



STATUTORY INSTRUMENTS.

S.I. No. 231 of 2012



MINERAL OIL TAX REGULATIONS 2012

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The Revenue Commissioners, in exercise of the powers conferred on them by section 104 of the Finance Act 1999 (No. 2 of 1999), by section 153 of the Finance Act 2001 (No. 7 of 2001), and by section 917EA (inserted by section 164 of the Finance Act 2003 (No. 3 of 2003)) of the Taxes Consolidation Act 1997 (No. 39 of 1997), hereby make the following regulations:

PART 1

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the Mineral Oil Tax Regulations 2012.

Commencement

2. (1) Subject to paragraph (2), these Regulations shall come into operation on 1 July 2012.

(2) Regulations 23 to 27 shall come into operation on 1 January 2013.

Revocation

3. (1) Subject to paragraph (2), the Mineral Oil Tax Regulations 2001 (S.I. No. 442 of 2001) are revoked on 1 July 2012.

(2) Regulation 31 of the Mineral Oil Tax Regulations 2001 is revoked on 1 January 2013.

Interpretation

4. (1) In these Regulations—

“Act of 1999” means the Finance Act 1999 (No. 2 of 1999);

“Act of 2001” means the Finance Act 2001 (No. 7 of 2001);

“approved” means approved by the Commissioners;

“capacity”, in relation to any return required by these Regulations to be made by electronic means, means sufficient access to such means for the purposes of making such a return;

“Colour Index” means the Colour Index, 4th. Edition (as revised from time to time), published by the Society of Dyers and Colourists and the American Association of Textile Chemists and Colorists;

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“Iris Oifigiúil” of 3rd July, 2012.*

“dark oil” means heavy oil which is darker than ASTM Colour 3.0 in the Table of Glass Colour Standards included in “Standard Method of Test for ASTM Colour of Petroleum Products” adopted as a joint ASTM-IP standard, with ASTM designation D 1500-98 and IP designation IP 196/97, which appears in the “IP Standard Methods”, when the heavy oil and ASTM Colour 3.0 are compared in the manner described in that publication for that method of test;

“marked gas oil” means gas oil to which the markers prescribed in Regulation 29 have been added;

“marked kerosene” means kerosene to which the markers prescribed in Regulation 29 have been added;

“mineral oil tax warehouse” means a tax warehouse approved under section 109 of the Act of 2001 for the production, processing, holding or dispatch of mineral oil under a suspension arrangement;

“mineral oil trader” means any person who produces, sells or deals in, keeps for sale or delivery, or delivers, any mineral oil;

“mineral oil trader’s licence” means an auto-fuel trader’s licence or a marked fuel trader’s licence granted under section 101 of the Act of 1999;

“mineral oil trader’s premises” means any premises or other place where mineral oil is produced, sold or dealt in, or kept for sale or delivery, by a mineral oil trader;

“proper officer” in relation to any duty or function referred to in these Regulations means an officer with responsibility for that duty or function in any particular case;

“reduced rate” means an effective rate of tax lower than the appropriate standard rate, and includes the net rate applicable after full or partial relief from tax under any provision of the Act of 1999;

“specified description”, in respect of mineral oil, means a description of mineral oil in Schedule 1, or any other description of mineral oil that the Commissioners may specify in any particular case for the purposes of these Regulations;

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

“tax” means mineral oil tax;

“vessel” means any receptacle suitable for holding liquid.

(2) A word or expression that is used in these Regulations and which is also used in Chapter 1 of Part 2 of the Act of 1999 has, unless a meaning is assigned to it by paragraph (1) or the contrary intention otherwise appears, the same meaning in these Regulations as it has in that Chapter.

(3) A word or expression that is used in these Regulations and which is also used in Chapter 1 of Part 2 of the Act of 2001 has, unless a meaning is assigned to it by paragraph (1) or (2) or the contrary intention otherwise appears, the same meaning in these Regulations as it has in that Chapter.

PART 2

MINERAL OIL IN A TAX WAREHOUSE

Responsibilities of proprietors and tenants

5. (1) In this Regulation “proprietor” and “tenant” have the same meaning as they have in section 109 of the Act of 2001.

(2) Subject to paragraph (3), the provisions of this Part and of Part 3 apply to an authorised warehousekeeper who is the proprietor of the mineral oil tax warehouse concerned.

(3) A proper officer may, in any particular case, require that any provision of this Part or of Part 3 shall apply to a tenant, in respect of mineral oil produced, processed or held by a tenant in a mineral oil tax warehouse.

Applications for authorisation and approval

6. (1) Every application for authorisation of a person as an authorised warehousekeeper, and for approval of any premises or place as a mineral oil tax warehouse, under section 109 of the Act of 2001, shall—

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

(b) contain the information specified in Schedule 2 and such other information as the Commissioners may, from time to time, require.

(2) The Commissioners may, in any particular case, require the applicant to provide any additional information that they consider necessary for their consideration of the application.

(3) Where an application concerns the approval of a premises or place as a mineral oil tax warehouse, the applicant shall show to the satisfaction of the Commissioners that the premises or place concerned is suitable for the security of the mineral oil to be held in such premises or place.

Securing mineral oil and stock control

7. (1) An authorised warehousekeeper shall, in respect of mineral oil in a mineral oil tax warehouse—

(a) ensure that there is no unauthorised access to,

(b) produce promptly on request, to a proper officer, and

(c) on the last working day of each month, and at any other time that a proper officer may require, take stock of,

such mineral oil, and inform a proper officer immediately in writing of the result of that stocktaking, and of any deficiency, surplus or other discrepancy.

- (2) If it appears that an irregularity may have occurred—
- (a) in respect of mineral oil in a mineral oil tax warehouse, or
 - (b) in the course of a consignment of mineral oil to a mineral oil tax warehouse,

the authorised warehousekeeper shall—

- (i) immediately inform a proper officer, and
- (ii) retain the mineral oil for examination if so required by a proper officer.

Removal of mineral oil from a mineral oil tax warehouse

8. (1) Mineral oil may only be removed from a mineral oil tax warehouse—
- (a) on payment of the appropriate tax in accordance with an approved payment arrangement,
 - (b) under a suspension arrangement, or
 - (c) where a full relief from tax has been granted under section 100 of the Act of 1999 or section 104 of the Act of 2001, and in accordance with an approved procedure.

(2) In the case of a removal of mineral oil under paragraph (1)(c), the Commissioners may impose conditions, including the provision of security for the amount of tax relieved.

Warehouse to warehouse consignments within the State

9. (1) Where mineral oil is removed from a mineral oil tax warehouse for consignment under a suspension arrangement to another mineral oil tax warehouse in the State, the authorised warehousekeeper who consigns the mineral oil shall complete an approved delivery document in three copies (referred to in this Regulation as “copy one”, “copy two” and “copy three”).

(2) Before a consignment is dispatched, the authorised warehousekeeper shall sign the completed delivery document, retain copy one and send copies two and three with the consignment.

(3) The authorised warehousekeeper who receives the consignment shall endorse copies two and three with particulars of the mineral oil received, retain copy two and return copy three to the consigning authorised warehousekeeper.

(4) The consigning authorised warehousekeeper shall make every effort to ensure that copy three is returned as required under paragraph (3), and where it is not returned within 10 working days of the dispatch of the consignment that authorised warehousekeeper shall inform a proper officer accordingly.

Return of tax paid mineral oil to a mineral oil tax warehouse

10. Where tax has been paid on mineral oil removed from a mineral oil tax warehouse, that mineral oil may only be returned to that mineral oil tax warehouse, and only where the Commissioners are satisfied that—

- (a) the mineral oil has become contaminated, or
- (b) the mineral oil is to be exported under a customs procedure, or supplied for a use that is relieved from tax under section 100(2) of the Act of 1999, or
- (c) exceptional circumstances apply and the Commissioners consider it proper to so allow.

PART 3

MINERAL OIL WAREHOUSEKEEPERS
ACCOUNTS AND RETURNS

Home consumption account

11. An authorised warehousekeeper shall keep a monthly account of the mineral oil removed by that authorised warehousekeeper from a mineral oil tax warehouse for consumption in the State, showing, for each specified description of mineral oil, the quantities so removed, the rate of tax, and the amount of tax payable.

Home consumption returns

12. (1) An authorised warehousekeeper shall furnish to a proper officer, in such form as the Commissioners may require, a return of the tax payable on mineral oil of each specified description removed from the mineral oil tax warehouse, or otherwise released for consumption, during a month or such other period as the Commissioners may require.

(2) A return under paragraph (1) shall be furnished even where there are no removals or other releases for consumption from the mineral oil tax warehouse during the month or other period concerned.

(3) The return under paragraph (1) shall be furnished to a proper officer not later than the end of the first working day following the end of the month or other period concerned.

Stock account

13. (1) An authorised warehousekeeper shall keep, in such form as the Commissioners may require, a stock account of each specified description of mineral oil produced in, received into, held in or removed from a mineral oil tax warehouse.

(2) The stock account under paragraph (1) shall, for each specified description of mineral oil, show the dates and quantities of consignments received into, and of removals from, the mineral oil tax warehouse and, where applicable, the quantities produced on each day on which production was carried out.

(3) An entry in the stock account shall be made not later than 12 noon on the next working day following that on which the receipt, removal or production occurred.

(4) The authorised warehousekeeper shall reconcile the stock account with the results of any taking of stock under Regulation 7(1)(c).

Stock return

14. (1) An authorised warehousekeeper shall, in respect of each month or such other period as the Commissioners may require, furnish to a proper officer a stock return in such form as the Commissioners may require, showing for mineral oil of each specified description in a mineral oil tax warehouse—

- (a) the stock balance brought forward from the previous month or other period,
- (b) the quantities received or produced,
- (c) the quantities removed from the tax warehouse for home consumption or otherwise disposed of on payment of tax, and the quantities otherwise removed or disposed of, and
- (d) the closing balance.

(2) The authorised warehousekeeper shall furnish the stock return to a proper officer not later than the end of the first working day following the end of the month or other period concerned.

PART 4

ASCERTAINMENT OF VOLUME OF MINERAL OIL

Volume of mineral oil for tax purposes

15. (1) For the purposes of—

- (a) the accounts and returns under Part 3,
- (b) any other return or declaration made in connection with the payment of tax,
- (c) any other record that concerns the payment of tax,

the volume of mineral oil shall, subject to paragraphs (2) and (3), be shown as the volume in litres at 15° Celsius, determined in accordance with paragraph (2).

(2) Where the volume of mineral oil is measured at a temperature other than 15° Celsius, that measurement shall, for the purposes of paragraph (1), be adjusted by reference to the temperature and density of the mineral oil, using an internationally recognised conversion table approved by the Commissioners for that purpose.

(3) In the case of mineral oil released for consumption in the State or otherwise declared for payment of tax, a proper officer may forego the adjustment under paragraph (2) and allow the volume as measured to be taken as the volume at 15° Celsius if, in the opinion of that officer, it is reasonable to do so because of the quantity of mineral oil concerned or the particular circumstances of the case.

Provision of information, facilities and equipment

16. (1) A mineral oil trader, and any person who claims repayment of tax, shall provide to a proper officer such—

- (a) safe means of access to the mineral oil held by that mineral oil trader or other person,
- (b) written information as to the capacity of the tanks or other vessels used, or to be used, for the mineral oil concerned showing, for each such tank or other vessel, the number of litres that it is capable of containing according to the depth of the liquid it contains, and
- (c) facilities, and other assistance,

as that officer may reasonably require to examine the mineral oil, measure its volume and take samples of it.

(2) An authorised warehousekeeper shall—

- (a) provide to a proper officer such measuring instruments as that officer may require to measure the volume of mineral oil held by that authorised warehousekeeper, and
- (b) ensure that any measuring instrument used by that authorised warehousekeeper, or supplied for use under subparagraph (a), is accurate and conforms to such standards as the Commissioners may from time to time require, and is, for that purpose, tested at such time and in such manner as a proper officer may require.

PART 5

MINERAL OIL TRADERS RECORDS

General

17. The requirements of this Part are, unless otherwise stated, in addition and without prejudice to any requirement under Part 3 for records to be kept by a mineral oil trader who is an authorised warehousekeeper.

Records to be kept by mineral oil traders

18. (1) A mineral oil trader shall for mineral oil tax purposes, in addition to any other records required under section 886 of the Taxes Consolidation Act 1997 and section 84 of the Value-Added Tax Consolidation Act 2010, keep in respect of each specified description of mineral oil a record of—

- (a) the selling or dealing in, receiving, keeping for sale or delivery, or delivery,
- (b) the financing or facilitation of any transactions or activities (whether or not those transactions or activities are carried on by the mineral oil trader), and
- (c) any supplies of goods or services received, to enable the undertaking of such transactions or activities or in connection with such transactions or activities,

by that mineral oil trader.

(2) The records required under paragraph (1) shall be kept in such form as the Commissioners may require, and, subject to paragraph (3)(b), shall show for each purchase, sale, supply and delivery of mineral oil—

- (a) the nature and date of such purchase, sale, delivery or supply, and the quantity of mineral oil concerned,
- (b) for purchases and sales, the name and address of the person from whom the mineral oil was purchased or to whom it was sold,
- (c) for all supplies and deliveries made 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 to whom the mineral oil was supplied or delivered, and the address of every premises or place concerned,
- (d) 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,
- (e) a record of every payment made or received, with a clear reference to the transaction concerned.

(3) Any mineral oil trader who is not an authorised warehousekeeper shall keep a record of—

- (a) 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
- (b) the aggregate quantities of each specified description of mineral oil supplied on each day in the course of fuelling the fuel tanks of vehicles, and paragraph (2) shall not apply to such supplies.

(4) A mineral oil trader shall keep separate records for each premises or place at which mineral oil is sold, dealt in or kept for sale or delivery.

Mineral oil trader stock account and stocktaking

19. (1) (a) Any mineral oil trader other than an authorised warehousekeeper shall keep, in such form as the Commissioners may require, 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.

(b) An entry in the stock account shall 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.

(2) 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 under paragraph (1).

Mineral oil tax account

20. Every mineral oil trader, other than an authorised warehousekeeper, who is liable for payment of tax shall keep an account of—

(a) the quantity of mineral oil of each specified description,

(b) the amount of tax due, and

(c) the date and method of payment,

for each transaction giving rise to the liability concerned.

PART 6

MINERAL OIL TRADERS
OTHER REQUIREMENTS

Expiry of mineral oil trader's licence

21. A mineral oil trader's licence shall expire on 30 June next following the date on which it is granted.

Expiry of mineral oil trader approvals

22. 1 October 2012 is prescribed, under subsection (5)(b) of section 101 of the Act of 1999, as the date on which the approvals referred to in paragraph (a) of that subsection shall cease to have effect.

Delivery document and procedure

23. (1) In this Regulation "consigning mineral oil trader" means a mineral oil trader who supplies mineral oil and who consigns it for delivery from a premises or place in the State, whether that delivery is carried out by that mineral oil trader or by another person on that mineral oil trader's behalf.

(2) Subject to paragraphs (3) and (7), a consigning mineral oil trader shall, 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 in these Regulations as a “delivery document”) in three copies (referred to in this Regulation as “copy one”, “copy two” and “copy three”) and numbered in a consecutive series.

(3) Paragraph (2) does not apply to mineral oil that is—

- (a) not subject to tax under section 95 of the Act of 1999,
- (b) supplied in the course of fuelling the fuel tank of a vehicle,
- (c) delivered to another Member State in accordance with the requirements of Chapter 2A or 2B, as the case may be, of Part 2 of the Act of 2001, or exported under a customs procedure,
- (d) marked gas oil and marked kerosene to which Regulation 24(1) applies.

(4) A delivery document shall include—

- (a) the name, address, Value-Added Tax registration number and the mineral oil trader’s licence number of the consigning mineral oil trader,
- (b) the address of the premises or place from which the mineral oil is to be consigned for delivery,
- (c) 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,
- (d) the address of every premises or place to which a delivery is to be made,
- (e) the date on which the delivery is dispatched,
- (f) the quantity and specified description of mineral oil to be delivered,
- (g) the registration number of the vehicle used for the delivery,
- (h) 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.”,

and

- (i) such other particulars as may be required by any Regulation in Part 8 in relation to any specified description of mineral oil.

(5) 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.

(6) The person in charge of the delivery vehicle shall—

- (a) retain copies two and three during the course of the delivery and, except where paragraph (7)(a) applies, give copy three to the person receiving the delivery,
- (b) following the delivery, endorse copy two with details of—
 - (i) the quantity actually delivered, and
 - (ii) the date and time when that delivery was made,

and return that copy so endorsed to the consigning mineral oil trader.

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

- (a) a single delivery document may be used where several such deliveries are made in the course of a single journey by the delivery vehicle,
- (b) 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 (4) that is relevant to that person,
- (c) 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—
 - (i) the details of the delivery are not known at the time the marked gas oil or marked kerosene is removed for delivery, and
 - (ii) those details are entered on the copy of the delivery document to be returned to the consigning mineral oil trader under paragraph (6)(b).

(8) Without prejudice to any other requirement under these Regulations for the keeping of records—

- (a) any mineral oil trader who is required by paragraph (5) to retain copy one, or to whom, in accordance with paragraph (6)(b), copy two is returned, and
- (b) any person to whom, in accordance with paragraph (6)(a), copy three is given,

shall keep such copy as a record.

Direct supply of marked gas oil and marked kerosene

24. (1) Where a mineral oil trader supplies marked gas oil or marked kerosene at the premises or place of that mineral oil trader—

- (a) to another mineral oil trader for consignment by that other mineral oil trader, or
- (b) to a person other than a mineral oil trader, in a quantity not exceeding 2,000 litres and not for delivery to any other person,

the supplying mineral oil trader shall keep a record, showing all the information relevant to that supply that is required under Regulation 23(4).

(2) Where a mineral oil trader receives a supply in accordance with paragraph (1), that mineral oil trader is, for the purposes of Regulation 23, the consigning mineral oil trader in respect of the delivery of that supply.

(3) Where for any reason a mineral oil trader is unable to obtain the information required under paragraph (1), that mineral oil trader shall so inform a proper officer immediately.

Return of oil movements by mineral oil traders

25. (1) A mineral oil trader who—

- (a) is required, under section 101 of the Act of 1999, to hold an auto-fuel trader's licence or a marked fuel trader's licence, or
- (b) produces, sells or deals in, keeps for sale or delivery, or delivers liquefied petroleum gas, or heavy oil for use for air navigation,

shall furnish to a proper officer, in such form as the Commissioners may require, a return (referred to in these Regulations as a "return of oil movements") of the mineral oil of each specified description produced, sold, dealt in, kept for sale or delivery, supplied or delivered by that mineral oil trader during a month or such other period as the Commissioners may require.

(2) A mineral oil trader shall, for a return of oil movements—

- (a) complete a return form issued by the Commissioners for that purpose,
- (b) sign a declaration on that form to the effect that the particulars shown are correct, and
- (c) furnish the return by the 25th. day following the last day of the month or other period referred to in paragraph (1).

(3) A return of oil movements shall be made by electronic means and in accordance with Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 (No. 39 of 1997).

- (4) (a) A return of oil movements that is specified for the purposes of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997, by order made by the Commissioners under section 917E of that Act, is specified as a specified return for the purposes of section 917EA of that Act.
- (b) A mineral oil trader who is required, under paragraph (1), to make a return of oil movements is specified as a specified person for the purposes of section 917EA of the Taxes Consolidation Act 1997.

Exception to requirement for return of oil movements to be made by electronic means

26. (1) Without prejudice to the generality of Regulation 25(3), a specified person may, by notifying the Commissioners in writing, request to be excluded from the provisions of that paragraph on the grounds that the person does not have the capacity to make a return of oil movements by electronic means, and the notification shall include all information relevant to the consideration by the Commissioners of that request.

(2) Where the Commissioners receive a notification from a specified person in accordance with paragraph (1) or where the Commissioners otherwise consider it appropriate, they may exclude the person from the provisions of Regulation 25(3) only if they are satisfied that, in all of the circumstances, the person could not reasonably be expected to have the capacity to make a specified return by electronic means.

(3) A decision by the Commissioners, in accordance with paragraph (2), on whether to exclude a person from the provisions of Regulation 25(3) shall be made within 30 days of receipt of the notification from that person, and the Commissioners shall notify that person in writing of the decision.

Appeals (Regulation 26)

27. (1) A specified person aggrieved by a decision of the Commissioners, under Regulation 26(3), not to exclude that person from the provisions of Regulation 25(3), may, by notice in writing to the Commissioners before the end of the period of 30 days beginning with the day on which notice of the decision was given to the person, apply to have that person's request to be so excluded heard and determined by the Appeal Commissioners.

(2) The Appeal Commissioners shall hear and determine an appeal made to them under paragraph (1) as if it were an appeal against an assessment to excise duty under section 146(1) of the Act of 2001, and the provisions of that section shall apply accordingly.

(3) On the hearing of an appeal made under this Regulation, the Appeal Commissioners shall have regard only to those matters to which the Commissioners may or are required to have regard under these Regulations.

(4) If, at any time after a decision by the Commissioners in accordance with Regulation 26(2) or a determination by the Appeal Commissioners in accordance with paragraph (2) to exclude a specified person from the provisions of Regulation 25(3), the Commissioners decide that, due to a material change in

all of the circumstances, the specified person should not be so excluded, they shall notify the specified person in writing of that decision.

(5) The decision referred to in paragraph (4) shall be deemed to be a decision not to exclude the specified person from the provisions of Regulation 25(3) and paragraph (1) shall apply accordingly.

PART 7

GAS OIL AND KEROSENE

Application of a reduced rate

28. (1) The application of a reduced rate to gas oil or kerosene shall only be allowed where the Commissioners are satisfied that such gas oil or kerosene—

- (a) is intended for use other than as a propellant,
- (b) has been marked in accordance with Regulation 29,
- (c) is at all times kept for sale, sold, kept for delivery and delivered, in accordance with the requirements of these Regulations that apply to the keeping for sale, selling, keeping for delivery, supply or delivery of marked gas oil and marked kerosene,
- (d) where it has been consigned to the State from another Member State or from outside the territory of the European Union, has been declared in writing to a proper officer as being for use other than as a propellant, and marked in accordance with Regulation 29.

(2) Without prejudice to the generality of paragraph (1)(b), the Commissioners may permit the use of unmarked gas oil or kerosene at a reduced rate, by a person authorised by them in writing to receive such gas oil or kerosene for such use, subject to such conditions, including the giving of security, as the Commissioners may require in any particular case.

Prescribed markers

29. (1) Each of the following substances is prescribed as a marker:

- (a) for gas oil—
 - (i) N-Ethyl-N-[2-(1-isobutoxyethoxy)ethyl]-4-(phenylazo)aniline,
and
 - (ii) any blue anthraquinone dye,
- (b) for kerosene—
 - (i) N-Ethyl-N-[2-(1-isobutoxyethoxy)ethyl]-4-(phenylazo)aniline,
and
 - (ii) any red dye.

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

(a) of gas oil—

- (i) not less than 3 kilogrammes and not more than 4.5 kilogrammes of N-Ethyl-N-[2-(1-isobutoxyethoxy)ethyl]-4-(phenylazo)aniline, and
- (ii) not less than such quantity of a blue anthraquinone dye as gives a colour intensity, as measured in a spectrophotometer at 600-700 nanometres, corresponding to that resulting from the addition to gas oil of 3.33 milligrammes per litre of 1,4-bis(butylamino)anthracene-9,10-dione,

(b) of kerosene—

- (i) not less than 3 kilogrammes and not more than 4.5 kilogrammes of N-Ethyl-N-[2-(1-isobutoxyethoxy)ethyl]-4-(phenylazo)aniline, and
- (ii) not less than such quantity of a red dye as gives a colour intensity, as measured in a spectrophotometer at 500-540 nanometres, corresponding to that resulting from the addition to kerosene of 5 milligrammes per litre of 1-[4-(phenylazo) phenylazo]-2-(ethylamino)naphthalene.

Marking in a mineral oil tax warehouse

30. (1) Except where the Commissioners may allow in any particular case, a marker shall only be added in the State to gas oil or kerosene in a mineral oil tax warehouse, and in accordance with the conditions of authorisation of the authorised warehousekeeper concerned.

(2) An authorised warehousekeeper shall, for the purposes of paragraph (1), store all markers as required by a proper officer, and take stock of them at the end of each month or at any other time that a proper officer may require.

Restrictions relating to gas oil and kerosene

31. No person shall—

- (a) add any substance to gas oil or kerosene which impedes the identification of a marker,
- (b) add any substance, other than a prescribed marker, to any mineral oil for the purposes of identification, except where authorised in writing by the Commissioners to do so.

Fixing of permanent notice

32. A permanent, clearly legible, notice shall be securely fixed, in a prominent position, to every overground vessel in which marked gas oil or marked kerosene is stored, and on every pump or other outlet by which such marked gas oil or marked kerosene is supplied, and that notice shall state—

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

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

and

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

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

PART 8

PARTICULAR REQUIREMENTS FOR OTHER SPECIFIED
DESCRIPTIONS OF MINERAL OIL*Liquefied petroleum gas*

33. (1) For deliveries of liquefied petroleum gas on which tax at the standard rate has been paid, the delivery document under Regulation 23 shall include the following statement:

“This liquefied petroleum gas is delivered at the standard rate of tax and may be used for combustion in the engine of a motor vehicle.”.

(2) Paragraph (1) shall not apply to deliveries of quantities less than 120 litres.

(3) Where tax at the standard rate has not been paid on liquefied petroleum gas, a permanent, clearly legible, notice shall be securely fixed, in a prominent position—

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

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

and the notice shall state the following:

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

(4) A person shall not, except with the prior approval of the Commissioners and subject to such conditions as they may attach to such approval, hold, or use for any purpose—

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

Aviation gasoline

34. (1) No person shall—

- (a) use aviation gasoline as a propellant or keep it in a fuel tank of a motor vehicle, or
- (b) supply aviation gasoline for use as a propellant.

(2) For deliveries of aviation gasoline, the delivery document under Regulation 23 shall include the following statement:

“This aviation gasoline is delivered solely for use as fuel for aircraft and must not be used for any other purpose.”.

Substitute fuels

35. (1) Subject to paragraph (2), a person shall only sell or deal in, keep for sale or delivery, or deliver any substitute fuel, where that person is approved for that purpose by the Commissioners.

(2) Paragraph (1) shall not apply to—

- (a) an authorised warehousekeeper who is authorised in respect of substitute fuel,
- (b) a mineral oil trader who holds an auto fuel trader’s licence,

where such selling or dealing in, keeping for sale or delivery or delivery is in accordance with the terms and conditions of that authorisation or licence.

(3) The Commissioners may grant an approval under subsection (1) where an applicant has applied to them in writing and where they have received such information as they may reasonably require, and that approval—

- (a) shall be for such period, and subject to such conditions, as the Commissioners may impose,
- (b) where it concerns the sale or dealing in, or keeping for sale or delivery, of substitute fuel, shall be in respect of a premises or place where such activity or activities are carried out,
- (c) may be revoked where the approved person fails to comply with the conditions of approval under subparagraph (a), or any requirement of excise law for the selling or dealing in, keeping for sale or delivery, or delivery of the substitute fuel concerned.

(4) A permanent, clearly legible, notice shall be securely fixed in a prominent position to every overground vessel in which substitute fuel is stored and on every pump or other outlet by which substitute fuel is supplied, stating:

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

Dark oil

36. No person shall—

- (a) use dark oil as a propellant or keep it in the fuel tank of a motor vehicle,
- (b) supply dark oil for use as a propellant.

PART 9

MINERAL OIL TAX ON COAL

Interpretation

37. In this Part—

“accounting period” means a period of three months commencing on 1 January, April, July, and October;

“coal trader” means a person who makes final delivery of coal and who is required to register with the Commissioners for that purpose under section 100A of the Act of 1999;

“liable coal user” means any person liable to pay mineral oil tax on coal.

Registration

38. (1) Every registration by a coal trader or by a liable coal user, in accordance with section 100A of the Act of 1999, shall be in such form as the Commissioners may require, and shall include the relevant particulars specified in paragraph (1) or (2) (as the case may be) of Schedule 3.

(2) A coal trader or liable coal user shall, within 14 days of a change in the particulars referred to in paragraph (1) (other than a change to the estimated annual usage of coal), notify a proper officer in writing of the change.

Returns and Payment

39. (1) Except where paragraph (3) applies, a liable coal user shall, not later than the 19th day of the month following the end of an accounting period, furnish to the Commissioners a return, in such form as the Commissioners may require, showing—

- (a) the quantity of coal delivered to that liable coal user during that accounting period, and
- (b) a calculation of the tax payable for that accounting period.

(2) Except where paragraph (3) applies, a liable coal user shall pay the tax due for an accounting period at the time when a return is to be furnished for that accounting period under paragraph (1).

(3) The Commissioners may allow a liable coal user to furnish the return under paragraph (1) in respect of a period longer than an accounting period, but not exceeding a period of one year, and to pay the tax due in respect of such longer period within 19 days of the end of that longer period.

Records to be kept by a coal trader and liable coal user

40. (1) Every coal trader shall, in respect of coal, keep the records required to be kept under Regulation 18 by a mineral oil trader in respect of mineral oil.

(2) Every liable coal user shall keep, in respect of the deliveries of coal received by that liable coal user—

- (a) invoices, debit notes and credit notes,
- (b) statements of account,
- (c) records of payments or receipts, and
- (d) records relating to any remission, repayment or reimbursement of tax.

PART 10

MISCELLANEOUS

Keeping and furnishing of records

41. (1) In this Part, “record” means any record that is required to be kept under these Regulations.

(2) Except where the Commissioners may otherwise allow or require in any particular case, a record shall be kept for a period of not less than six years from the date of the last entry in that record.

(3) Except where the Commissioners may otherwise allow or require in any particular case, a record shall be kept—

- (a) in the case of a record to be kept by an authorised warehousekeeper who is the proprietor of a mineral oil tax warehouse, at the mineral oil tax warehouse concerned,
- (b) in the case of a record to be kept by an authorised warehousekeeper who is a tenant in a mineral oil tax warehouse, either at that mineral oil tax warehouse or at the registered place of business of that authorised warehousekeeper,
- (c) in the case of a record to be kept by any other mineral oil trader, or by a coal trader, at the premises or place where, as the case may be, mineral oil or coal is sold or dealt in, or kept for sale or delivery, by that mineral oil trader or coal trader,

- (d) in the case of a record to be kept by a liable coal user, at the place where Value-Added Tax records are required to be kept by that liable coal user.

(4) In the case of any record that is kept by a mineral oil trader or coal trader in accordance with paragraph (3), at a premises or place outside the State, that mineral oil trader or coal trader shall, where required to do so by a proper officer, produce that record for examination by a proper officer—

- (a) in the case of a record that is kept in an electronic form, immediately on notification of that requirement by a proper officer, and
- (b) in any other case, at a Revenue office or such other place as the proper officer may allow, within ten working days of a notification.

(5) Except where the Commissioners may otherwise require, a record may be kept by any electronic or other process that—

- (a) ensures the integrity of that record, and
- (b) allows that record to be produced in a legible form, or reproduced in a permanent legible form when so required by a proper officer.

Alteration to records

42. (1) A person shall not in any record—

- (a) obliterate any entry,
- (b) make any entry that is untrue in any particular, or
- (c) amend or cancel any entry, except to provide additional information or to correct an error.

(2) Any amendment or cancellation under paragraph (1)(c) shall be made in a manner that does not obscure, in whole or in part, the original entry.

Signature of returns and declarations

43. Any return or declaration required under these Regulations shall be signed—

- (a) in the case of a return or declaration made by a natural person, by that person or by a person authorised by that person in writing to sign on behalf of that natural person,
- (b) in the case of a return or declaration by a body corporate, by a director, company secretary or any person authorised in writing by one of them under the company seal to sign such returns on behalf of the body, and
- (c) in the case of a return or declaration made by an unincorporated body of persons, by one of the partners or any person authorised by one of them to sign such returns on behalf of the body.

Mixing of mineral oils

44. Without prejudice to section 108A(3)(b) of the Act of 2001, a person shall not, without the prior approval of the Commissioners, mix mineral oils of different specified descriptions, and the Commissioners may impose conditions for any such approval.

Continuity

45. (1) The continuity of the operation of the law relating to mineral oil tax shall not be affected by the substitution of these Regulations for the Regulations revoked by Regulation 3.

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

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

SCHEDULE 1

Specified descriptions of mineral oil

Light Oil:

1. Petrol.
2. Aviation gasoline.
3. Other light oil.

Heavy Oil:

1. Marked gas oil.
2. Other gas oil.
3. Marked kerosene.
4. Other kerosene.
5. Fuel oil.
6. Heavy oil not specified under 1 to 5 above.

Liquefied Petroleum Gas:

1. For use as a propellant.
2. For other uses.

Substitute Fuels:

1. For use as a propellant for a motor vehicle for which petrol can also be used.
2. For use as a propellant otherwise than for a motor vehicle for which petrol can also be used.
3. For use other than as a propellant.

(Regulation 6)

SCHEDULE 2

Particulars to be included in an application for Authorisation of an Authorised Warehousekeeper and Approval of a Mineral Oil Tax Warehouse

1. The name, address, Value-Added Tax registration number and status (for example, sole proprietor, limited company) of the applicant.
2. The address of the premises for which approval is sought.
3. A plan showing a general outline of the premises which clearly delineates the area for which approval is sought.
4. A detailed plan of the premises showing the location of all the storage tanks, pipelines, gantries, etc.
5. The date from which the authorisation is to take effect.
6. A description, and the projected average stockholding, of each mineral oil product to be produced, processed or held in the mineral oil tax warehouse.
7. The nature and extent of any production, processing or other operations intended to be carried out in the mineral oil tax warehouse.

SCHEDULE 3

Registration of coal traders and liable coal users

(1) Particulars to be submitted to the Commissioners by a coal trader:

- (a) The coal trader's full name.
- (b) The coal trader's full address.
- (c) The coal trader's Tax Registration Number.

(2) Particulars to be submitted to the Commissioners by a liable coal user:

- (a) The liable coal user's full name.
- (b) The liable coal user's full address.
- (c) The liable coal user's Tax Registration Number (where the liable coal user is not otherwise registered for tax purposes, this should be indicated).
- (d) Estimated annual usage of coal in tonnes.

L.S.

GIVEN under my hand,
28 June 2012.

NIALL CODY,
Revenue Commissioner.

EXPLANATORY NOTE

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

Chapter 1 of Part 2 of the Finance Act 1999 provides for a duty of excise known as Mineral Oil Tax. These Regulations replace the Mineral Oil Tax Regulations 2001 (S.I. No. 442 of 2001) as the consolidated regulations, made by the Revenue Commissioners under section 104 of that Act, that provide for managing, securing and collecting that tax, and for the protection of the revenue derived from it.

The Regulations detail the requirements for, and responsibilities of, authorised warehousekeepers, other mineral oil traders, and coal traders. These include provision for the security of stocks and supplies, and accounting for them. A new requirement for making periodic electronic returns of oil movements to the Revenue Commissioners is introduced. Specific provisions are made for different types of mineral oil, including requirements the marking of gas oil and kerosene that is subject to a lower rate of Mineral Oil Tax.

BAILE ÁTHA CLIATH
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OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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