

1978/28.



THE MOTOR SPIRITS DUTY REFUND REGULATIONS 1978

KEITH HOLYOAKE, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 20th day of February 1978

Present:

THE RIGHT HON. B. E. TALBOYS PRESIDING IN COUNCIL

PURSUANT to the Transport Act 1962, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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| <ul style="list-style-type: none"> 1. Title and commencement 2. Interpretation 3. Motor vehicles exempted from motor spirits duty 4. Application for refunds of motor spirits duty | | <ul style="list-style-type: none"> 5. Standard motor spirits consumption rates 6. Revocations 7. Amendments to other regulations 8. Savings Schedules |
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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Motor Spirits Duty Refund Regulations 1978.

(2) Regulations 6 (1) and 8 (1) of these regulations shall come into force on the 1st day of March 1978.

(3) Subject to subclause (2) of this regulation, these regulations shall come into force on the 1st day of April 1978.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“The Act” means the Transport Act 1962:

“Adjoining” means contiguous, or contiguous except for a separation by a river, stream, drain, canal, or other water-course, or by a road or railway:

“Agricultural operation” means any operation concerned directly with the management of a farm; and includes the transport on a road of the produce of a farm, farm implements, stock, or other requisites of any kind whatsoever for a farm, where and only where they are transported—

(a) From one part of a farm to another part of the same farm or from one farm to another adjoining farm that is owned or managed by the same person; or

(b) From one farm to another farm owned or managed by the same person where the motor vehicle carrying the goods is not taken during any one trip along more than 21 kilometres of public highway in going from the owner’s farm or other place of garage and in returning thereto:

“Farm” means—

(a) A dairy farm, cattle farm, pig farm, or sheep farm; or

(b) A market garden, orchard, plant nursery, permanent State forest, or any other area of land on which trees or plants of any description are cultivated; or

(c) An apiary; or

(d) A poultry farm or egg-producer’s farm;—

and “farmer” has a corresponding meaning:

“Garage” means any place, whether a building or other structure or not, in which a motor vehicle is usually kept when not in use:

“Plants” includes hops, peas, potatoes, tobacco, and other crops of any kind whatsoever:

“Road” includes a highway (whether or not it has been declared to be a State highway) and a street; and also includes any place to which the public have access, whether as of right or not; and also includes all bridges, culverts, ferries, and fords forming part of any road, highway, street, or place as aforesaid:

Expressions defined in the Act have the meanings so defined.

3. Motor vehicles exempted from motor spirits duty—(1) All motor vehicles of the kinds described in the First Schedule to these regulations are hereby declared to be exempted vehicles for the purposes of section 188 of the Act.

(2) A motor vehicle of a kind described in the First Schedule to these regulations shall not cease to be an exempted vehicle by reason only of the fact that—

(a) It is also used for towing a motor vehicle that, being licensed under Part II of the Act, is used for the transport to or from work of the driver of the first-mentioned vehicle; or

(b) It is used on a road in proceeding from one place to another for use in operations for which it is exclusively or principally designed.

(3) A motor vehicle that is an exempted vehicle within the meaning of paragraph (a) or paragraph (c) of the definition of that term in section 188 (1) of the Act shall not cease to be an exempted vehicle by reason only of the fact that it is used on a road in connection with

its inspection, servicing, or repair or for the purposes of a practical-driving test under the Motor Drivers Regulations 1964*.

4. Application for refunds of motor spirits duty—(1) Save with the permission of the Secretary given in special cases, not more than one application for a refund under section 188 of the Act shall be made by or on behalf of any one user in respect of motor spirits used during any one quarter.

(2) Every application for a refund under section 188 of the Act shall have attached thereto an invoice relating to the purchase of the motor spirits to which the application relates:

Provided that in any case the Registrar may require or accept such other or further evidence as he thinks proper relating to the purchase of motor spirits.

(3) The Registrar may, if in his opinion any application for a refund under section 188 of the Act has not been made in the proper form or the particulars provided are insufficient, withhold the payment of any refund until the application has been made in the proper form to his satisfaction, or until sufficient particulars have been supplied.

5. Standard motor spirits consumption rates—For the purposes of section 188 (6) (b) of the Act, the minimum number of kilometres that a vehicle will travel on 1 litre of motor spirits is the number set out in the Second Schedule to these regulations that is applicable to that vehicle.

6. Revocations—(1) Regulations 17 to 30 of, and the Fifth and Sixth Schedules to, the Motor Vehicle Taxation Regulations 1966 are hereby revoked.

(2) The regulations and notices specified in the Third Schedule to these regulations are hereby revoked.

7. Amendments to other regulations—(1) The Heavy Motor Vehicle Regulations 1974† are hereby amended—

- (a) By omitting from regulation 3 (16) the words “licensee within the meaning of Part IV of the Motor Vehicle Taxation Regulations 1966”, and substituting the words “operator of a motor vehicle to which a current road user licence relates”; and
- (b) By omitting from regulations 7 (1) and 11 (16) the words “heavy-traffic licence”, and substituting in each case the words “road user licence”.

(2) The Motor Vehicles Registration and Licensing Regulations 1965‡ are hereby amended by inserting, after regulation 2, the following regulation:

*S.R. 1964/214 (Reprinted with Amendments Nos. 1 to 8: S.R. 1969/189)

Amendment No. 9: S.R. 1970/73

Amendment No. 10: S.R. 1971/25

Amendment No. 11: S.R. 1972/166

Amendment No. 12: S.R. 1973/185

Amendment No. 13: S.R. 1974/114

Amendment No. 14: S.R. 1975/277

Amendment No. 15: S.R. 1976/204

Amendment No. 16: S.R. 1977/9

†S.R. 1974/218

Amendment No. 1: S.R. 1974/309

‡S.R. 1965/82

Amendment No. 1: S.R. 1966/76

Amendment No. 2: S.R. 1968/76

Amendment No. 3: S.R. 1970/75

Amendment No. 4: S.R. 1970/268

Amendment No. 5: S.R. 1974/105

Amendment No. 6: S.R. 1975/170

Amendment No. 7: S.R. 1976/101

“2A. Exemption from registration and annual licence fees—(1) All motor vehicles of the following kinds are hereby exempted from the payment of registration fees and annual licence fees under the Act, namely:

“(a) Any motor vehicle that is not used on a public highway:

“(b) Any motor vehicle that is used on a public highway only in crossing or proceeding along a section of the highway where it has been authorised to operate by the controlling authority, that authorisation being subject to—

“(i) A written agreement by the operator of the vehicle, or the person for whom the vehicle is being operated under contract to construct, reconstruct, maintain, or restore to the satisfaction of the controlling authority (being for the purposes of this regulation the authority, body, or person or persons having the control of the public highway) the portion of the public highway used by that vehicle or such part thereof as is specified in the agreement; and

“(ii) The erection and maintenance of warning devices or signs or control devices as required by the controlling authority and the Secretary for Transport; and

“(iii) Where the use of the public highway does not consist solely of the direct crossing of the highway, the prior approval of the National Roads Board:

“(c) Any motor vehicle that is used on a public highway only in such part of the highway as is for the time being a road construction zone constituted under regulation 12 of the Heavy Motor Vehicle Regulations 1974, and is permitted to be used in that road construction zone pursuant to a notice given under subclause (1) of the said regulation 12:

“(d) Any pedestrian-controlled goods-service vehicle:

“(e) Any motor vehicle propelled and supported solely by means of self-laying tracks:

“(f) Trailers while being drawn by motor vehicles of any of the kinds specified in clauses 1 to 6 of Part I of the First Schedule to the Motor Spirits Duty Refund Regulations 1978:

“(g) Trailers that are usually drawn by motor vehicles referred to in paragraph (f) of this subclause, while being used, free of charge, for work in connection with any charitable or community purpose.

“(2) The Minister may from time to time, by notice in the *Gazette*, exempt any specified motor vehicle or specified class of motor vehicles from the payment of registration fees and annual licence fees under the Act.”

(3) The Motor Vehicles Registration and Licensing Regulations 1965* (as amended by regulations 6 and 9 of the Motor Vehicles Registration and Licensing Regulations 1965, Amendment No. 7) are hereby further amended—

*S.R. 1965/82

Amendment No. 1: S.R. 1966/76

Amendment No. 2: S.R. 1968/76

Amendment No. 3: S.R. 1970/75

Amendment No. 4: S.R. 1970/268

Amendment No. 5: S.R. 1974/105

Amendment No. 6: S.R. 1975/170

Amendment No. 7: S.R. 1976/101

- (a) By omitting from regulation 8 (1) (e) the words “which is classified as Class A, Class B, or Class C for the purposes of”, and substituting the words “that is an exempted vehicle within the meaning of”:
- (b) By omitting the note following diagram No. 5 in the First Schedule, and substituting the following note:
 “NOTE: Where this licence is issued for a motor vehicle described in the First Schedule to the Motor Spirits Duty Refund Regulations 1978, substitute the words ‘Class B’ for the words ‘Class A’.”

(4) The First Schedule to the Motor Vehicles Indemnity Surcharge Regulations 1974* (as substituted by regulation 3 of the Motor Vehicles Indemnity Surcharge Regulations 1974, Amendment No. 3) is hereby amended by omitting the words “classified in Class A or Class B or Class C for the purposes”, and substituting the words “that are exempted vehicles within the meaning”.

(5) Regulation 19A (8) (d) of the Motor Drivers Regulations 1964† (as amended by regulation 2 of the Motor Drivers Regulations 1964, Amendment No. 16) is hereby further amended by omitting the words “a vehicle of Class B pursuant to section 188”, and substituting the words “an exempted vehicle pursuant to paragraph (c) of the definition of that term in section 188 (1)”.

8. Savings—(1) Notwithstanding any other provision of these regulations, heavy-traffic licences that are issued pursuant to the Motor Vehicle Taxation Regulations 1966 for a term expiring after the 28th day of February 1978 may be surrendered, and part of the licence fee paid in respect thereof may be refunded to the licensee, as if these regulations had not been enacted.

- (2) Notwithstanding any other provision of these regulations—
 - (a) Returns shall be made, and mileage tax shall be payable, in respect of distance travelled during any quarter ending not later than the 31st day of March 1978 as if these regulations had not been enacted, and all provisions of the Motor Vehicle Taxation Regulations 1966 relating to mileage tax shall be deemed to remain in full force and effect for all purposes relating to any such returns or tax; and
 - (b) Licences under the Motor Vehicles Registration and Licensing Regulations 1965 that are to be in force during the licensing year ending with the 30th day of June 1978 shall be issued as if neither the Road User Charges Act 1977 nor these regulations had been enacted; and

*S.R. 1974/115

Amendment No. 1: (Revoked by S.R. 1976/151)

Amendment No. 2: (Revoked by S.R. 1977/131)

Amendment No. 3: S.R. 1977/131

†S.R. 1964/214 (Reprinted with Amendments Nos. 1 to 8: S.R. 1969/189)

Amendment No. 9: S.R. 1970/73

Amendment No. 10: S.R. 1971/25

Amendment No. 11: S.R. 1972/166

Amendment No. 12: S.R. 1973/185

Amendment No. 13: S.R. 1974/114

Amendment No. 14: S.R. 1975/277

Amendment No. 15: S.R. 1976/204

Amendment No. 16: S.R. 1977/9

- (c) The annual indemnity surcharges payable under Part VIA of the Act for the licensing year ending with the 30th day of June 1978 shall be the surcharges prescribed by the Motor Vehicles Indemnity Surcharge Regulations 1974 immediately before the commencement of these regulations, and any refund of the indemnity surcharge paid for the whole or part of that year in respect of any motor vehicle shall be the refund that would have been made if neither the Road User Charges Act 1977 nor these regulations had been enacted.

SCHEDULES

FIRST SCHEDULE

Reg. 3

EXEMPTED MOTOR VEHICLES

PART I

FARM VEHICLES

1. Any motor vehicle (not being a trailer) designed exclusively or principally for agricultural operations and used on a road exclusively for agricultural operations, including mobile or movable huts, galleys, and similar motor vehicles used on a road solely in connection with such operations:

Provided that nothing in this clause shall apply to:

- (a) Any motor vehicle designed exclusively or principally for the spreading or cartage and spreading of lime or fertiliser where it is used on a road for the cartage of lime or fertiliser; or
 - (b) Any motor vehicle designed exclusively or principally as a weed sprayer on a truck chassis.
2. Any motor vehicle (not being a trailer) owned by a person carrying on business as a farmer and used on a road only for either or both of the following purposes:
- (a) In proceeding, in connection with the owner's agricultural operations, from one part of a farm to another part of the same farm or from one farm to another farm that is owned or managed by the same person:
 - (b) For the cartage of dogs to or from a hydatid-control centre.
3. Any tractor or traction engine, if used on a road either—
- (a) Exclusively for agricultural operations; or
 - (b) Principally for agricultural operations and otherwise solely in connection with the construction or maintenance of roads.
4. Any tractor, and any motor vehicle adapted in its design principally for use as a tractor, if the tractor or motor vehicle is owned by a person carrying on business as a farmer and is used on a road only for all or any of the following purposes:
- (a) For the owner's agricultural operations;
 - (b) For the cartage of milk, cream, or whey to or from a dairy factory:

FIRST SCHEDULE—*continued*

- (c) For the cartage of dogs to or from a hydatid-control centre:
- (d) For the cartage of any other produce of a farm, farm implements, stock, or other requisites of any kind whatsoever for a farm where and only where they are carried from one farm to another farm that is owned or managed by the same person or they are taken during any one trip along not more than 21 kilometres of public highway in going from the owner's farm or other place of garage and in returning thereto.

A tractor shall not cease to be a tractor for the purposes of this clause by reason only of the fact that it is fitted with a readily detachable box or platform that is used for the carriage of goods.

5. Any tractor owned and used by a person carrying on business as an agricultural contractor and used on a road only for all or any of the following purposes:

- (a) The cartage by means of a trailer of farm implements where the tractor and trailer are not taken during any one trip for the cartage of farm implements along more than 21 kilometres of public highway in going from the usual place of garage and in returning thereto:
- (b) The haulage on its own wheels of a farm implement or farm machine.

6. Any specified motor vehicle (not being a trailer) owned and used by a person carrying on business as a farmer or agricultural contractor and approved by the Minister, by notice in the *Gazette*, on the grounds that, by reason of its design or permanent adaption in its design, it is suitable for use only in connection with the owner's business as a farmer or agricultural contractor and is not capable of a speed exceeding 30 kilometres an hour. Any such approval shall come into force on the date specified therein, whether on or after the date of the granting thereof.

7. Any tractor that—

- (a) Is designed and used partly for the purpose of loading lime or fertiliser into topdressing aircraft and partly for drawing a trailer that is designed and used exclusively for carrying aviation fuel in a permanently attached tank for use in topdressing aircraft, and for no other purpose; and
- (b) Is not taken during any one trip along more than 21 kilometres of public highway in going from the usual place of garage and returning thereto;—

and any such trailer drawn by such a tractor.

PART II

MOBILE MACHINERY

8. Any motor vehicle exclusively designed and used on a road for driving, carrying, or propelling, any of the following:

- (a) Aerodrome runway sweepers:
- (b) Electrical substations:
- (c) Filters for transformer oil:

FIRST SCHEDULE—*continued*

(d) Log haulers that are stationary when hauling logs:

(e) Aero engine test benches:

Provided that no such motor vehicle shall be deemed to be an exempted motor vehicle, unless the machinery is permanently attached to the motor vehicle.

PART III

MISCELLANEOUS

9. Any tractor or self-propelled grassmower, that is used exclusively for—

(a) The cultivation or upkeep of land used for cemetery purposes or for the purpose of sport, recreation, or education; or

(b) The cutting of grass verges of roads.

10. Any tractor owned by a River Board, Catchment Board, or Drainage Board, and used exclusively for the operations of the Board.

11. Any mobile or movable hut, galley, or similar motor vehicle that is used on a road solely in connection with the construction or maintenance of roads.

12. Any tractor used exclusively for shunting railway rolling stock.

13. Any traction engine.

14. Any forklift.

15. Any aerodrome crash fire tender that is used on a road only in emergencies.

16. Any tractor owned by a Harbour Board, shipping company, or stevedoring contractor and used exclusively in connection with the embarking and disembarking of ships' passengers or for loading and unloading ships' mails, cargo, and passengers' baggage, and used on a public highway only when proceeding unladen from one wharf to another wharf or from its usual place of storage to a wharf and in returning to that place of storage.

17. Any trailer while being drawn by a motor vehicle specified in clauses 8 to 15 of this Schedule.

Reg. 5

SECOND SCHEDULE

STANDARD MOTOR SPIRITS CONSUMPTION RATES

Definitions—In this Schedule, the terms “distance licence”, “maximum gross weight”, and “vehicle type number” have the same meanings as in the Road User Charges Act 1977.

MINIMUM NUMBER OF KILOMETRES PER LITRE

Maximum Gross Weight Specified in Current Distance Licence of Vehicle (tonnes)	Vehicle Type Number of Vehicle															
	1 or 3	2	4	5, 6, or 7	8 to 22											
1	9.17	9.17	9.17	9.17	9.17											
2	5.00	5.00	5.00	5.00	5.00											
3	4.35	4.35	4.35	4.35	4.35											
4	4.08	4.08	4.08	4.08	4.08											
5	3.85	3.85	3.85	3.85	3.85											
6	3.64	3.64	3.64	3.64	3.64											
7	3.45	3.45	3.45	3.45	3.45											
8	3.28	3.28	3.28	3.28	3.28											
9	3.13	3.13	3.13	3.13	3.13											
10	2.71	2.99	2.99	2.99	2.99											
11	}	2.86	2.86	2.86	2.86											
12		2.49	2.74	2.74	2.74											
13		2.29	2.63	2.63	2.63											
14		}	}	2.53	2.53											
15				2.22	2.44	2.44										
16		}	}	2.35	2.35											
17				2.07	2.27											
18				1.91	2.20											
19				1.77	2.13											
20		}	}	}	2.06											
21	}				}	}	2.00									
22							}	}	}	1.94						
23	}				}	}				1.89						
24										}	}	}	1.83			
25													}	}	}	1.79
26																2.48
27													}	}	}	1.69
28										2.11	2.04	1.65				
29	}				}	}				1.61						
30		}	}	}			1.57									
31							}	}	}	1.54						
32										}	}	}	1.50			
33													}	}	}	1.47
34																1.44
35													1.41			
36										1.38						
37							1.35									
38		1.32														
39	1.30															
40 or more ..	1.27															

THIRD SCHEDULE
REGULATIONS AND NOTICES REVOKED

Reg. 6

Title	Serial Number
The Motor Vehicle Taxation Regulations 1966	1966/80 (Reprinted 1974/205)
The Motor Vehicle Taxation Regulations 1966, Amendment No. 1	1966/187
The Motor Vehicle Taxation Regulations 1966, Amendment No. 2	1967/102
The Motor Vehicle Taxation Regulations 1966, Amendment No. 3	1968/39
The Motor Vehicle Taxation Regulations 1966, Amendment No. 4	1969/20
The Motor Vehicle Taxation Regulations 1966, Amendment No. 5	1969/125
The Motor Vehicle Taxation Regulations 1966, Amendment No. 6	1970/266
The Transport (Urban Passenger Services) Regulations 1973	1973/169
The Motor Vehicle Taxation Regulations 1966, Amendment No. 7	1973/207
The Heavy Motor Vehicle Regulations 1974: Regulation 19 (3)	1974/218
The Motor Vehicle Taxation Regulations 1966, Amendment No. 8	1977/173
The Motor Vehicle Taxation Regulations 1966, Amendment No. 9	1977/297
Notice issued by the Minister of Transport headed "Tracked Motor Vehicles—Exemption from Registration Fees and Annual Licence Fees" and dated 9 May 1967	<i>Gazette</i> 1967, Vol. II, p. 856
The Motor Vehicle Taxation Regulations Notice No. 2, 1973	<i>Gazette</i> 1973, Vol. III, p. 1834

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations replace the Motor Vehicle Taxation Regulations 1966, which have been re-enacted or revoked by these regulations as follows:

- (a) Part I (which specified vehicles exempted from registration and annual licence fees) has been inserted in the Motor Vehicles Registration and Licensing Regulations 1965:
- (b) Part II (which related to refunds of motor spirits duty) has been re-enacted, with amendments, in these regulations:
- (c) Parts III to V (which related to mileage tax, heavy-traffic licences, and miscellaneous matters) have been revoked.

Regulation 2 relates to interpretation.

Regulation 3 prescribes vehicles that are exempted from motor spirits duty.

Regulation 4 relates to applications for refunds of motor spirits duty.

Regulation 5 prescribes standard motor spirits consumption rates for the purposes of section 188 (6) (b) of the Transport Act 1962.

Regulation 6 relates to revocations.

Regulation 7 amends the Motor Vehicles Registration and Licensing Regulations 1965 (as mentioned above) and makes consequential amendments to the Motor Drivers Regulations 1964, the Motor Vehicles Indemnity Surcharge Regulations 1974, and the Heavy Motor Vehicle Regulations 1974.

Regulation 8 relates to savings.

The provisions revoking the regulations relating to heavy-traffic licences come into force on 1 March 1978. All other provisions of these regulations come into force on 1 April 1978.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 23 February 1978.

These regulations are administered in the Ministry of Transport.