excise duty. Any other person on whose behalf any of these actions have carried out is also liable, as is any person to whom the excisable products have been delivered.

### 15.2.6. Rebated Excise Products

In this context "rebated" excisable products means any excisable products on which excise duty has **"relieved, rebated, repaid, or charged at a rate lower than the appropriate standard rate"**. This includes marked gas oil and marked kerosene, and mineral oil that is relieved from Mineral Oil Tax under section 100 of the Finance Act 1999.

Section 99(10) of the Finance Act 2001 provides for liability, at the full rate, on rebated excisable products that are received by a person, subject to a requirement that they are used for a specific purpose or in a specific manner, and where that

requirement has not been satisfied. The person who has received the excisable products, or who holds them for sale or delivery, is liable for payment of the excise duty on them at the full rate.

Provision is also made for that liability where any requirement of excise law in relation to the holding or delivery of the rebated excisable products has not been complied with, and it is not shown, to the satisfaction of the Commissioners, that the excisable products have been used, or held for use, for the appropriate use.

In the case of marked gas oil, the requirements referred to in subsection (10) for “**holding or delivery**” are specified in Parts 5, 6 and 7 of the [Mineral Oil Tax Regulations 2012](#). Regulation 28(1)(c) provides that the application of a reduced rate is subject to the satisfaction of the Commissioners that the marked gas oil “**is at all times kept for sale, sold, kept for delivery or delivered in accordance with the requirements of these Regulations**”.

For example, a person who receives marked gas oil (a rebated mineral oil) and cannot, by means of the returns and records required under the Regulations, account for its legitimate sale or disposal, is liable for payment of the Mineral Oil Tax on the quantity of fuel concerned at the rate for heavy fuel used as a propellant.

In such circumstances, the officer, in consultation with the Assistant Principal, should consider raising an assessment as set out in [paragraph 15.3](#) – Reckless Trading.

#### 15.2.7. Joint and Several Liability

Subsection (11) provides for joint and several liability where more than one person is liable under subsections (1) to (10). Procedures regarding the assessing of traders under this provision are set out in [par. 15.4](#).

### 15.3. Reckless Trading - Assessments

Where an officer (who is authorised in writing by the Revenue Commissioners pursuant to section 99A of the Finance Act 2001 (as amended) for the purposes of carrying out an excise assessment) suspects that a mineral oil trader has recklessly or knowingly supplied or delivered marked mineral oil and this transaction is connected to the evasion of Mineral Oil Tax (i.e. for use in an illegal fuel laundry), the officer may issue an excise assessment to that mineral oil trader or to a mineral oil trader who has not been directly involved in the evasion using the procedures set out in [paragraph 15.5 – Procedures for Excise Assessments](#).

Officers should refer to [paragraph 5.6](#) for further information and guidelines on Reckless Trading.

**Note that a Mineral Oil Trader includes all persons involved in the supply and/or delivery of mineral oil irrespective of whether they are licensed for this purpose or not.**

## 15.4. Joint and Several Liability for Excise Duty

Section 99 of the Finance Act 2001 sets out a variety of persons who may be liable for the payment of excise duty in different circumstances. In some circumstances more than one person may be liable, e.g. where excise duty has not been paid at the appropriate rate, any person who sold or delivered the product, any person on whose behalf such products were sold or delivered and any person to whom the product is delivered is liable for the duty.

Section 99(11) provides that where more than one person is liable for payment of an excise duty liability, such persons are **jointly and severally liable**.

Where a person is jointly and severally liable with another person or persons s/he may be assessed for all or part of the duty.

In circumstances where an Authorised officer believes that persons are jointly and severally liable and where it is practical to do so, the officer should, in consultation with his/her Assistant Principal, consider raising separate assessments on each of the persons they believe to be liable.

Section 99A(2) of the Finance Act 2001 provides that where an Authorised officer has reason to believe that a person is liable for payment of excise duty, then the officer should make an assessment of the amount that person is liable to pay.

Separate assessments may be raised on each of the persons liable. In the interest of transparency and **to avoid the possibility of the double collection of the duty**, each person should be informed that the assessment has been made on the basis that s/he is jointly and severally liable for the tax and that an assessment has also been made on another person. It is important that officers do not identify the other person being assessed in any of the correspondence.

## 15.5. Procedures for Excise Assessments

Where an authorised officer has reason to believe that a person is liable for payment of Mineral Oil Tax, an assessment of the amount may be made that, in the officer's opinion, such person is liable to pay.

Assessments should be evidence based. While some level of estimation may be necessary in establishing the amount of the liability, the officer should carry out sufficient enquiries and/or investigations necessary to support a reasonable estimation of the excise duty liability. These enquiries/investigations should include the examination of traders' records, accounts and other relevant information, especially data extracted from the ROM1 returns of the trader and his/her suppliers and customers.

Where evidence exists that mineral oil has been laundered, or where a trader is suspected of not properly accounting for, or legitimately disposing of, Marked Gas Oil or Kerosene, officers, in consultation with local management and IPD, should consider initiating an immediate investigation of the trader, in addition to the raising of an assessment. This is without prejudice to the liability of the mineral oil trader to criminal prosecution and revocation of the trader's mineral oil licence/s.

Officers should also be aware that Mineral Oil Tax on laundered mineral oil will usually be calculated as the difference between the duty liability on Marked Gas Oil (MGO) and road diesel (DERV).

It is important that the above procedures are carefully followed, particularly as an assessment may subsequently be appealed to the Appeal Commissioners, see [paragraph 15.8](#).

#### 15.5.1. Notice of Assessment

The officer must provide to the person assessed a Notice of Assessment (see a copy at [Appendix XXIII](#)), which:

- Sets out the amount of the assessment and the type of excise duty covered by the assessment,
- Notifies the person of the time limit of 30 days from the date of issue of the Notice of Assessment, within which an appeal in writing must be lodged,
- Sets out the assessment,
- Advises the person of the right of appeal against the assessment under section 146 of Finance Act 2001. Where the officer reduces or increases the amount assessed subsequent to the issue of the Notice of Assessment, the officer should issue a revised Notice of Assessment,
- Where the officer decides that there is no liability, subsequent to the issue of the Notice of Assessment, the officer should inform the person in writing accordingly.

#### 15.5.2. Payment of Interest

Section 103(2)(a)(ii) of the Finance Act 2001 (as amended) provides for the payment of interest on Excise Duty, which has not been paid on the due date. Interest is calculated from the date on which the amount became payable at a rate of **0.0274 per cent per day or part of a day**.

However, the above provision is subject to section 6 of The Financial Provisions (Covid-19) (No. 2) Act 2020, which provides for a reduced rate of interest of 0.0082 per cent per day or part of a day from the later of 1 August 2020 or the date, if before 30 September 2020, subject to certain conditions which are outlined in the section. This includes a requirement that an agreement is requested or entered into between the person and the Collector General. Further detail on the operation of this provision can be viewed on the [Revenue website](#).

#### 15.5.3. Payment of Excise Penalty

Section 99B(8) of the Finance Act 2001 states that where a person, for the purposes of any requirement under excise law, deliberately or carelessly produces, furnishes, gives, sends or otherwise makes use of, any incorrect invoice, registration number,



credit note, debit note, receipt, account, voucher, bank statement, estimate, statement information, book, document or record, the person shall be liable to a penalty.

Where the person concerned has acted carelessly as set out above, s/he shall be liable to a penalty of €3,000.

Where the person concerned has acted deliberately as set out above, s/he shall be liable to a penalty of €5,000.

Where the person who has been assessed as being liable to an excise penalty, does not agree liability to, and pay, the penalty, the Determination of Liability to a Penalty Regime set out in section 1077B Taxes Consolidation Act 1999 should be commenced.

Please note that the assessment regime detailed in this document and the above penalty provision does not extend to qualifying road transport operators and bus and coach operators (qualifying operators) under the Diesel Rebate Scheme (DRS), unless the qualifying road transport operator or bus and coach operator (qualifying operator) are also a mineral oil trader, as defined under the Mineral Oil Tax Regulations 2012, and the assessment relates to their mineral oil trader activity only.

Further information on offences and penalties for the Diesel Rebate Scheme is available in section 4.7 of the Diesel Rebate Scheme Tax and Duty Manual.

#### 15.5.4. Time Limit

Further to section 99AB (2) and (4) of the Finance Act 2001 (inserted by section 70(i) of the Finance Act 2012), assessments should not be initiated on expiry of a period of 4 years from the date of the act giving rise to the liability, except in cases where there are reasonable grounds to believe that fraud or neglect is involved.

#### 15.5.5. Excise Debt Recovery

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

#### 15.6. VAT

In cases where an assessment has been raised on Mineral Oil Tax, consideration should be given to raising a contemporaneous assessment for VAT on the goods in question where evidence exists that a VAT liability also arises, see Regulation 41 of the VAT Regulations 2010 ([S.I. No. 639 of 2010](#)).

Officers should be aware that MGO is liable to VAT at the lower rate, while road diesel is liable to the standard rate of VAT.

## 15.7. Accounting Procedures

Pending full integration to ITS, excise duties must be brought to account through the Divisional Accounts Office. Therefore, prior to payment of excise duty arising from the raising of an assessment, the officer should liaise with the Divisional Accounts Office (see Appendix 7 of EED Trader Guide) to ensure that any requirements of that office are complied with, or in the case of a payment by an Electronic Fund Transfer (EFT), that the payment has been received.

A trader who requests to make payment by Electronic Funds Transfer (EFT) directly to a Revenue Bank Account should be advised to contact the appropriate Revenue Divisional Accounts Office.

When an Excise Assessment payment is received, the officer should complete the accounting template document at [Appendix XXIV](#). This document must be completed showing the excise duty, VAT (if appropriate) and the interest due. The completed document along with the payment should be sent to the Divisional Accounts Office requesting them to bring the payment to account and return a receipted copy to the officer.

## 15.8. Appeals To Tax Appeals Commission

Section 146(1)(b) provides for an appeal to the Tax Appeals Commission (TAC) by a person that has been the subject of an assessment; see Revenue's [Tax and Duty Appeals Manual](#).

Section 146(3) of the Finance Act 2001 (as substituted by schedule 2 of the Finance (Tax Appeals) Act 2015) states that an appeal may not be heard where there is a requirement to furnish a return or pay an amount of excise duty for the purpose of any requirement of excise law until such person furnishes the return and pays or has paid the amount of excise duty.

In circumstances where an assessment of excise duty has been appealed to the Tax Appeals Commission, officers should note the following:

- In circumstances where the appellant has been successful, consideration may be given, in consultation with local management and the Revenue Solicitor, as to whether a case exists for a referral to the High Court on a point of law,
- Where no such case exists, no further action can be taken by the officer in pursuing the outstanding duty,
- Copies of all correspondence, etc. should be filed in the trader's file and noted on CRS.

**Officers should note that where a liability of excise is the subject of criminal proceedings or a decision is pending on whether to initiate criminal proceedings; such liability may not be appealed until the determination of such criminal proceedings.**

## Section 16. Prosecution

### 16.1. Introduction

It is imperative that where potential mineral oil offences have been identified, all official actions in respect of the mineral oil trader in question are taken with a view to prosecution. It is the policy of the Revenue Commissioners to tackle all illicit trading in mineral oil products, up to and including, seizure of product and where possible to prosecute those offending traders. Officers should ensure that all actions, including information gathering activities, are carried out to the highest standard to ensure admissibility in any Court proceedings.

Where prosecution or other legal proceedings have commenced regarding an AFTL/MFTL, NELO will provide written verification of licensing status for court purposes only. This statement will reflect the status of the licence in the Excise Licence Database at the time that the offence (unlicensed trading) was detected.

### 16.2. Referral for Prosecution

Where a prosecution is under consideration, the case must be reported to the National Prosecutions and Seizures Office (NPSO), Business Division. NPSO progresses cases for excise and tax offences, summary or indictable. Cases are normally progressed via the Revenue Solicitor's office (RSO) and the Office of the Director of Public Prosecutions (DPP). It is the DPP that indicates whether a case is to proceed summarily or upon indictment in the case of hybrid penalties. Officers are to conduct their investigation to prove the offence has been committed beyond a reasonable doubt in all cases.

### 16.3. Criminal Investigation/Prosecution

Where the circumstances of a case indicate a seriousness that may warrant IPD investigation, officers and their managers should consult with IPD with a view to referring the matter to the Prosecutions Admissions Committee.

## Section 17. List of Appendices

[Appendix I: Conditions Attached to Holding of an AFTL and a MFTL](#)

[Appendix II: Accessing the NELO Database](#)

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[Appendix XXIII: Excise Duty – Notice of Assessment](#)

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[Appendix XXV: Return of Oil Movements \(ROM1\) Return Form](#)

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[Appendix XXVII: Licence Not Granted – No Tax Clearance](#)



## Appendix I: Conditions Attached to Holding of an AFTL and a MFTL

### **AFTL Conditions:**

1. The premises in respect of which the person/entity holds an Auto Fuel Trader's Licence must be secure and suitable for the sale, keeping for sale, delivery or keeping for delivery of mineral oil, to the satisfaction of Revenue,
2. The Auto-Fuel Trader shall provide safe and secure means of access for Revenue officers to all parts of the premises,
3. All fuel dispensed at the premises must be dispensed using fuel pumps and meters that accurately measure and record the volume of fuel dispensed.
4. The mineral oil trader shall comply with all of the requirement of the laws relating to excise regarding the sale, dealing in, keeping for sale or delivery, or delivery of mineral oil and the keeping and furnishing of records relating thereto.
5. Pursuant to Regulation 10(1) Dangerous Substance (Flammable Liquids and Fuel Retail Stores) Regulations 2019 (S.I. Number 630 of 2019), all retail stores which store flammable liquids and fuels for sale or supply to the public to be used in the propulsion of a vehicle must have a licence to operate granted by the appropriate licensing authority. "Licensing Authority" means a local authority for the purposes of the Local Government Act 2001 (as amended) or a harbour authority within the meaning of section 2(2) of the Dangerous Substances Act 1972 (as amended).

### **MFTL Conditions:**

1. The premises or place in respect of which the person/entity holds a Marked Fuel Trader's Licence must be secure and suitable for the sale, keeping for sale, delivery or keeping for delivery of mineral oil, to the satisfaction of Revenue,
2. The Marked Fuel Trader shall provide safe and secure means of access for Revenue officers to all parts of the premises or place,
3. All fuel dispensed at the premises or place must be dispensed using fuel pumps and meters that accurately measure and record the volume of fuel dispensed.
4. The mineral oil trader shall comply with all of the requirement of the laws relating to excise regarding the sale, dealing in, keeping for sale or delivery, or delivery of mineral oil and the keeping and furnishing of records relating thereto.
5. Pursuant to Regulation 10(1) Dangerous Substance (Flammable Liquids and Fuel Retail Stores) Regulations 2019 (S.I. Number 630 of 2019), all retail stores which store flammable liquids and fuels for sale or supply to the public to be used in the propulsion of a vehicle must have a licence to operate granted by the appropriate licensing authority. "Licensing Authority" means a local authority for the purposes of the Local Government Act 2001 (as amended) or a harbour authority within the meaning of section 2(2) of the Dangerous Substances Act 1972 (as amended).

## Appendix II: Accessing NELO Data

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

A more recent version of this manual is available.

## Appendix III: RCM Definitions

**Appraisals:** This is carried out to determine whether a suspected risk(s) actually exists and if so, to decide on the intervention type most suited to address the risk(s). This is a desk-based exercise, which involves reviewing information available on the case including our internal systems. There is NO CONTACT with the taxpayer.

The primary objective is to gather as much case information as possible before any activity commences.

All risk profiling of Auto-Fuel and Marked Fuel Traders should be recorded as appraisals. It is then a matter for the officer to decide whether or not the case is dealt with as an aspect query or a profile interview. Where an applicant is risk rated as low risk and there is no contact with the trader the intervention should be recorded as an appraisal with no further action required. The fact that the licence application has been approved should also be recorded.

**Aspect Queries:** A short targeted restricted enquiry (outside the Code of Practice) on one aspect of a case to test a particular risk (often shown by REAP). It can be conducted by telephone, email, letter or visit. The taxpayer is informed of the reason for the enquiry and this type of intervention is directed towards improving the taxpayer's compliance.

Taxpayer contact is the "defining characteristic" of an Aspect Query.

Interventions with medium or high-risk traders may be recorded as an aspect query.

Where a site inspection visit is carried out this may be recorded as an aspect query. If it is decided to issue/refuse a licence then no further action is required.

**Profile Interview:** The Profile Interview is a general risk enquiry where an Aspect Query is judged to be insufficient and the deployment of an Audit resource is not immediately warranted without establishing that there is a genuine auditable risk.

Under a Profile Interview a taxpayer is informed that Revenue's Risk System has been used to assist in selecting them for possible Audit and they are informed of the risk issues requiring their attention.

As part of the Profile Interview process, a letter will issue to the taxpayer identifying the risk areas for discussion at the interview.

On completion of the Profile Interview, a decision will be taken whether or not to proceed with an Audit and the taxpayer will be notified accordingly (usually within one week of the interview).

It may be appropriate to record some interventions with High Risk Traders as Profile Interviews, if there are issues covering a number of tax heads.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

A more recent version of this manual is available.



## Appendix IV: Template Letter - ROM1

Mr. A Another  
Director  
Another Oils Ltd  
Custom House Quay  
Dublin

**Registered Post**

**XX [Insert Month & Year]**

**Our Ref: xxxxxxxxxxxx**

**Re: Auto-Fuel Trader's Licence/Marked Fuel Trader's Licence Reference  
XXXXXXXXXXXXXXXXXXXX**

Dear xxxxxx,

As a licensed mineral oil trader and in accordance with section 101B of the Finance Act 1999, you are obliged to submit a "Return of Oil Movements" each month for each licence held with the first return due by 25<sup>th</sup> February 2013. This return is to be made "by electronic means".

I note that you have failed to make a Return of Oil Movement (ROM1) for the period **[Insert Month & Year]**. I also note that telephone contact was made to you/your company on the xx/xx/xxxx by Revenue requesting that the ROM1 be submitted.

As the ROM1 return for you/your company for the period **[Insert Month & Year]** has not yet been submitted to Revenue, I wish to inform you that failure to submit the return within 7 days from the date of this letter will be treated as a contravention of excise law.

A contravention of excise law may lead to the commencement of proceedings to revoke your Auto Fuel Trader's Licence and/or Marked Fuel Trader's Licence as provided for under section 101(9) Finance Act 1999.

You may also be liable to prosecution pursuant to section 102(1)(a) Finance Act 1999 for failure to comply with excise law and/or the Mineral Oil Tax Regulations 2012 (S.I. 231 of 2012).

Yours sincerely,

-----  
**A Another**  
**Revenue Officer**

\*Please delete accordingly

## Appendix V: Template Letter - ROS Registration

**Advice of (ROS) Registration for ROM1****IMPORTANT NOTICE**

Mr. A Another  
Director  
A Another Oils Ltd  
Custom House Quay  
Cork

**Registered Post**

**XX [Insert Month & Year]**

**Our Ref: xxxxxxxxxxx**

**Re: Auto-Fuel Trader's Licence/Marked Fuel Trader's Licence\* Reference #**

**xxxxxxxxxxxxxxxxxxxx**

Dear xxxxxx,

As a licensed mineral oil trader you are now obliged to submit a "Return of Oil Movements" each month for each licence held with the first return due by 25<sup>th</sup> February, 2013.

In accordance with section 101B(2) of the Finance Act 1999, this return is to be made "by electronic means".

I note that you have not yet signed up to the Revenue On-Line Service (ROS) and unless you intend that a ROS registered agent will undertake the monthly reporting requirements on your behalf, you should now register immediately so that the first return can be made on time.

If assistance with the ROS registration is required, please email [roshelp@revenue.ie](mailto:roshelp@revenue.ie) or contact the ROS Helpdesk at 01 738 36 99.

Yours sincerely,

Yours sincerely,

-----  
**A Another**  
**Assistant Principal Officer**

\*Please delete accordingly

## Appendix VI: Licence Refusal/Revocation\* Previous Convictions

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

A more recent version of this manual is available.

## Appendix VII: Outstanding ROM1 Returns

Note: this letter **MUST** be suitably amended as set out below depending on whether it relates to licence refusal or licence revocation. This letter must be sent to the trader each time the trader fails to submit a ROM1 return to Revenue.\*

Mr. A Another  
Director  
Another Oils Ltd  
Custom House Quay  
Dublin

**Registered Post**

**XX [Insert Month & Year]**

**Our Ref: xxxxxxxxxx**

**Re: Auto-Fuel Trader's Licence/Marked Fuel Trader's Licence Reference\***

**XXXXXXXXXXXXXXXXXXXX**

Dear xxxxxx,

As a licensed mineral oil trader and in accordance with section 101B of the Finance Act 1999, you are obliged to furnish to Revenue a 'Return of Oil Movement' each month for each licence held. You must furnish the return to Revenue by the 25<sup>th</sup> day following the last day of the month for which the return refers. This return is to be made 'by electronic means'.

I note that you have failed to make a Return of Oil Movement (ROM1) for the period/s **[Insert Month/s & Year]**. I also note that contact was made with you/your company on the xx/xx/xxxx by Revenue requesting that the ROM1 be submitted.

Furthermore, you were contacted by Revenue on the xx/xx/xxxx and the xx/xx/xxxx and requested to furnish the outstanding ROM1s within 7 days of this/these letter(s).\*

Failure to make a ROM1 return to Revenue is a contravention of mineral oil tax law and an offence under section 102(1) of the Finance Act 1999.

I note that you have applied for an Auto Fuel Traders Licence/Marked Fuel Trader's Licence under licence reference number XXXXXXXXXXXX.\* (This paragraph to be included only where action relates to licence refusal).

Section 101(8) of the Finance Act 1999, (as amended), provides that a licence shall not be granted where the applicant does not, when required, show to the satisfaction of the Commissioners that he can satisfy such conditions as may be



imposed by the Commissioners and/or where there has been a contravention of, or failure to comply with regulatory and legislative requirements.\* (This paragraph to be included only where action relates to licence refusal).

Section 101(9) of the Finance Act 1999 (as amended) provides that the Revenue Commissioners may revoke a licence where the trader does not, when required, show to the satisfaction of the Commissioners that he can satisfy such conditions as may be imposed by the Commissioners and/or where there has been contravention of, or failure to comply with regulatory and legislative requirements.\* (This paragraph to be included where action relates to licence revocation).

I now require you to furnish the information outlined above immediately.

**Please note that failure to do so may result in your application for a licence being refused/revoked\*.**

**Furthermore, traders who have failed to provide ROM1 returns to Revenue may have their Tax Clearance Certificate refused until all outstanding ROM1 returns have been made. Traders not holding a current Tax Clearance Certificate cannot be issued with an Auto Fuel Trader's Licence and/or a Marked Fuel Trader's Licence.**

You may also be liable to prosecution pursuant to section 102(1)(a) Finance Act 1999 for failure to comply with excise law.

Yours sincerely,

-----  
**A Another  
Revenue Officer**

\*Please delete accordingly

## Appendix VIII: 14 Day Warning Letter – Intention to Refuse/Revoke\* -Outstanding ROM1 Returns

Note: this letter **MUST** be suitably amended as set out below depending on whether it relates to licence refusal or licence revocation\*

Mr. A Another  
Director  
Another Oils Ltd  
Custom House Quay  
Dublin

**Registered Post**

**XX [Insert Month & Year]**

**Our Ref: xxxxxxxxxxxx**

**Re: Auto-Fuel Trader's Licence/Marked Fuel Trader's Licence Reference\***

**Xxxxxxxxxxxxxxxxxxxxxx**

Dear xxxxxx,

As a licensed mineral oil trader and in accordance with section 101B of the Finance Act 1999, you are obliged to furnish to Revenue a 'Return of Oil Movement' each month for each licence held. You must furnish the return to Revenue by the 25<sup>th</sup> day following the last day of the month for which the return refers. This return is to be made 'by electronic means'.

I note that you have failed to make a Return of Oil Movement (ROM1) for the period/s **[Insert Month/s & Year]**. I also note that contact was made with you/your company on the xx/xx/xxxx by Revenue requesting that the ROM1 be submitted and you were informed in writing on the xx/xx/xxxx to submit outstanding ROM1s. You were further informed on the in writing on the xx/xx/xxxx to submit outstanding ROM1s.\*

Failure to make a ROM1 return to Revenue is a contravention of mineral oil tax law and an offence under section 102(1) of the Finance Act 1999.

I note that you have applied for an Auto Fuel Traders Licence/Marked Fuel Trader's Licence under licence reference number XXXXXXXXXX.\* (This paragraph to be included only where action relates to licence refusal)

Section 101(8) of the Finance Act 1999, (as amended), provides that a licence shall not be granted where the applicant does not, when required, show to the

satisfaction of the Commissioners that he can satisfy such conditions as may be imposed by the Commissioners and/or where there has been a contravention of, or failure to comply with regulatory and legislative requirements.\* (This paragraph to be included only where action relates to licence refusal).

Section 101(9) of the Finance Act 1999 (as amended) provides that the Revenue Commissioners may revoke a licence where the trader does not, when required, show to the satisfaction of the Commissioners that he can satisfy such conditions as may be imposed by the Commissioners and/or where there has been contravention of, or failure to comply with regulatory and legislative requirements.\* (This paragraph to be included only where action relates to licence revocation).

I now require you to furnish the information outlined above within 14 days of the date hereof.

**Please note that failure to do so will result in your application for a licence being refused/revoked\*.**

**Furthermore, traders who have failed to provide ROM1 returns to Revenue may have their Tax Clearance Certificate refused until all outstanding ROM1 returns have been made. Traders not holding a current Tax Clearance Certificate cannot be issued with an Auto Fuel Trader's Licence and/or a Marked Fuel Trader's Licence.**

You may also be liable to prosecution pursuant to section 102(1)(a) Finance Act 1999 for failure to comply with excise law.

Yours sincerely,

-----  
**A Another  
Assistant Principal Officer**

\*Please delete accordingly

## Appendix IX: 7 Day Warning Letter – Intention to Refuse/Revoke\* Licence - Outstanding ROM1 Returns

Note: this letter **MUST** be suitably amended as set out below depending on whether it relates to licence refusal or licence revocation\*

Mr. A Another  
Director  
Another Oils Ltd  
Custom House Quay  
Dublin

**Registered Post**

**XX [Insert Month & Year]**

**Our Ref: xxxxxxxxxxx**

**Re: Auto-Fuel Trader's Licence/Marked Fuel Trader's Licence Reference\***  
**Xxxxxxxxxxxxxxxxxxxxx**

Dear xxxxxx,

I note that you have failed to make a Return of Oil Movement (ROM1) for the period/s **[Insert Month/s & Year]**.

You were contacted in writing by Revenue on the xx/xx/xxxx and on the xx/xx/xxxx requesting that all outstanding ROM1 returns be submitted to Revenue within a specified time.

You were also informed that failure to submit such returns would result in your application for a licence being refused\*. (This paragraph to be included only where action relates to licence refusal).

You were also informed that failure to submit such returns would result in the revocation of your licence\*. (This paragraph to be included only where action relates to licence revocation).

As a licensed mineral oil trader and in accordance with section 101B of the Finance Act 1999, you are obliged to furnish to Revenue a 'Return of Oil Movement' each month for each licence held. You must furnish the return to Revenue by the 25<sup>th</sup> day following the last day of the month for which the return refers. This return is to be made 'by electronic means'.



Failure to make a ROM1 return to Revenue is a contravention of mineral oil tax law and an offence under section 102(1) of the Finance Act 1999.

I note that you have applied for an Auto Fuel Traders Licence/Marked Fuel Trader's Licence under licence reference number XXXXXXXXXX. (This paragraph to be included only where action relates to licence revocation).

Section 101(8) of the Finance Act 1999, (as amended), provides that a licence shall not be granted where the applicant does not, when required, show to the satisfaction of the Commissioners that he can satisfy such conditions as may be imposed by the Commissioners and/or where there has been a contravention of, or failure to comply with regulatory and legislative requirements.\* (This paragraph to be included where action relates to licence refusal).

Section 101(9) of the Finance Act 1999 (as amended) provides that the Revenue Commissioners may revoke a licence where the trader does not, when required, show to the satisfaction of the Commissioners that he can satisfy such conditions as may be imposed by the Commissioners and/or where there has been contravention of, or failure to comply with regulatory and legislative requirements.\* (This paragraph to be included only where action relates to licence revocation).

I now require you to furnish the information outlined above within 7 days of the date hereof.

**Please note that failure to do so will result in your application for a licence being refused/revoked.**

**Furthermore, traders who have failed to provide ROM1 returns to Revenue may have their Tax Clearance Certificate refused until all outstanding ROM1 returns have been made. Traders not holding a current Tax Clearance Certificate cannot be issued with an Auto Fuel Trader's Licence and/or a Marked Fuel Trader's Licence.**

You may also be liable to prosecution pursuant to section 102(1)(a) Finance Act 1999 for failure to comply with excise law.

Yours sincerely,

-----  
**A Another  
Assistant Principal Officer**

\*Please delete accordingly

## Appendix X: Licence Refused/Revoked\* Letter - Outstanding ROM1 Returns

Note: this letter **MUST** be suitably amended as set out below depending on whether it relates to licence refusal or licence revocation\*

Mr. A Another  
Director  
Another Oils Ltd  
Custom House Quay  
Dublin

**Registered Post**

**XX [Insert Month & Year]**

**Our Ref: xxxxxxxxxxx**

**Re: Auto-Fuel Trader's Licence/Marked Fuel Trader's Licence Reference\***  
**xxxxxxxxxx**

Dear xxxxxx,

I refer to the letter dated xx/xx/xxxx requiring you make a Return of Oil Movement (ROM1) in connection with your application for a licence and subsequent letters dated xx/xx/xxxx and xx/xx/xxxx. You were also informed that failure to submit such returns would result in your application for a licence being refused/revoked\*. I note that you have not made the required ROM1 returns.

I therefore refuse your application for an AFTL/MFTL pursuant to section 101(8) of the Finance Act 1999. **\*(This paragraph to be included only where action relates to licence refusal).**

I hereby notify you that as you have not complied with the conditions/regulations\* relating to your Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\*, this licence has been revoked pursuant to section 101(9) of the Finance Act 1999 with effect from xx/xx/xxxx. You may not trade without a valid Auto Fuel Trader's Licence/Marked Fuel Trader's Licence. **\*(This paragraph to be included only where action relates to licence revocation).**

I am advising you that if you trade in mineral oils without a valid Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\*, you are liable to prosecution for an offence under section 102, Finance Act 1999 (as amended), and the product is liable to seizure.

You have the right to appeal this decision to the Tax Appeals Commissioner (TAC) in accordance with section 146 of the Finance Act 2001 (as amended). An appeal must be in writing and must set out the grounds of the appeal. Further details on the appeal process are available on the [Revenue website](#).

Yours sincerely,

-----

**A Another  
Principal Officer**

\*Please delete accordingly

A more recent version of this manual is available.

## Appendix XI: 14 Day Warning Letter – Intention to Refuse Licence

(This template letter, suitably adapted, caters for all non-compliance areas as set out in [paragraph 8.2](#) – except for ROM1 non-compliance - see Appendices VIII – XI)\*

Mr. A Another  
Director  
Another Oils Ltd  
Custom House Quay  
Dublin

**Registered Post**

**XX [Insert Month & Year]**

**Our Ref: xxxxxxxxxxxx**

**Re: Auto-Fuel Trader's Licence/Marked Fuel Trader's Licence Reference\***  
**xxxxxxxxxxxx**

Dear xxxxxx,

As a licensed mineral oil trader and in accordance with section 101 of the Finance Act 1999 and the Mineral Oil Tax Regulations, 2012, (S.I. No. 231 of 2012), you are obliged to comply with excise law and conditions attaching to the granting of your licence.

I note that you have failed comply with the requirements of excise law/licence conditions\* as follows: **[Insert specific details, including the relevant subsection(s), of the legislative provision and/or regulation being relied upon relating to the breaches of excise law and/or licence conditions]**.

Failure to comply with the requirements of excise law/licence conditions\* is a contravention of the Mineral Oil Legislation and an offence under section 102(1) of the Finance Act 1999.

I note that you have applied for an Auto Fuel Traders Licence/Marked Fuel Trader's Licence\* under licence reference number XXXXXXXXXXXX.

Under section 101(6)(a) of the Finance Act 1999, (as amended), the Revenue Commissioners may grant to a person an Auto Fuel Traders Licence/Marked Fuel Traders Licence\* on receipt by them of such information as they reasonably require.



Section 101(8) of the Finance Act 1999, (as amended), provides that a licence shall not be granted where the applicant does not, when required, show to the satisfaction of the Commissioners that he can satisfy such conditions as may be imposed by the Commissioners and/or where there has been a contravention of, or failure to comply with regulatory and legislative requirements.

I now require you to keep and/or furnish the information outlined above within 14 days of the date hereof. Please note that failure to do so will result in your application for a licence being refused.

You may also be liable to prosecution pursuant to section 102(1)(a) Finance Act 1999 for failure to comply with excise law.

Yours sincerely,

-----  
**A Another**  
**Assistant Principal**

\*Please delete accordingly

## Appendix XII: 7 Day Warning Letter – Intention to Refuse Licence

(This template letter, suitably adapted, caters for all non-compliance areas as set out in [paragraph 8.2](#) – except for ROM1 non-compliance - see appendices VIII – XI)\*

Mr. A Another  
Director  
Another Oils Ltd  
Custom House Quay  
Dublin

**Registered Post**

**XX [Insert Month & Year]**

**Our Ref: xxxxxxxxxxxx**

**Re: Auto-Fuel Trader's Licence/Marked Fuel Trader's Licence Reference\*  
xxxxxxxxxxxx**

Dear xxxxxx,

As a licensed mineral oil trader and in accordance with section 101 of the Finance Act 1999 and the Mineral Oil Tax Regulations, 2012, (S.I. No. 231 of 2012), you are obliged to comply with excise law and conditions attaching to the granting of your licence.

You were contacted in writing by Revenue on the xx/xx/xxxx (copies enclosed) informing you that you failed to comply with the requirements of excise law/licence conditions\* as follows: **[Insert specific details, including the relevant subsection(s), of the legislative provision and/or regulation being relied upon relating to the breaches of excise law and/or licence conditions]\***.

Failure to comply with the requirements of excise law/licence conditions\* is a contravention of the Mineral Oil Legislation and an offence under section 102(1) of the Finance Act 1999.

I note that you have applied for an Auto Fuel Traders Licence/Marked Fuel Trader's Licence\* under licence reference number XXXXXXXXXXXX.

Under section 101(6)(a) of the Finance Act 1999, (as amended), the Revenue Commissioners may grant to a person an Auto Fuel Traders Licence/Marked Fuel Traders Licence\* on receipt by them of such information as they reasonably require.

Section 101(8) of the Finance Act 1999, (as amended), provides that a licence shall not be granted where the applicant does not, when required, show to the satisfaction of the Commissioners that he can satisfy such conditions as may be imposed by the Commissioners and/or where there has been a contravention of, or failure to comply with regulatory and legislative requirements

**I now require you to keep and/or furnish the information outlined above within 7 days of the date hereof. Please note that failure to do so will result in your application for a licence being refused.**

You may also be liable to prosecution pursuant to section 102(1)(a) Finance Act 1999 for failure to comply with excise law.

Yours sincerely,

-----  
**A Another  
Assistant Principal**

\*Please delete accordingly

## Appendix XIII: Licence Refused Letter

(This template letter, suitably adapted, caters for all non-compliance areas as set out in [paragraph 8.2](#) – except for ROM1 non-compliance - see appendices VIII – XI)

Mr. A Another  
Director  
Another Oils Ltd  
Custom House Quay  
Dublin

**Registered Post**

**XX [Insert Month & Year]**

**Our Ref: xxxxxxxxxxx**

**Re: Auto-Fuel Trader's Licence/Marked Fuel Trader's Licence Reference\***  
**xxxxxxxxxxxx**

Dear xxxxxx,

You were contacted in writing by Revenue on the xx/xx/xxxx and on the xx/xx/xxxx (copies enclosed) informing you that you failed to comply with the requirements of excise law/licence conditions\* as follows: **[Insert specific details, including the relevant subsection(s), of the legislative provision and/or regulation being relied upon relating to the breaches of excise law and/or licence conditions]\***.

Failure to comply with the requirements of excise law/licence conditions\* is a contravention of the Mineral Oil Legislation and an offence under section 102(1) of the Finance Act 1999.

**I therefore refuse your application for an AFTL/MFTL pursuant to section 101(8) of the Finance Act 1999 (as amended).**

You may also be liable to prosecution pursuant to section 102(1)(a) Finance Act 1999 for failure to comply with excise law.

I am advising you that persons trading without a valid Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\*, are liable to prosecution for an offence under section 102, Finance Act 1999 (as amended), and the product is liable to seizure.

You have the right to appeal this decision to the Tax Appeals Commissioner (TAC) in accordance with section 146 of the Finance Act 2001 (as amended). An appeal must be in writing and must set out the grounds of the appeal. Further details on the appeal process are available on the [Revenue website](#).



Yours sincerely,

-----

**A Another  
Principal Officer**

\*Please delete accordingly

A more recent version of this manual is available.

## Appendix XIV: 14-day Warning Letter – Intention to Revoke Licence

(This template letter, suitably adapted, caters for all non-compliance areas as set out in [paragraph 9.2](#) – except for ROM1 non-compliance - see Appendices VIII – XI)

### **IMPORTANT NOTICE**

Mr. A Another  
Director  
A Another Oils Ltd  
Custom House Quay  
Cork  
**Registered Post**

**XX [Insert Month & Year]**

**Our Ref: xxxxxxxxxxx**

**Re: Auto-Fuel Trader's Licence/Marked Fuel Trader's Licence\* Reference xxxxxxxxx**

Dear xxxxxx,

I refer to the above-mentioned Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\* issued to you on **xx/xx/xxxx**.

As a licensed mineral oil trader and in accordance with section 101 of the Finance Act 1999 and the Mineral Oil Tax Regulations 2012 (S.I. No. 231 of 2012), you are obliged to comply with excise law and licence conditions attaching to the holding of your licence.

Having visited your premises on **xx/xx/xxxx** and carried out an inspection there, I wish to draw your attention to the fact that you have failed to comply with the following requirements of excise law/ licence condition(s)\* **[Insert specific details, including the relevant subsection(s), of the legislative provision and/or regulation being relied upon relating to the breaches of excise law and/or licence conditions]**.

Failure to comply with the requirements of excise law/licence conditions\* is a contravention of the Mineral Oil Legislation and an offence under section 102(1) of the Finance Act 1999.

Section 101(9) of the Finance Act 1999 (as amended) provides that the Revenue Commissioners may revoke a licence where the trader does not, when required, show to the satisfaction of the Commissioners that he can satisfy such conditions as may be imposed by the Commissioners and/or where there has been contravention of, or failure to comply with regulatory and legislative requirements.

I must therefore inform you that the excise law/licence conditions\* specified outlined in respect of your premises must be complied with in full. Failure to comply with these requirements within a fourteen (14) day period from the date of this notification will lead to revocation of your licence by Revenue and possible prosecution and seizure of mineral oil in the event of trade continuing after licence revocation.

You may also be liable to prosecution pursuant to section 102(1)(a) Finance Act 1999 for failure to comply with excise law.

Yours sincerely,

-----  
**A Another  
Assistant Principal Officer**

\*Please delete accordingly

## Appendix XV: 7 Day Warning Letter – Intention to Revoke Licence

(This template letter, suitably adapted, caters for all non-compliance areas as set out in [paragraph 9.2](#) – except for ROM1 non-compliance - see Appendices VIII – XI)\*

Mr. A Another  
Director  
A Another Oils Ltd  
Custom House Quay  
Cork

### **IMPORTANT NOTICE**

**Registered Post.**

**XX [Insert Month & Year]**

**Our Ref: xxxxxxxxxx**

#### **Notification of Intention to Revoke Licence Ref No:.....**

Dear xxxxxxxx,

I refer to the above-mentioned Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\* issued to you on **xx/xx/xxxx**.

As a licensed mineral oil trader and in accordance with section 101 of the Finance Act 1999 and the Mineral Oil Tax Regulations 2012 (S.I. No. 231 of 2012), you are obliged to comply with excise law and licence conditions attaching to the holding of your licence.

You were contacted by Revenue on the xx/xx/xxxx (copies enclosed) informing you that you failed to comply with excise law/ licence conditions\* in respect of your premises.

On the xx/xx/xxxx, a Revenue officer visited your premises and carried out an inspection there, I wish to draw your attention to the fact that that you have failed to comply with the following requirements of excise law/ licence condition(s) **[Insert specific details, including the relevant subsection(s), of the legislative provision and/or regulation being relied upon relating to the breaches of excise law and/or licence conditions]\***



Failure to comply with the requirements of excise law/licence conditions \* is a contravention of the Mineral Oil Legislation and an offence under section 102(1) of the Finance Act 1999.

Section 101(9) of the Finance Act 1999 (as amended) provides that the Revenue Commissioners may revoke a licence where the trader does not, when required, show to the satisfaction of the Commissioners that he can satisfy such conditions as may be imposed by the Commissioners and/or where there has been contravention of, or failure to comply with regulatory and legislative requirements.

You may also be liable to prosecution pursuant to section 102(1)(a) Finance Act 1999 for failure to comply with excise law.

**I am hereby notifying you that in the absence of any evidence of compliance with excise law/ licence condition(s)\* as outlined above, your Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\* will be revoked seven (7) days from the date of this notification.**

I am also advising that persons trading without a valid Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\* are liable to prosecution for an offence under section 102, Finance Act, 1999 (as amended) and the product is liable to seizure.

You have the right to appeal this decision to Tax Appeals Commissioner (TAC) in accordance with section 146 of the Finance Act, 2001 (as amended). An appeal must be in writing and must set out the grounds of the appeal. Further details on the appeal process are available on the [Revenue website](#).

Yours sincerely,

-----  
**A Another  
Principal Officer**

\*Please delete accordingly

## Appendix XVI: Licence Revoked Letter

(This template letter, suitably adapted, caters for all non-compliance areas as set out in [paragraph 9.2](#) – except for ROM1 non-compliance - see Appendices VIII – XI)\*

Mr. A Another  
Director  
A Another Oils Ltd  
Custom House Quay  
Cork  
**Registered Post**

**XX [Insert Month & Year]**

### **IMPORTANT NOTICE**

**Our Ref: xxxxxxxxxxxx**

**Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\* No. xxxxxxxx has been Revoked**

Dear xxx,

You were contacted by Revenue on the xx/xx/xxxx and xx/xx/xxxx (copies enclosed) and visit(s) were undertaken to your premises on xx/xx/xxxx (and xx/xx/xxxx), where you were informed of your non-compliance with excise law/licence conditions\* relating to the issue and holding of the above Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\*, specifically in relation to the following: **[Insert specific details, including the relevant subsection(s), of the legislative provision and/or regulation being relied upon relating to the breaches of excise law and/or licence conditions]\***.

Failure to comply with the requirements of excise law/licence conditions\* is a contravention of the Mineral Oil Legislation and an offence under section 102(1) of the Finance Act 1999.

Section 101(9) of the Finance Act 1999 (as amended) provides that the Revenue Commissioners may revoke a licence where the trader does not, when required, show to the satisfaction of the Commissioners that he can satisfy such conditions as may be imposed by the Commissioners and/or where there has been contravention of, or failure to comply with regulatory and legislative requirements.

**I hereby notify you that as you have not complied with excise law/licence conditions\* relating to your Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\*, this licence has been revoked with effect from xx/xx/xxxx. You may not trade without a valid Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\*.**

You should return the Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\* to the undersigned at the above address immediately.

I am also advising that persons trading without a valid Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\* are liable to prosecution for an offence under section 102, Finance Act, 1999 (as amended) and the product is liable to seizure.

You have the right to appeal this decision to the Tax Appeals Commissioner (TAC) in accordance with section 146 of the Finance Act, 2001 (as amended). An appeal must be in writing and must set out the grounds of the appeal. Further details on the appeal process are available on the [Revenue website](#).

Yours sincerely,

-----  
**A Another  
Principal Officer**

\*Please delete accordingly

## Appendix XVII: Instruction to Cease Trading

Mr. A Another  
Director  
A Another Oils Ltd  
Custom House Quay  
Cork

**Registered Post**

**XX [Insert Month & Year]**

### **Instruction to Cease Trading in Auto Fuels/Marked Fuels\***

**Our Ref: xxxxxxxxxxxx**

### **Re: Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\***

Dear xxxxx,

I am an officer of the Revenue Commissioners for the purpose of the statutes relating to the duties of excise and the management of those duties.

Under section 101 of the Finance Act 1999 (as amended), every person who produces, sells on, delivers or deals in or on any premises any mineral oil, other than additives, which is chargeable with mineral oil tax, is required to hold an Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\* issued by the Revenue Commissioners in respect of each such premises. **Accordingly, an applicant for an Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\* may not trade in mineral oils unless a licence has been granted in respect of such premises.**

Section 102 of the Finance Act 1999 (as amended) makes it an offence to trade in mineral oil without a licence granted by the Revenue Commissioners under section 101 of the Finance Act 1999 (as amended).

I refer to the visit by a Revenue officer to your premises at xxx on **xx/xx/xxxx** for which premises no Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\* has been granted by the Revenue Commissioners. You were informed that trading without an Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\* is a criminal offence and such trading should cease immediately.

**Following the above visit and instruction to cease trading, I am now formally reiterating the instruction to cease illegal trading immediately. I am also advising that if you continue such trading without a valid Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\*, you are liable to prosecution for an offence under section 102, Finance Act, 1999 (as amended) and the product is liable to seizure.**



Yours sincerely

-----  
**A Another**  
**Assistant Principal Officer**  
\*Please delete accordingly

A more recent version of this manual is available.

## Appendix XVIII: AFTL/MFTL Application Assessment

<b>GCD reference:</b>		
<b>Name of Officer:</b>		
<b>Name and Address of Trader :</b>		
<b>Tax Reference Number</b>		
<b>Excise Licence Number (MOTL)</b>		
	<b><u>Yes</u></b>	<b><u>No</u></b>
Tax Clearance		
VAT Registered		
Auto-Fuel Trader (If Yes consider F. below)		
Marked Fuel Trader (If Yes consider A. to F. below)		
<b>Trader Type</b>		
<ul style="list-style-type: none"> <li>• Authorised Warehousekeeper</li> </ul>		
<ul style="list-style-type: none"> <li>• Distributor</li> </ul>		
<ul style="list-style-type: none"> <li>• Forecourt Retailer</li> </ul>		
<b>Auto-Fuel Applicant: Conditions satisfied:</b> 1. The premises in respect of which the licence is granted must be secure and suitable for the sale, keeping for sale, delivery or keeping for delivery of the mineral oil to which the licence relates, to the satisfaction of Revenue 2. The licensee must provide safe and secure means of access for Revenue officers to all parts of the premises 3. All fuel dispensed at the premises must be dispensed using fuel pumps and meters that accurately measure and record the volume of fuel dispensed. 4. The mineral oil trader shall comply with all of the requirements of the laws relating to excise regarding the sale, dealing in, keeping for sale or delivery, or delivery of mineral oil and the keeping and furnishing of records relating thereto. 5. Pursuant to Regulation 10(1) Dangerous Substance (Flammable		

<p>Liquids and Fuel Retail Stores) Regulations 2019 (S.I. Number 630 of 2019), all retail stores which store flammable liquids and fuels for sale or supply to the public to be used in the propulsion of a vehicle must have a licence to operate granted by the appropriate licensing authority. "Licensing Authority" means a local authority for the purposes of the Local Government Act 2001 (as amended) or a harbour authority within the meaning of section 2(2) of the Dangerous Substances Act 1972 (as amended).</p>		
<p><b>Marked Fuel Applicant - Conditions satisfied:</b></p> <ol style="list-style-type: none"> <li>1. The premises or place in respect of which the licence is granted must be secure and suitable for the sale, keeping for sale, delivery or keeping for delivery of the mineral oil to which the licence relates, to the satisfaction of Revenue</li> <li>2. The licensee must provide safe and secure means of access for Revenue officers to all parts of the premises or place</li> <li>3. All fuel dispensed at the premises or place must be dispensed using fuel pumps and meters that accurately measure and record the volume of fuel dispensed.</li> <li>4. The mineral oil trader shall comply with all of the requirements of the laws relating to excise regarding the sale, dealing in, keeping for sale or delivery, or delivery of mineral oil and the keeping and furnishing of records relating thereto.</li> <li>5. Pursuant to Regulation 10(1) Dangerous Substance (Flammable Liquids and Fuel Retail Stores) Regulations 2019 (S.I. Number 630 of 2019), all retail stores which store flammable liquids and fuels for sale or supply to the public to be used in the propulsion of a vehicle must have a licence to operate granted by the appropriate licensing authority. "Licensing Authority" means a local authority for the purposes of the Local Government Act 2001 (as amended) or a harbour authority within the meaning of section 2(2) of the Dangerous Substances Act 1972 (as amended).</li> </ol>		
Site Visit Report completed (if applicable)		
Application approved		
Application refused		
NELO informed		
Signed		
Date		

Risk Rating: Officers should refer to the Risk Rating Matrices for Distributors & Forecourts which may be found at [Appendix XXIX](#) and [Appendix XXX](#) of this Manual.

## Appendix XIX: Site Inspection Checklist

<b>Licence Ref:</b>	<b>Customer No:</b>
<b>Licensee Name:</b>	
<b>Trading Name:</b>	
<b>Name on front of building if different to the above (Why)</b>	
<b>Address:</b>	
<b>Phone Number:</b>	
<b>Trader Status:</b> Fully owned by major oil company Independent Independent with exclusivity agreement with major oil co.	
<b>Is Registered address of company per CRO same as above Y / N</b>	
<b>TCC Y / N</b>	<b>TCC Expiry Date</b>

**Directors:**

<b>Name</b>	<b>Name</b>
<b>Address</b>	<b>Address</b>
<b>Phone Number</b>	<b>Phone Number</b>



## Appendix XX: AFTL/MFTL Guidelines

- 1 Establish when Trader commenced trading:
- 2 Note hours of business and trading days:
- 3 Assess trader's compliance level with the licence conditions:

### Condition 1:

**The premises or place in respect of which the person/entity holds an AFTL/MFTL must be secure and suitable for the sale, keeping for sale, delivery or keeping for delivery of mineral oil, to the satisfaction of Revenue'.**

Supporting evidence can include the following:

- planning approval to operate as a commercial fuel outlet,
- compliance with Fire Safety requirements,
- site specific safety statement.

### Condition 2:

**The Auto-Fuel/Marked Fuel Trader shall provide safe and secure means of access for Revenue officers to all parts of the premises or place'.**

Safe access includes unimpeded access to all tanks, pumps, lines and meters where fuel is stored or suspected to be stored. Any locks or other impediments should be removed immediately upon request to allow the officer(s) free access to inspect any tanks, pumps, lines and meters where the fuel is stored or present. All passageways and access points to tanks, pumps, lines and meters where fuel is stored should be kept clear at all times. Any doors, gates, shutters etc., should be opened immediately upon request to allow Revenue officers access to tanks, pumps, lines and meters where mineral oil is stored or present.

Establish the number, location and capacity of tanks and the number of pumps on the premises and ask to be shown these.

### Number, Capacity and Location of Tanks:

### Condition 3:

**All fuel dispensed at the premises must be dispensed using fuel pumps and meters that accurately measure and record the volume of fuel dispensed'.**

Officers should be aware that fuel pumps are normally equipped with a visible meter that provides a reading of the quantity of fuel dispensed and the price charged. Such meters should normally be calibrated to conform to the requirements of the Legal Metrology Service (LMS) of the National Standards Authority of Ireland (NSAI).

Officers should also be aware that fuel pumps are also normally equipped with an accumulator device, which may or not be visible, and which records the accumulated quantity of fuel dispensed by the pump. While the accumulator does not come within the competence of the LMS (see above), it is nevertheless a key recording requirement and any interference with this device should be considered as a breach of this condition.

**Number of Pumps:**

**Fuel Management System (Name/Type etc.)**

#### **Condition 5**

**Pursuant to Regulation 10(1) Dangerous Substance (Flammable Liquids and Fuel Retail Stores) Regulations 2019 (S.I. Number 630 of 2019), all retail stores which store flammable liquids and fuels for sale or supply to the public to be used in the propulsion of a vehicle must have a licence to operate granted by the appropriate licensing authority. "Licensing Authority" means a local authority for the purposes of the Local Government Act 2001 (as amended) or a harbour authority within the meaning of section 2(2) of the Dangerous Substances Act 1972 (as amended).**

Supporting evidence should include the following:

- Licence to store flammable liquids and fuels for sale or supply to the public to be used in the propulsion of a vehicle at a retail store issued by the local authority under Dangerous Substances (Flammable Liquids and Fuels Retail Stores) Regulations, 2019 (S.I. No 630/2019).

- 4 Under Part 6 of the Mineral Oil Tax Regulations 2012, any person selling or delivering mineral oil is required to give to the purchaser or person taking

delivery of such oil a document, known as a "delivery document". Officers should request to see to see all recent delivery documents. The delivery document must include all the details as set out in Regulation 23(4) e.g. Name, address & VAT no. of supplier, name & address of customer, details of the delivery address, vehicle registration no., quantity and type of product etc.

5 Under Part 5 of the Mineral Oil Tax Regulations, 2012, records must be maintained at the premises and must be available for examination by Revenue at all reasonable times. Agents are only allowed to take photocopies and the originals must remain at the premises. Records must be legible and in the form of a computer printout or hard copy. The types of records required are any record relating to mineral oils which are kept for a business purpose, including:

- Invoices,
- Credit Notes and Debit Notes,
- Records Relating to Movement and Storage,
- All Delivery Documents of Mineral Oil Received,
- Records relating to purchases and sales,
- Statements of Account,
- Records of payments and receipts,
- Journals and Ledgers,
- Daily measurements or meter readings of mineral oil held in storage tanks or vessels,
- Aggregate quantities of each specified description of mineral oil supplied on each day in the course of fuelling the fuel tanks of vehicles.

6 Select at least one month in the last 6 months and ask to see all records for this month. Follow the transactions from the invoice to the purchases ledger to the monthly statement from the supplier and to the bank statement showing payment for the oil supplied.

7 Ask trader if they purchase all fuel from the same supplier and approx. how many fills do they get each week and how much is in each fill.

## Appendix XXI: Refusal Letter – ROM1 Electronic Filing

Name,  
Address 1,  
Address 2,  
Address 3.

dd mm yyyy

### ***Re: ROM1 (Return of Oil Movements) - Mandatory Electronic Filing***

Auto Fuel/Marked Fuel Traders Licence No: .....

Dear Name,

I refer to your recent application for exclusion from the provisions of Regulation 25 of S.I. No. 231 of 2012 (Mineral Oil Tax Regulations 2012) requiring a Mineral Oil Trader to make an electronic return of the ROM1 on the grounds that you do not have the capacity to do so.

A person may be excluded from the obligation to file a ROM1 return electronically once the Revenue Commissioners are satisfied that the person does not have the capacity to do so. In this context "capacity" is taken to mean sufficient access to such electronic means for the purposes of making such a return.

I am not satisfied that you have demonstrated that you qualify for exclusion under the provisions of regulation S.I. No. 231 of 2012 (Mineral Oil Tax Regulations 2012). Accordingly I am refusing your application for exclusion.

**You have a right to formally appeal this decision to refuse your exclusion request to the Tax Appeals Commissioner (TAC) for determination. Your appeal must be submitted in writing to the Revenue Commissioners within 30 days of receiving this notice.**

Yours faithfully,

Officer Name

Officer Grade



## Appendix XXII: Exclusion Approval – Electronic Filing

Name,  
Address 1,  
Address 2,  
Address 3.

dd mm yyyy

### **Re: ROM1 (Return of Oil Movements) - Mandatory Electronic Filing**

Auto Fuel/Marked Fuel Traders Licence No: .....

Dear Name,

I refer to your recent application for exclusion from the provisions of Regulation 25 of S.I. No. 231 of 2012 (Mineral Oil Tax Regulations 2012) requiring a Mineral Oil Trader to make an electronic return of the ROM1 on the grounds that you do not have the capacity to do so.

A person may be excluded from the obligation to file a ROM1 return electronically once the Revenue Commissioners are satisfied that the person does not have the capacity to do so. In this context "capacity" is taken to mean sufficient access to such electronic means for the purposes of making such a return.

I wish to inform you, that in view of the circumstances outlined in your letter, your application for exclusion has been granted. As a result, you may make the return by completing the attached ROM1 document and returning it to the undersigned before the 25<sup>th</sup> day of the month following the period for which the ROM1 refers.

You should note, however, that your exclusion from the requirement to make the ROM1 return through electronic means may be reviewed in due course. You will be notified in advance of any such review.

Yours faithfully,

Officer Name

Officer Grade

## Appendix XXIII: Excise Duty Notice of Assessment

Office of the Revenue Commissioners

Branch Address/Tel No/etc.

**Name & Address**

**Of Taxpayer**

**Tax Reference Number:**

**Date:** XX/XX/XXXX

### EXCISE DUTY

#### NOTICE OF ASSESSMENT

Take notice that I, an officer of the Revenue Commissioners, authorised by them for the purposes of section 99A of the Finance Act 2001 (as amended) have made an assessment as follows:

**Type of Excise Duty:**

**Mineral Oil Tax**

**Type of Goods (including ERN if relevant):** \_\_\_\_\_

**Quantity:** \_\_\_\_\_

**Rate of Duty:** \_\_\_\_\_

**Duty Due date:** \_\_\_\_\_

**Duty Payable:** \_\_\_\_\_

**Duty Paid:** \_\_\_\_\_

**Amount of Assessment:** \_\_\_\_\_

If you wish to appeal against the assessment to which this notice refers, you must do so within the period of 30 days after the date of this notice by completing and submitting a Notice of Appeal form to the Tax Appeals Commission (TAC). The Notice of Appeal form can be obtained from the TAC's website at [www.taxappeals.ie](http://www.taxappeals.ie) and it contains the address to which an appeal is to be sent. You must submit a copy of this Notice of Assessment with your 'Notice of Appeal'. The TAC can be contacted by email at [info@taxappeals.ie](mailto:info@taxappeals.ie).

Please note where an appeal is made under section 146 of the Finance Act 2001 (as amended), the appeal shall not be determined by the Appeal Commissioners unless the tax has been paid as provided for under section 146(3) of the Finance Act 2001 (as amended).

You may pay the duty by bank draft, postal order or other means of effective money transfer and such payment should be made payable to the Revenue Commissioners.

Interest in accordance with section 103(2)(a) of the Finance Act 2001, as amended, is due from the date the tax became payable to the date of payment.

Any enquiries regarding this notice of assessment may be made to the officer named below.

\_\_\_\_\_  
Official's Name

Revenue Branch

## Appendix XXIV: Payment of Excise Assessments (Mineral Oil) & Interest

Template for completion by Branches

<b>Name and Address of Person Paying Tax</b>		<b>Name &amp; Address of Revenue Branch</b>	
<b>Month</b>	<b>Year</b>	<b>Payer Revenue Number</b>	<b>Tax Type</b>

Details of Excise Assessment Amount broken down by category

<u>Description of Goods</u>	<u>ERN Code</u>	<u>Quantity for Tax</u>	<u>Rate of Tax</u>	<u>Tax Payable</u> *
Road Diesel				

\* Tax payable must include deduction for tax paid on MGO

<b>VAT*</b>		<b>€</b>
-------------	--	----------

<b>Rate of Interest</b>	<b>%</b>	<b>Total Interest Payable – Code 1E2</b>	<b>€</b>
-------------------------	----------	--	----------

<b>Grand Total</b>	<b>€</b>
--------------------	----------

<b>Method of payment (Tick as appropriate)</b>	
<input type="checkbox"/> <b>EFT</b>	<input type="checkbox"/> <b>Bank Draft</b>

<b>Short C.I. Number</b> (to be completed by Accounts Office)	
--	--

<b>Revenue Branch</b>
Officer Signature: _____ Date: _____
Contact Details _____

\*If appropriate



## Appendix XXV: Return of Oil Movements (ROM1) RETURN FORM\*

**THIS RETURN MUST BE LODGED WITH YOUR LOCAL REVENUE OFFICE BY THE 25<sup>TH</sup>  
OF THE FOLLOWING MONTH TO WHICH THE RETURN RELATES.**

**(To Be Completed by Business Owner or Manager)**

### ***FORECOURT RETAILER***

**AUTO FUEL LICENCE NUMBER** (If held)

**MARKED FUEL LICENCE NUMBER** (If held)

**MONTH**

**YEAR**

The ROM1 return is required under section 101B of the Finance Act 1999. This hardcopy return will be accepted from persons who have been exempted by the Revenue Commissioners under Regulation 26 from making the return by electronic means.

## PRODUCT BALANCES

Please enter stock details for each product for which you are licensed for the period of the return

Product	Opening Balance (Litres)	Closing Balance (Litres)	Aggregate Forecourt Sales (Litres)
Petrol *			
Heavy Oil for use as a propellant (DERV) *			
Substitute fuel for use as a propellant instead of petrol *			
Substitute fuel for use as a propellant instead of diesel *			
LPG for use as a propellant *			
Aviation Gasoline *			
Heavy oil used for air navigation *			
Kerosene other than used as a propellant *			
LPG Other *			
Marked Gas Oil *			
Ultra-Low Sulphur Marked Gas Oil *			

\* Denotes a required field i.e. a balance must be input for all products

**INWARD MOVEMENTS**

N.B. This page must be completed for each individual Inward Movement

**Supplier Reference (Licence Number)**

**Product**

**Quantity (Litres)**

**Date**

**Invoice/Delivery Ref. Number**

**DECLARATION**

I \_\_\_\_\_ (BLOCK LETTERS) OF

\_\_\_\_\_ (COMPANY NAME)

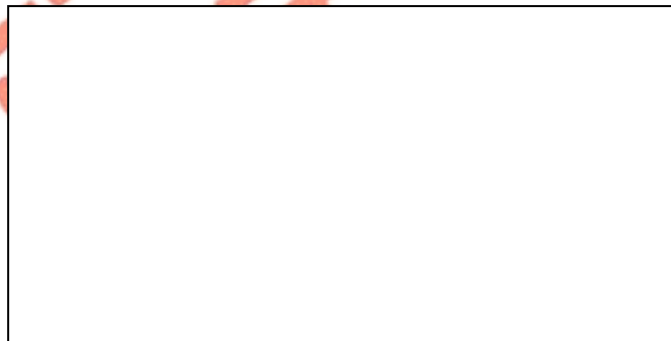
HOLDING THE POSITION OF \_\_\_\_\_

(BLOCK LETTERS) DECLARE THAT THE INFORMATION ON THIS FORM IS

TRUE AND CORRECT

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_



COMPANY STAMP



## Appendix XXVI: Letter to Traders re Reckless Trading

Mr. A Another  
Director,  
Oil Company Ltd  
Grafton Street  
Dublin

XX(Insert Date)

Licence No: (Insert Trader Licence Number)

### **Re: Reckless Supply or Delivery of Marked Fuel – Liability of Traders.**

Dear XXXXXXX,

I wish to draw your attention to a significant development relating to the supply or delivery of marked fuel by licensed mineral oil traders. It is important that you carefully note the contents of this letter.

Following the recent introduction of section 99(10A) of the Finance Act 2001 (as inserted by section 47 of the Finance (No. 2) Act 2013), any mineral oil trader who supplies or delivers ULSMGO (Ultra Low Sulphur Marked Gas Oil), MGO (Marked Gas Oil) and Marked Kerosene that is subsequently laundered, or is otherwise the subject of a Mineral Oil Tax fraud, may be liable for the Mineral Oil Tax that is evaded.

The mineral oil trader is liable where that trader knew, or was reckless as to whether or not he or she in making the supply or delivery, was participating in a transaction or series of transactions connected to the evasion of Mineral Oil Tax.

The mineral oil trader is liable in these circumstances even if he or she has not been directly involved in the evasion, and regardless of whether the evasion has been effected by the customer to whom the supply or delivery is made or at a subsequent point in the supply chain.

### **Responsibilities of Mineral Oil Traders**

Traders who supply marked fuels must apply due diligence with regard to supplies and deliveries made by them, and take all reasonable steps to establish the bona fides of all customers before a supply or delivery is made. Traders should know their customers and be satisfied that marked fuels supplied to customers are supplied for

legitimate rebated use. Adequate steps should be taken to know each customer and establish the purpose for which the marked fuel is required.

Mineral oil traders should take particular care to ensure that supplies and deliveries to other mineral oil traders are for onward supply for a genuine rebated use and are not being sourced for onward supply to fuel launderers. Traders need to take care that such supplies are consistent with the profile of the trader ordering the fuel; where such supplies are diverted subsequently by that trader or at a later stage in the supply chain, the original supplier will be liable for the Mineral Oil Tax if he or she knew or was reckless as to whether the fuel might be diverted for fraudulent purposes subsequently. **Traders should know their customers, including their trade customers.**

### **Indicators of Evasion of Excise Duty in Marked Oils (MGO, ULSMGO, and Marked Kerosene)**

The following indicators should be considered by mineral oil traders in forming a judgement on whether a supply or delivery of marked oil may be connected to the fraudulent evasion of Mineral Oil Tax. This list is not exhaustive and traders should be alert to, and avoid, any transactions that may be connected with tax fraud.

- The customer has no obvious requirement for the marked fuel concerned. Particular attention should be given to purchases of ULSMGO.
- Orders for large volumes of marked fuel by or for transport operators.
- Payment by cash, bank draft, third party cheque, cheque with payee's name omitted, or by any other means that might hinder the tracing of the payment.
- Large volumes to be delivered to a domestic address or other "non-commercial" location.
- Delivery to be made into a road tanker at a place other than the address of the customer (e.g. on the roadside or in a field).
- Supply to be made into an unmarked road tanker or a tanker with poor quality or out of date livery.
- Delivery to be made into temporary or mobile storage tanks.
- Delivery is to be made to a place that is not the premises or address of the purchasing customer.
- A mobile phone number is given as the only point of contact for the customer.
- The customer does not appear to have adequate storage facilities for the quantities of marked fuel concerned.
- Delivery is to be made to a mineral oil trader who does not hold a marked fuel trader's licence (a register of licenses is available on revenue.ie). It is important to note, however, that the holding of a marked fuel trader's licence is not, in itself, a sufficient assurance that the supply or delivery is not connected to tax fraud.

- Delivery is to be made to a non-farming business customer who is not registered for VAT.
- The customer does not appear to be particularly concerned about the price of the marked fuel or the payment terms. Here again particular attention should be given to purchases of ULSMGO where regular MGO is available at a lower price.

**The quantity of marked oil concerned is an important factor in any judgement.**

#### **Trader's Liability**

Where it is suspected that supplies or deliveries of the marked oil concerned have been made without due regard to the requirements set out in this letter, Revenue will carry out enquiries and investigations to determine the liability to Mineral Oil Tax of the mineral oil trader(s) concerned.

Where Revenue is satisfied that a person knew, or was reckless as to whether or not, in making a supply or delivery of rebated oil, he or she was participating in a transaction or series of transactions connected to the fraudulent evasion of excise duty, then that person is liable for payment of the excise duty. Revenue will raise assessments against them for that liability and pursue payment.

Yours sincerely,

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Principal Officer

## Appendix XXVII: Licence Not Granted – No Tax Clearance

Mr. A Another  
Director  
A Another Oils Ltd  
Custom House Quay  
Cork  
**Registered Post**

XX [Insert Month & Year]

### **IMPORTANT NOTICE**

**Our Ref: xxxxxxxxxx**

#### **Application for Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\***

Dear xxxxx,

I refer to your application dated **XX/XX/XXXX** for an Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\*

**I note from Revenue records that you do not hold a current Tax Clearance Certificate issued under section 1094 of the Taxes Consolidation Act 1997.**

Under section 101(8)(b) of the Finance Act 1999 (as amended), the Commissioners shall **not grant** an Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\* where the applicant does not hold a current tax clearance certificate issued under section 1094 of the Taxes Consolidation Act 1997.

**I am advising that if you trade without a valid Auto Fuel Trader's Licence/Marked Fuel Trader's Licence\*, you are liable to prosecution for an offence under section 102, Finance Act, 1999 (as amended), and the product is liable to seizure.**

**You have the right to appeal this decision to the Tax Appeals Commissioner (TAC) in accordance with section 146 of the Finance Act, 2001 (as amended). An appeal must be in writing and must set out the grounds of the appeal. Further details on the appeal process are available in Appeal Procedure Relating to - Excise Matters (Form C&E 6).**

Yours sincerely,

-----  
**A Another  
Principal Officer**

\*Please delete accordingly



The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

more recent version of this manual is available.