

GUERNSEY STATUTORY INSTRUMENT

ENTITLED

The Customs and Excise (Dyed Fuel) (Relief and Drawback) (Guernsey and Alderney) Order, 2007 *

[CONSOLIDATED TEXT]

NOTE

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* G.S.I. No. 39 of 2007; as amended by the: Customs and Excise (Dyed Fuel) (Relief and Drawback) (Guernsey and Alderney) (Amendment) Order, 2008 (G.S.I. No. 30 of 2008); Customs and Excise (Dyed Fuel) (Relief and Drawback) (Guernsey and Alderney) (Amendment) Order, 2024 (G.S.I. No. 64 of 2024).

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ENTITLED

The Customs and Excise (Dyed Fuel) (Relief and Drawback) (Guernsey and Alderney) Order, 2007

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(Made on 2nd November, 2007.)

**The Customs and Excise (Dyed Fuel) (Relief and Drawback)
(Guernsey and Alderney) Order, 2007**

THE HOME DEPARTMENT, in exercise of the powers conferred on it by sections 23G and 79 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, as amended^a and all other powers enabling it in that behalf, hereby orders: –

PART I

RELIEF FROM EXCISE DUTY AND DRAWBACK OF DUTY

Relief from excise duty.

1. (1) Gas oil that is –
 - (a) not used for the propulsion of a vehicle on a public road, or
 - (b) used for the propulsion of a vehicle on a public road of a category specified in Schedule 1 to this Order in the conditions specified in that Schedule,

is relieved from excise duty provided that it has been dyed in accordance with the conditions specified in Part II of this Order and supplied by an approved trader.

^a Ordres en Conseil Vol. XXIII, p. 573; Vol. XXIV, p. 87; No. XIII of 1991; No. X of 2004 (which inserted the Fourth Schedule); Ordinance No. XXXII of 2004 and the Excise Duties (Budget) Ordinance, 2006 (No. LIV of 2006). Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII).

Drawback of excise duty for marine petrol.

2. (1) Petrol that is used for the purpose of marine navigation may be subject to drawback of excise duty provided it is dyed in accordance with the conditions specified in Part II of this Order and supplied by an approved trader.

(2) The amount of any drawback shall be specified by the Chief Officer of Customs and Excise.

Claims.

3. (1) A person claiming relief from, or drawback of, excise duty under this Order shall answer such questions or furnish such books of accounts, documents or other information as the Chief Officer of Customs and Excise may require to satisfy himself or herself as to the claimant's eligibility to such relief or drawback and the amount of such claim.

(2) A claim for relief or drawback under this Order shall be in such form and manner as the Chief Officer of Customs and Excise may direct.

(3) The Chief Officer of Customs and Excise may give further directions for the administration of any relief or drawback allowed under this Order and may impose such conditions as he thinks fit.

PART II

DYEING, COLOURING AND MARKING REQUIREMENTS

Dyeing of heavy oil and petrol.

4. (1) Relief of excise duty is permitted in respect of gas oil in accordance with Article 1 where the marker and colouring substance specified in the following subparagraphs have been added –

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- (a) the marker is quinizarin, which has been added in the proportion of not less than 1.75 kilograms per million litres of oil, and
 - (b) the colouring substance is solvent red added in the proportion of not less than 4 kilograms per million litres of oil.
- (2) Drawback of excise duty is permitted in respect of petrol used for the purpose of marine navigation where –
- (a) Detecta Green 1001 colourant or equivalent product approved in writing by the Chief Officer of Customs and Excise, has been added in the proportion of not less than 1 litre per 10,000 litres, or
 - (b) Dyeguard Blue 79K colourant or equivalent product approved in writing by the Chief Officer of Customs and Excise, has been added in the proportion of not less than 1 litre per 10,000 litres,
- (3) Heavy oil must be dyed in accordance with the following provision –
- (a) where, in the case of kerosene, the marker coumarin has been added in the proportion of not less than 2 kilograms per million litres of oil.
- (4) The Chief Officer of Customs and Excise may add, vary or revoke any of the requirements of paragraphs 1, 2 or 3, as he sees fit.

(5) The Chief Officer of Customs and Excise may waive any of the requirements of paragraphs 1, 2 or 3 if he considers it necessary or expedient to do so and subject to any conditions that he may see fit to impose.

PART III
PROHIBITIONS

Prohibition on adding or removing markers or colouring substances, or adding substances to impede their identification.

5. (1) No person shall –
- (a) add any marker or colouring substance to any oil –
 - (i) other than in accordance with the provisions of this Order, or
 - (ii) except with the written authority of the Chief Officer of Customs and Excise,
 - (b) remove any marker or colouring substance from any oil, or
 - (c) add to any oil any substance calculated to impede the identification of any marker or colouring substance.

(2) No person shall import, produce or manufacture any oil described in Article 4 containing any substance calculated to impede the identification of any marker or colouring substance.

Prohibition on using or supplying dyed [gas] oil for purposes not qualifying for relief.

6. (1) No person shall –

- (a) put any [gas] oil containing any marker or colouring substance to a use not qualifying for relief under Article 1; or
- (b) put any [gas] oil into a vehicle, appliance or storage tank in order to put it to such use.

(2) Notwithstanding the provisions of subparagraph (1), the Chief Officer of Customs and Excise may authorise a person in writing to put any [gas oil to a use, or into a vehicle,] in the circumstances described in paragraph (1) where [the Chief Officer of Customs and Excise] considers it necessary or expedient to do so[, and where the Chief Officer of Customs and Excise so requires, after payment of an amount equal to the duty chargeable].

(3) No person shall supply any [gas] oil containing any marker or colouring substance where he knows or suspects that it will be put to a use not qualifying for relief under Article 1.

NOTE

In article 6, the word in square brackets in, first, the heading thereto and, second, paragraphs 1(a) and (b) was inserted, the words in square brackets in, third, the first and, fourth, the second pairs of square brackets in paragraph (2) were substituted, fifth, the words in square brackets in the third pair of square brackets therein were inserted and, sixth, the word in square brackets in paragraph (3) was inserted by the Customs and Excise (Dyed Fuel) (Relief and Drawback) (Guernsey and Alderney) (Amendment) Order, 2024, article 2, respectively paragraph (a), paragraph (b), paragraph (c)(i), paragraph (c)(ii), paragraph (c)(iii) and paragraph (4), with effect from 7th August, 2024.

[Prohibition on using or supplying dyed petrol for purposes not qualifying for drawback.]

- 6A. (1) No person shall –
- (a) put any petrol containing any marker or colouring substance to a use not qualifying for drawback of excise duty under article 2, or
 - (b) put any petrol into a vehicle, appliance or storage tank in order to put it to such use.

(2) Notwithstanding the provisions of subparagraph (1), the Chief Officer of Customs and Excise may authorise a person in writing to put any petrol to a use, or into a vehicle, in the circumstances described in paragraph (1) where the Chief Officer of Customs and Excise considers it necessary or expedient to do so, and where the Chief Officer of Customs and Excise so requires, after payment of an amount equal to any drawback that has been granted in respect of the petrol.

(3) No person shall supply any petrol containing any marker or colouring substance where he knows or suspects that it will be put to a use not qualifying for relief under article 2.]

NOTE

Article 6A was inserted by the Customs and Excise (Dyed Fuel) (Relief and Drawback) (Guernsey and Alderney) (Amendment) Order, 2024, article 3, with effect from 7th August, 2024.

Prohibition on mixing duty free and duty paid hydrocarbon oils without authorisation.

7. No person shall mix any oil on which relief from excise duty has been allowed with any oil on which duty has been paid, except under and in accordance

with the terms of a permit granted by the Chief Officer of Customs and Excise and, where the Chief Officer of Customs and Excise so requires, after payment of an amount equal to the duty chargeable.

Prohibition on using kerosene for the propulsion of a vehicle on a public road.

8. No person shall use kerosene for the propulsion of a vehicle on a public road unless that vehicle is in one of the categories of vehicles specified in Schedule 1 to this Order [and is used in accordance with the conditions specified in that Schedule in relation to that category of vehicle], or unless written authorisation has been obtained from the Chief Officer of Customs and Excise.

NOTE

In article 8, the words in square brackets were inserted by the Customs and Excise (Dyed Fuel) (Relief and Drawback) (Guernsey and Alderney) (Amendment) Order, 2024, article 4, with effect from 7th August, 2024.

Penalties for contravention of this Order.

9. Where any person contravenes or fails to comply with this Order, he is guilty of an offence under section 23H of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, as amended and liable to the penalties specified therein, including forfeiture.

PART IV

STORAGE, LABELLING ETC AND SAMPLES

Storage of markers and colourers.

10. (1) The occupier of any premises where marking or colouring occurs must keep any marker or colourer –

- (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 or colouring occurs must –

- (a) take stock of the markers or colourers 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.

Storage of dyed oil.

11. Marked or coloured oil must be stored separately from unmarked or uncoloured oil.

Labelling of delivery points for dyed oil.

12. The Chief Officer of Customs and Excise may direct that approved traders must comply with certain conditions which he shall specify, in relation to the labelling of delivery points.

Particulars to be recorded on delivery notes.

13. (1) Any person who supplies –
- (a) heavy oil that has been dyed in accordance with Article 4, or
 - (b) petrol that has been dyed in accordance with Article 4,

must provide to the recipient a delivery note bearing a statement to the effect that such oil is not to be used as road fuel.

Samples.

14. In order to determine whether or not there has been a contravention of, or failure to comply with, any provision of this Order, an officer may take samples of the contents of any drum, storage tank or other container or the fuel tank of any vehicle or appliance.

PART V

INTERPRETATION AND GENERAL PROVISIONS

Interpretation.

15. (1) In this Order –

["**charity or community event**" means an event that the Chief Officer of Customs and Excise is satisfied is –

- (a) a public event arranged for the benefit of a non-profit organisation registered under the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008 or the Charities and Non Profit Organisations (Registration) (Sark) Law, 2010, or
- (b) a not-for-profit public event held solely for the enjoyment of persons within the Bailiwick of Guernsey,]

"**Colour Index**" means the Colour Index, compiled by the Society of Dyers and Colourists and the American Association of Textile Chemists and Colorists,

"coumarin" means 1:2 benzopyrone,

"kerosene" means heavy oil of which more than 50% by volume distils at a temperature not exceeding 240°C,

"oil" means hydrocarbon oil,

[**"public event"** means an event which the public is entitled to attend, with or without payment of a fee or charge,]

"public road" means a public highway and includes, for the avoidance of doubt, any road, street, lane or public place,

"quinizarin" means 1,4-dihydroxyanthraquinone,

"solvent red" means CI Solvent Red 24 as described in the Colour Index,

and other expressions shall have the same meaning as in the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, as amended.

(2) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Order.

NOTES

In article 15, the definitions of the expressions "charity or community event" and "public event" were inserted by the Customs and Excise (Dyed Fuel) (Relief and Drawback) (Guernsey and Alderney) (Amendment) Order, 2024,

^b Ordres en Conseil Vol. XIII, p. 355.

article 5, with effect from 7th August, 2024.

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Citation and commencement.

16. This Order may be cited as the Customs and Excise (Dyed Fuel) (Relief and Drawback) Order, 2007 and shall come into force on the 1st January, 2008.

SCHEDULE 1

Article 1

	Categories of vehicle	Conditions
1.	Agricultural Tractors	<p>Provided that –</p> <ul style="list-style-type: none"> (a) they are designed and constructed primarily for use on a private road, and (b) any use which occurs on a public road is solely for – <ul style="list-style-type: none"> (i) purposes relating to agriculture, horticulture, market gardening or forestry, (ii) cutting verges bordering public roads, [...] (iii) cutting hedges or trees bordering public roads or bordering verges which border public roads[, or] [(iv) for the purposes of proceeding to a place where it is to be used for a purpose in (i), (ii) or (iii) above, or returning from such a place,]

		<p>and are not used for hauling any objects except –</p> <p>(A) their own necessary gear, threshing appliances, farming implements, supplies of water or fuel required for the purposes of the vehicle or for the purposes noted in (i) above, or</p> <p>[(B) agricultural, horticultural, market gardening or forestry produce, where the hauling of the produce is incidental to any agriculture, horticulture, market gardening or forestry being carried out on the land to which or from which the produce is being hauled, or</p> <p>(C) articles required for the purposes of the premises of the person in whose name the vehicle is registered.]</p>

2.	Non Agricultural Tractors	<p>Provided that –</p> <p>(a) they are not used on a public road except for the purposes of proceeding to [a place where it is to be used for a purpose mentioned in the conditions in row 4 or any other heavy mechanical work for which tractors are normally used, or returning from such a place], and</p> <p>(b) when so proceeding, it neither carries nor hauls any load other than such as is necessary for its propulsion and equipment.</p>
[2A.	Agricultural or non agricultural tractors	<p>Provided that they are used –</p> <p>(a) for the purposes of participating in a charity or community event approved generally or specifically by notice given by the Chief Officer of Customs and Excise and published in any manner that the Chief Officer considers appropriate, or</p> <p>(b) for the purposes of proceeding to a place where it is to be used in accordance with (a), or returning from such a place,</p> <p>and are not used for carrying or hauling any</p>

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		object or load other than as necessary for its propulsion or equipment or for the purposes of participating in the charity or community event.]
3.	Agricultural machinery	Provided that it is not used in connection with the carriage of goods or persons (other than the driver).
4.	Machinery, equipment or plant	<p>Provided that –</p> <p>(a) it is used principally for the construction, maintenance and clearance of roads, or</p> <p>(b) for any other building or construction work</p> <p>and that it is not used in connection with the carriage of goods or persons (other than the driver).</p>
5.	Lifting and handling vehicles (such as mobile cranes and fork lift trucks).	<p>Provided that –</p> <p>(a) they are not used in connection with the carriage of goods or persons (other than the driver), and</p> <p>(b) they are not capable of haulage.</p>

NOTES

In the First Schedule,

first, the word omitted in the first pair of square brackets in Item 1, in the conditions related to agricultural tractors, was revoked, second, the punctuation and word in the second pair of square brackets therein and, third, paragraph (b)(iv) thereof were inserted, fourth, the words in square brackets in Item 2, in the conditions relating to non agricultural tractors, were substituted and, fifth, Item 2A was inserted by the Customs and Excise (Dyed Fuel) (Relief and Drawback) (Guernsey and Alderney) (Amendment) Order, 2024, respectively article 6(a)(i), article 6(a)(ii), article 6(a)(iii), article 6(b) and article 6(c), with effect from 7th August, 2024;

the words in the fourth pair of square brackets in Item 1, in the conditions related to agricultural tractors, were substituted by the Customs and Excise (Dyed Fuel) (Relief and Drawback) (Guernsey and Alderney) (Amendment) Order, 2008, article 1, with effect from 3rd June, 2008.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the relief of excise duty on gas oil and drawback of excise duty on petrol used for the purpose of marine navigation. It also provides for heavy oil to be dyed and prohibits kerosene from being used on a public road unless certain conditions have been complied with.

Part 1 of the Order provides for the relief of excise duty on gas oil that is not used for the propulsion of a vehicle on a public road or that is used on a public road in one of the categories of vehicles specified in Schedule 1 to the Order. It also (at Article 2) provides for drawback of excise duty on petrol which is used for the purposes of marine navigation.

Part II of the order prescribes certain dyeing and marking requirements for heavy oil and petrol used for the purpose of marine navigation.

Part III of the order contains the prohibitions.

Part IV of the order contains the storage and labelling requirements and provides for Customs and Excise officers to take samples.

Part V contains the interpretation and general provisions and provides (at Article 16) for this Order to come into force on 1st January, 2008.