

EXPLANATORY MEMORANDUM TO
THE EXCISE DUTIES (ROAD FUEL GAS) (RELIEFS) (REVOCATION)
REGULATIONS 2008

2008 No. 3019

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

This instrument, which comes into force on 1st December 2008, provides that the Excise Duties (Road Fuel Gas) (Reliefs) Regulations 2008 (S.I.2008/2167) (“the principal Regulations”) shall cease to have effect in relation to products that are charged with duty under the Hydrocarbon Oil Duties Act 1979 (“the Oil Act”) on or after the date on which these Regulations come into force. The principal Regulations provide for partial relief from the payment of excise duty on road fuel gas.

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

It has been necessary to breach the 21 day rule in relation to this instrument. This is because it was not possible to lay the instrument until the Chancellor had announced in the Pre-Budget Report on 24th November 2008 that the effective rate of duty announced at Budget 2008 would be re-instated from 1 December 2008.

4. **Legislative Context**

4.1 Section 8 of the Oil Act¹ provides that a duty of excise shall be charged on road fuel gas, defined in section 5 of the Oil Act as any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars for use as fuel in road vehicles. Although a wide variety of gases could theoretically be caught by the definition in section 5 of the Oil Act only liquefied petroleum gas (LPG) and natural gas (NG) are currently regularly used as fuel in road vehicles in the UK.

4.2 Section 6 of the Finance Act 2004 amended sections 5 and 8 of the Oil Act to provide for separate rates of duty for LPG and NG. It did this by introducing a new definition of, and rate of duty for, natural road fuel gas. Natural road fuel gas is road fuel gas with a methane content of not less than 80%. The amendments made by section 6 of the Finance Act 2004 came into force on 1st September 2004 at the same time as changes to other fuel duties.

¹ Relevant amendments were made to section 8(3) by section 6(2) of the Finance Act 1995 (c. 4), section 1(3) of the Finance Act 2001 (c. 9), section 6(2) of the Finance Act 2004 (c. 12), sections 4(6) and 5(5) of the Finance Act 2005 (c. 7), section 6(5) and 7(5) of the Finance Act 2006 (c.25), section 10(5) of the Finance Act 2007 (c.11) and section 15 (5) of the Finance Act 2008 (c.9).

4.3 Budget 2008 announced that the planned fuel duty increase of 2 pence per litre in April 2008 was postponed to 1st October 2008, to support the economy and to help business and families.

4.4 The position as announced for road fuel gases was as follows: the duty rate for natural gas would rise to maintain the differential with main road fuel duty rates, and the duty rate for other road fuel gas, including LPG, would rise to narrow the differential with the main road fuel duty rates by the equivalent of 1ppl. These changes would also occur from 1st October.

4.5 To give effect to this decision, Section 15 of the Finance Act 2008 amended the Oil Act to provide for those rates of excise duty on road fuel gas to be increased with effect from 1st October. The increase in the rate for NG reflected the 2 pence per litre increase for liquid road fuels. The increase in the rate for other road fuel gas including LPG included an additional amount (the equivalent of 1 penny per litre) to narrow the excise duty differential between the main road fuels and LPG. This differential reduction was not made to NG because the Government considered that it offered greater environmental benefits relative to LPG. These changes were to take effect from 1st October 2008. For NG the increase was 2.9 pence per kilogram, and for other road fuel gas, including LPG, it was 4.28 pence per kilogram.

4.6 On 16th July, the Chancellor of the Exchequer informed Parliament, in answer to a parliamentary question, of his decision not to proceed with the planned 1 October increases in fuel duties, in the light of the global credit crunch and sharp rises in world oil prices which had pushed up prices at the pump. The principal Regulations gave effect to this decision.

4.7 Following a review of the position in the Pre-Budget Report, this instrument, by revoking the principal Regulations, gives effect to the Ministerial decision to implement the increase in effective rates as announced at Budget 2008, but with effect from 1st December 2008.

4.8 This instrument applies only to road fuel gas. The changes to fuel duty rates in respect of liquid fuels made by section 15 of the 2008 Act are, in effect, reinstated by a separate Order, the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) (Revocation) Order 2008 (S.I. 2008/3018). A separate explanatory memorandum has been prepared for that Order, which has been laid before the House of Commons today.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The rates of fuel duty, including those for road fuel gases, were increased by the Finance Act 2008 as a result of the Chancellor of the Exchequer's Budget 2008. Changes to the duty rates were to take effect on 1st October 2008.

7.2 The decision not to proceed with the 1st October increase in fuel duty was taken by the Chancellor in the light of the sharp rises in world oil prices which had pushed up prices at the pump. The Chancellor of the Exchequer informed Parliament on 16th July, in answer to a parliamentary question, of his decision.

7.2 The Chancellor has now decided that, as oil prices have fallen substantially since the decision to freeze rates in July, an increase in effective rates should be implemented from 1st December 2008, including those for road fuel gases.

- ***Consolidation***

7.2 There are no consolidation issues as this instrument revokes the principal regulations.

8. Consultation outcome

There has not been any consultation as the change reflects a PBR decision on rates.

9. Guidance

A PBR note has been published and is available on www.hmrc.gov.uk

10. Impact

10.1 An Impact Assessment has not been produced for this instrument as it has a negligible impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is negligible.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is not to introduce any new regulatory requirements as part of this change in duty liability.

11.3 The basis for the final decision on what action to take to assist small business was the Government's policy not to introduce new regulatory requirements unless absolutely necessary.

12. Monitoring & review

Duty rates are monitored and reviewed as part of every PBR/Budget process.

13. Contact

Tim Smith at the Transport Tax Team Tel: 020 7147 0573 or email:
timothy.smith@hmrc.gsi.gov.uk can answer any queries regarding the instrument.