



HYDROCARBON OIL (MARKING) REGULATIONS 2002

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Statutory Document No. 2002/0485

*Hydrocarbon Oil (Marking) Regulations 2002*

HYDROCARBON OIL (MARKING) REGULATIONS 2002¹

Laid before Tynwald: 15 October 2002
Coming into Operation: 1 September 2002

In exercise of the powers conferred on the Treasury by sections 27(1) and 27A(3) of, and Schedule 3 to, the Hydrocarbon Oil Duties Act 1986¹, and of all other powers enabling it in that behalf, the following Regulations are hereby made:-.

PART I

PRELIMINARY

1 Citation and commencement

These Regulations may be cited as the Hydrocarbon Oil (Marking) Regulations 2002 and come into operation on 1st September 2002.

2 Interpretation

(1) In these Regulations —

“**the Act**” means the Hydrocarbon Oil Duties Act 1986;

“**ASTM**” means American Society for Testing and Materials;

“**biodiesel excise duty point**” means the excise duty point which applies for biodiesel by virtue of regulation 17 (excise duty points) of the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004²;

“**Colour Index**” [Revoked]³

“**the common fiscal marker**” [Revoked]⁴

“**the common United Kingdom fiscal marker**” means ((3-(sec-butyl)-4-(decyloxy)phenyl)methanetriyl)tribenzene;⁵

¹ 1986 c.38

² S.D. 651/04; amended by S.D. 540/07

“**coumarin**” means 1,2-benzopyrone;⁶

“**dark oil**” means heavy oil that 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 “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;

“**duty**” means the excise duty charged on hydrocarbon oil by section 6(1) of the Act or, as the case may be, on bioblend under section 6AB of the Act;⁷

“**the general marker**” means N-Ethyl-N-[2-(1-isobutoxyethoxy)ethyl]-4-(phenylazo)aniline;⁸

“**heavy oil vehicle**” [Revoked]⁹

“**IP**” means Institute of Petroleum;

“**IP Standard Methods**” means “IP Standard Methods for Analysis and Testing of Petroleum and Related Products and British Standard 2000 Parts 2002”, 61st edition, May 2002, published by the Institute of Petroleum, ISBN 0 85293 348 7;

“**kerosene**” means heavy oil of which more than 50% by volume distils at a temperature not exceeding 240°C;

“**marker**” means, except where the context requires otherwise, a marker or colouring substance prescribed by these Regulations and includes, in regulation 10, a composite solution of the type referred to in regulation 9;

“**oil**” means hydrocarbon oil;

“**quinizarin**” means 1,4-dihydroxyanthraquinone;

“**solvent orange**” means 1-[(2-methylphenyl)azo]-2-naphthol;¹⁰

“**solvent red**” means a dye that consists of at least 50% 1-(2-methyl-4-(2-methylphenylazo)phenylazo)-2-naphthol, with any remainder consisting of one or more of –

- (a) 1-(4-(phenylazo)phenylazo)-2-naphthol;
- (b) 1-[[3-methyl-4-[(3-methylphenyl)azo]phenyl]azo]-2-naphthol;
- (c) 1-[[2,5-dimethyl-4-[(2-methylphenyl)azo]phenyl]azo]-2-naphthol;
- (d) 1-[[4-[(dimethylphenyl)azo]dimethylphenyl]azo]-2-naphthol.¹¹

(2) Any reference in these Regulations to marked oil or bioblend means oil or bioblend to which a marker has been added and related expressions must be construed accordingly.¹²

PART II

REQUIREMENT TO MARK

3 Prescribed markers and colouring substance

- (1) The following markers and colouring substance are prescribed by these Regulations —
 - (a) for gas oil, biodiesel and light oil, the markers described in paragraph (2)(a), (b), (d) and (e) and the colouring substance described in paragraph (3);¹³
 - (b) for kerosene, the markers described in paragraph (2)(a), (c), (d) and (e);¹⁴
 - (c) for bioblend that is a mixture of biodiesel and gas oil, the markers described in paragraph (2)(a), (b), (d) and (e) and the colouring substance described in paragraph (3);¹⁵
 - (d) for bioblend that is a mixture of biodiesel and kerosene, the markers described in paragraph (2)(a), (c), (d) and (e).¹⁶
- (2) The markers are —
 - (a) the general marker added in the proportion of not less than 3 kilograms per 1,000,000 litres of oil;¹⁷
 - (b) quinizarin added in the proportion of not less than 1.75 kilograms per 1,000,000 litres of oil;
 - (c) coumarin added in the proportion of not less than 2 kilograms per 1,000,000 litres of oil;
 - (d) the common United Kingdom fiscal marker added in the proportion of not less than 2.5 kilograms per 1,000,000 litres of oil;¹⁸
 - (e) n-butyl phenyl ether added in the proportion of not less than 9.5 kilograms and not more than 14.25 kilograms per 1,000,000 litres of oil.¹⁹
- (3) The colouring substance is not less than 4 kilograms of solvent red per 1,000,000 litres of oil and not less than 0.4 kilograms of solvent orange per 1,000,000 litres of oil.²⁰
- (4) For the purposes of paragraph (1)(c), the proportions described in regulation 3(2)(a), (b) and (d) and (3) apply as if the bioblend consisted entirely of gas oil.²¹
- (5) For the purposes of paragraph (1)(d), the proportions described in regulation 3(2)(a), (c) and (d) apply as if the bioblend consisted entirely of kerosene.²²

4 Marking required for rebate

Subject to Part III (exceptions to marking requirements), no rebate of duty shall be allowed —

- (a) on the delivery for home use of —
 - (i) gas oil under section 11(1)(b) of the Act;
 - (ii) kerosene under section 11(1)(c) or 13AA(1) of the Act; or
 - (iii) light oil under section 14(1) of the Act; or
- (b) for biodiesel under section 14A of the Act, at the biodiesel excise duty point,

unless there is added to the oil or biodiesel, in accordance with these Regulations, the markers and, except in the case of kerosene, the colouring substance, prescribed by regulation 3.²³

4A

Subject to Part III (exceptions to marking requirements), no rebate of duty shall be allowed on bioblend under section 14B³ of the Act unless there is added to the bioblend the markers and, in the case of bioblend that is a mixture of biodiesel and gas oil, the colouring substance prescribed by regulation 3.²⁴

5 Marking required for delivery of oil without payment of duty

Subject to Part III (Exceptions to marking requirements), the Treasury may not permit any gas oil or kerosene to be delivered for home use without payment of duty on that oil under section 9 of the Act, unless there is added to the oil, in accordance with these Regulations, the markers and, in the case of gas oil, the colouring substance, prescribed by regulation 3.

PART III

EXCEPTIONS TO MARKING REQUIREMENTS

6 Treasury's power to waive marking

The Treasury may waive the requirements of regulations 4 and 4A (marking required for rebate) and regulation 5 (marking required for delivery of oil without payment of duty) only when it is satisfied that it is necessary for technical reasons or for reasons of public health or safety.²⁵

³ Section 14B was inserted into the Hydrocarbon Oil Duties Act 1986 by SD 201/08

PART IV

TIME AND MANNER OF MARKING

7 Application

This Part applies for the purpose of determining the time and manner in which any oil, biodiesel or bioblend required to be marked by these Regulations is to be marked.²⁶

8 Time of marking

Except as otherwise provided in regulations made by Treasury —

- (a) oil and bioblend must be marked before delivery for home use of that oil and bioblend; and
- (b) biodiesel must be marked before the biodiesel excise duty point arises.²⁷

9 Use of composite solution

Any oil, biodiesel or bioblend may be marked by the addition to it of a solution containing the markers.²⁸

9A Production of composite solution

- (1) (1) A solution containing the markers intended for use in marking oil, biodiesel or bioblend in accordance with these Regulations may be produced by the addition of markers to a base of oil, biodiesel or bioblend in a proportion greater than that specified in regulation 3(2) and (3).
- (2) (2) The markers may be added to the base of oil, biodiesel or bioblend at a time later than that specified in regulation 8(a), in the case of oil and bioblend, and later than that specified in regulation 8(b), in the case of biodiesel.²⁹

9B Requirement for even mixing

When oil, biodiesel or bioblend is marked, whether by the addition to it of a solution containing the markers or otherwise, the markers must be so mixed into the oil, biodiesel or bioblend that the markers are evenly distributed throughout the oil, biodiesel or bioblend.³⁰

PART V

STORAGE, LABELLING ETC

10 Storage of markers

- (1) The occupier of any premises where marking occurs must keep any marker —
 - (a) separately from all other substances; and
 - (b) except when removed for immediate use, in containers bearing a description of their contents.
- (2) At the end of each month, the occupier of any premises where marking occurs must —
 - (a) take stock of the markers that he stores for use or that are in use at those premises;
 - (b) make a written record of that stocktake;
 - (c) preserve that written record for not less than 6 years.

11 Storage of marked oil

Marked oil, biodiesel or bioblend must be stored separately from unmarked oil or bioblend.³¹

12 Labelling of delivery points for marked oil

Any drum, storage tank or other container or any delivery pump or pipe must bear an indelible notice to the effect that —

- (a) where it contains, or is an outlet for, any gas oil, biodiesel or kerosene marked under regulation 4 (marking required for rebate), such oil is not to be used as fuel other than for an excepted machine;³²
- (aa) where it contains, or is an outlet for, any bioblend marked under regulation 4A (marking required for rebate on bioblend), such bioblend is not to be used as fuel other than for an excepted machine;³³
- (b) where it contains, or is an outlet for, any light oil marked under regulation 4 (marking required for rebate), such oil is to be used only as furnace fuel;
- (c) where it contains, or is an outlet for, any oil marked under regulation 5 (marking required for delivery without payment of duty), such oil is not to be used as fuel for any engine, motor or other machinery or as heating fuel.

13 Particulars to be recorded on delivery notes

- (1) Any person who supplies —
 - (a) gas oil or biodiesel marked under regulation 4 (marking required for rebate);³⁴
 - (b) a quantity exceeding two hundred and fifty litres of kerosene, marked under regulation 4 (marking required for rebate);³⁵or
 - (c) bioblend marked under regulation 4A;³⁶

must provide to the recipient a delivery note bearing a statement to the effect that such oil or, as the case may be, biodiesel or bioblend is not to be used as fuel other than for an excepted machine.³⁷

- (2) Any person who supplies light oil marked under regulation 4 (marking required for rebate) must provide to the recipient a delivery note bearing a statement to the effect that such oil is only to be used as furnace fuel.
- (3) Any person who supplies oil marked under regulation 5 (marking required for delivery for home use without payment of duty) must supply to the recipient a delivery note bearing a statement to the effect that such oil is not to be used as fuel for any engine, motor or other machinery or as heating fuel.

PART VI**PROHIBITIONS****14 Prohibitions relating to prescribed markers**

- (1) No oil, biodiesel or bioblend may be marked except in the circumstances prescribed by these Regulations.³⁸
- (2) No marker may be removed from any oil, biodiesel or bioblend.³⁹
- (3) No substance calculated to impede the identification of any marker may be added to any oil, biodiesel or bioblend.⁴⁰

15 Prohibitions relating to other markers

- (1) No person may add any chemical identifier or dye other than a marker to any gas oil or kerosene, biodiesel or bioblend required by these Regulations to be marked (other than gas oil or kerosene, biodiesel or bioblend to which regulation 6 applies).⁴¹
- (2) Where any person contravenes this regulation, his contravention shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), as it has effect in the Island⁴, and any oil or, as the case may be, biodiesel

⁴ 1994 c.9 of Parliament, as applied in the Island by G.C. 38/79.

or bioblend to which such a chemical identifier or dye has been added shall be liable to forfeiture.⁴²

16 Prohibition on importation of certain oil

No oil, biodiesel or bioblend of a description required by these Regulations to be marked may be imported where there has been added any substance calculated to impede the identification of any marker.⁴³

17 Prohibition on the sale of dark oil

No dark oil may be sold as fuel other than for an excepted machine.⁴⁴

PART VII

AMENDMENTS AND OMISSIONS

18 The Hydrocarbon Oil Regulations 2000

- (1) The Hydrocarbon Oil Regulations 2000⁵ are amended as follows.
- (2) In regulation 2, omit the definition of “dark oil”.
- (3) For paragraph (1)(f) and paragraph (2)(b) of regulation 12 (delivery notes), substitute “if the oil is required by the Hydrocarbon Oil (Marking) Regulations 2002 to be marked, the statements required by regulation 13 of those Regulations”.
- (4) Omit regulations 14 to 25.

19 The Hydrocarbon Oil (Designated Markers) Regulations 1996

- (1) Regulation 2 (designation of markers) of the Hydrocarbon Oil (Designated Markers) Regulations 1996⁶ is amended as follows.
- (2) In regulation 2(2) —
 - (a) for the second designated marker, substitute —
“N-Ethyl-N-[2-(1-isobutoxyethoxy)ethyl]-4-(phenylazo)aniline”;
and
 - (b) omit the third designated marker.

MADE 31 JULY 2002

⁵ S.D. No. 626/00.

⁶ S.D. No. 382/96.

ENDNOTES

Table of Endnote References

- ¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.
- ² Definition of “biodiesel excise duty point” inserted by SD2022/0145.
- ³ Definition of “Colour Index” revoked by SD2024/0017.
- ⁴ Definition of “the common fiscal marker” revoked by SD2024/0017.
- ⁵ Definition of “the common United Kingdom fiscal marker” inserted by SD2015/0040.
- ⁶ Definition of “coumarin” substituted by SD2024/0017.
- ⁷ Definition of “duty” amended by SD232/08.
- ⁸ Definition of “the general marker” inserted by SD2024/0017.
- ⁹ Definition of “heavy oil vehicle” revoked by SD2022/0145.
- ¹⁰ Definition of “solvent orange” inserted by SD2024/0017.
- ¹¹ Definition of “solvent red” substituted by SD2024/0017.
- ¹² Para (2) amended by SD232/08.
- ¹³ Subpara (a) amended by SD2015/0040, by SD2022/01454 and by SD2024/0017.
- ¹⁴ Subpara (b) amended by SD2015/0040 and by SD2024/0017.
- ¹⁵ Subpara (c) inserted by SD232/08 and amended by SD2015/0040 and by SD2024/0017.
- ¹⁶ Subpara (d) inserted by SD232/08 and amended by SD2015/0040 and by SD2024/0017.
- ¹⁷ Subpara (a) substituted by SD2024/0017.
- ¹⁸ Subpara (d) amended by SD2015/0040.
- ¹⁹ Subpara (e) inserted by SD2024/0017.
- ²⁰ Para (3) substituted by SD2024/0017.
- ²¹ Para (4) inserted by SD232/08 and amended by SD2015/0040.
- ²² Para (5) inserted by SD232/08 and amended by SD2015/0040.
- ²³ Reg 4 substituted by SD2022/0145.
- ²⁴ Reg 4A inserted by SD232/08.
- ²⁵ Reg 6 amended by SD232/08.
- ²⁶ Reg 7 amended by SD232/08 and by SD2022/0145.
- ²⁷ Reg 8 substituted by SD2022/0145.
- ²⁸ Reg 9 amended by SD232/08 and by SD2022/0145.
- ²⁹ Reg 9A inserted by SD2024/0017.
- ³⁰ Reg 9B inserted by SD2024/0017.
- ³¹ Reg 11 amended by SD232/08 and by SD2022/0145.
- ³² Subpara (a) amended by SD2022/0145.
- ³³ Subpara (aa) inserted by SD232/08 and amended by SD2022/0145.
- ³⁴ Subpara (a) amended by SD2022/0145.
- ³⁵ Subpara (b) amended by SD446/07.

³⁶ Subpara (c) inserted by SD232/08.

³⁷ Para (1) amended by SD232/08 and by SD2022/0145.

³⁸ Para (1) amended by SD232/08 and by SD2022/0145.

³⁹ Para (2) amended by SD232/08 and by SD2022/0145.

⁴⁰ Para (3) amended by SD232/08 and by SD2022/0145.

⁴¹ Para (1) amended by SD232/08 and by SD2022/0145.

⁴² Para (2) amended by SD232/08 and by SD2022/0145.

⁴³ Reg 16 amended by SD232/08 and by SD2022/0145.

⁴⁴ Reg 17 amended by SD2022/0145.