

Red Diesel Changes

The UK government's announcement of changes to the rules on rebated diesel usage has been a source of confusion and concern across UK businesses. This article seeks to explain the current position ahead of formal guidance being published by Government.

Having reviewed all of the documentation and legislation the position is still not clear and the legislation is highly complex, this article summarises our current understanding. In reality the best place to start is to assume that no one is entitled to red diesel rather than starting with the question am I/they still entitled. The Government have provided a list of all the "excepted machine" that are entitled to use red diesel and their allowed purposes:

Excepted Machines and Purposes

Agricultural vehicle

DESCRIPTION	MEANING
<ul style="list-style-type: none"> An agricultural vehicle at a time when it is used for purposes relating to agriculture, horticulture, pisciculture or forestry, including when it is going to or from the place where it is to be or has been used for such purposes. An agricultural vehicle kept on land maintained for purposes relating to agriculture, horticulture, pisciculture or forestry at a time when: <ul style="list-style-type: none"> It is used on that land for any purpose, or It is used away from that land for the purposes of— <ul style="list-style-type: none"> Cutting verges bordering public roads Cutting hedges or trees bordering public roads or Bordering verges which border public roads, or Clearing or otherwise dealing with frost, ice, snow or flooding including when it is going to or from the place where it is to be or has been used for one of those purposes. An agricultural vehicle kept and used on a golf course or on land maintained by a community amateur sports club. 	<ul style="list-style-type: none"> "Agricultural vehicle" means: a tractor or a light agricultural vehicle within the meanings of the Vehicle Excise and Registration Act 1994: <ul style="list-style-type: none"> An "agricultural tractor" means a tractor used on public roads solely for purposes relating to agriculture, horticulture, forestry or activities including cutting verges bordering public roads; cutting hedges or trees bordering public roads or bordering verges which border public roads. "off-road tractor" means a tractor which is not an agricultural tractor and which is designed and constructed primarily for use otherwise than on roads, and incapable by reason of its construction of exceeding a speed of twenty-five miles per hour on the level under its own power. A light agricultural vehicle" means a vehicle which has a revenue weight not exceeding 1,000 kilograms, is designed and constructed so as to seat only the driver, is designed and constructed primarily for use otherwise than on roads, and is used solely for purposes relating to agriculture, horticulture or forestry. Any vehicle that is an exempt vehicle for the purposes of paragraph 20A of Schedule 2 to that Act (vehicles used for purposes relating to agriculture, horticulture or forestry, is used on public roads only in passing between different areas of land occupied by the same person, and the distance it travels on public roads in passing between any two such areas does not exceed 1.5 kilometres Any other vehicle designed solely to be used for purposes relating to agriculture, horticulture, pisciculture or forestry.

Special vehicle

DESCRIPTION	MEANING
<ul style="list-style-type: none"> A special vehicle at a time when it is used for purposes relating to agriculture, horticulture, pisciculture or forestry, including when it is going to or from the place where it is to be or has been used for such purposes, or on a golf course or on land maintained by a community amateur sports club. 	<p>A "special vehicle" has the meaning given by Part 4 of Schedule 1 to the Vehicle Excise and Registration Act 1994:</p> <ul style="list-style-type: none"> Revenue weight exceeding 3,500 kilograms which is not a special concessionary vehicle. A digging machine (a vehicle which is designed, constructed and used for the purpose of trench digging, or any kind of excavating or shovelling work, and which is used on public roads only for that purpose or for the purpose of proceeding to and from the place where it is to be or has been used for that purpose, and when so proceeding does not carry any load except such as is necessary for its propulsion or equipment). A mobile crane (a vehicle which is designed and constructed as a mobile crane and which is used on public roads only as a crane in connection with work carried on a site in the immediate vicinity or for the purpose of proceeding to and from a place where it is to be or has been used as a crane, and when so proceeding does not carry any load except such as is necessary for its propulsion or equipment.) A mobile pumping vehicle (a vehicle which is constructed or adapted for use and used for the conveyance of a pump and a jib, which is used on public roads only when the vehicle is stationary and the pump is being used to pump material from a point in the immediate vicinity to another such point, or for the purpose of proceeding to and from a place where the pump is to be or has been used, and which, when so proceeding, does not carry the material that is to be or has been pumped, or any other load except such as is necessary for the propulsion or equipment of the vehicle or for the operation of the pump. Each of the pump and the jib is built in as part of the vehicle, and designed so that material pumped by the pump is delivered to a desired height or depth through piping that is attached to the pump and the jib, and is raised or lowered to that height or depth by operation of the jib.) A works truck (a goods vehicle which is designed for use in private premises, and used on public roads only for carrying goods between private premises and a vehicle on a road in the immediate vicinity, in passing from one part of private premises to another or between private premises and other private premises in the immediate vicinity, or in connection with road works at or in the immediate vicinity of the site of the works.

Unlicensed vehicle

DESCRIPTION	MEANING
<ul style="list-style-type: none"> An unlicensed vehicle at a time when it is used: <ul style="list-style-type: none"> For purposes relating to agriculture, horticulture, pisciculture or forestry, On a golf course or on land maintained by a community amateur sports club, or on land occupied by a travelling fair or travelling circus. 	<ul style="list-style-type: none"> An "unlicensed vehicle" means a vehicle that is: <ul style="list-style-type: none"> Unlicensed for the purposes of section 22(1D) of the Vehicle Excise and Registration Act 1994, Kept by a person who has complied with such requirements relating to the vehicle as are prescribed for the time being in regulations under that section, and not used or kept on a public road

Trains etc

DESCRIPTION	MEANING
<ul style="list-style-type: none"> Any vehicle designed to be operated on a railway within the meaning of section 67(1) of the Transport and Works Act 1992. 	<ul style="list-style-type: none"> Rebated fuel can be used to propel and stop a vehicle or machine designed to run on a railway, but not on a tramway. Rebated fuel may not be used to power other machines or equipment used on a railway, such as cooling or heating units in railway freight wagons.

Vessels

DESCRIPTION	MEANING
<ul style="list-style-type: none"> Any vessel other than a vessel in Northern Ireland that is a private pleasure craft. 	<ul style="list-style-type: none"> All types of boat, except for private pleasure craft in Northern Ireland, may use rebated fuel in their engines and other machines and appliances permanently on the boat. A private pleasure craft is defined in section 9 of Excise Notice 554: <i>'Any craft used by its owner or the natural or legal person who enjoys its use either through hire or through any other means, for other than commercial purposes and in particular other than for the carriage of passengers or goods or for the supply of services for consideration or for the purposes of public authorities.'</i> The definition of 'private pleasure craft' is different from the definition of 'pleasure vessel' used in UK legislation such as regulations made under the Merchant Shipping Act 1995, including the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998. From 1 October 2021, you may not put rebated fuel into the tank that supplies the engine used to propel a private pleasure craft in Northern Ireland.

Mowing machines

DESCRIPTION
<ul style="list-style-type: none"> A machine designed only for mowing grass at a time when it is used on: <ul style="list-style-type: none"> Land maintained for purposes relating to agriculture, horticulture, pisciculture or forestry; A golf course or on land maintained by a community amateur sports club; Land occupied by a travelling fair or travelling circus.

Other engines, machines or appliances

DESCRIPTION	MEANING
<ul style="list-style-type: none"> An engine, machine or appliance that is not a vehicle or vessel at a time when it is used: <ul style="list-style-type: none"> For purposes relating to agriculture, horticulture, pisciculture or forestry; On a golf course or on land maintained by a community amateur sports club; To operate or maintain equipment in a travelling fair or travelling circus; For heating, or to generate electricity, for premises that are not used for commercial purposes. Caravans used for the accommodation of those who travel with a travelling fair or travelling circus are to be treated as premises that are not used for commercial purposes. 	<ul style="list-style-type: none"> Rebated fuel can be used in machines and appliances associated with a fair or circus, providing the fair or circus is not in a place where it spends more than 27 days in a calendar year. This includes fuel for powering the rides and for the accommodation caravans, but excludes fuel used in any vehicle unless the vehicle is a mowing machine or unlicensed vehicle.

The Government has also clarified several other uses of red diesel:

Dual purpose Machines

DESCRIPTION
<ul style="list-style-type: none"> If you use a vehicle or machine for both allowed and non-allowed purposes after the rules change, you must either flush out the tank to remove all traces of rebated fuel when switching uses or use fully duty-paid diesel or biofuels for everything

Fuel used for non-commercial purposes - heating and power generation And Safety critical purposes

DESCRIPTION	MEANING
<ul style="list-style-type: none"> Rebated fuel can be used for non-commercial power generation and heating premises being used for non-commercial purposes. <p>Heating</p> <ul style="list-style-type: none"> Rebated fuel can be used for heating premises being used for non-commercial purposes, including, for example, domestic homes, places of worship, NHS hospitals and townhalls. <p>Power generation</p> <ul style="list-style-type: none"> Rebated fuel can be used for power generation for homes and other premises being used for non-commercial purposes. This includes those not connected to the electricity grid and those that use back-up generators to ensure continuous power supply. 	<p>Non-commercial purposes mean where the activities carried out at the premises are not concerned with making profit. This includes, for example at premises being used to provide a public service or for charitable fundraising.</p> <p>Where premises are being used for the purpose of making a profit, for example a school or hospital that charges fees, the fuel would be considered as being used for commercial purposes and you could not use rebated fuel for this.</p> <p>You may use up rebated fuel after the rules change for the purposes of emergency back-up power generation in premises being used for commercial purposes. However, you will need to be able to satisfy HMRC officers that the fuel was purchased when the generator was allowed to use it, and you had no reason to believe at the time of that purchase that the fuel would not be used legally in your generator. An example would be where the fuel was bought before the April 2022 changes were confirmed.</p> <p>You may use up rebated fuel after the rules change for use in other critical safety and environmental appliances or machines in premises being used for commercial purposes. This could include, for example, fire protection systems, medical and life support equipment, and auxiliary boilers which are designed to provide safety and environmental protection.</p> <p>You will need to be able to satisfy HMRC that the fuel was purchased when the appliance or machine was allowed to use it, and you had no reason to believe at the time of that purchase that the fuel would not be used legally in your critical safety and environmental appliance or machine.</p>

What Customers Need to do

From 1 April 2022 it will be illegal to put rebated fuel into the tank of a vehicle, vessel, machine or appliance that is not able to use it.

If you are no longer allowed to use rebated fuel:

- Talk to your local distributor about your plans.
- Plan to run down the fuel in your vehicles or machine to close to nil before 1 April 2022.
- If you sell or dispose of your rebated fuel keep a record of how and when the fuel was disposed of, or who it was sold to and when.
- Keep a record of your purchases of red diesel in the months ahead of the April 2022 deadline.
- Do not stockpile or increase your orders ahead of the deadline as your local distributor is likely to refuse.

You will not be expected to flush out all traces of rebated diesel from the fuel tank of a vehicle or machine.

What distributors need to do

The responsibilities of an RDCO are not changing:

- Take all necessary precautions to ensure that you supply rebated fuel only to people who will use it as permitted.
- You need to familiarise yourself with the changes and establish which customers will be affected.
- You also need to take care not to supply more rebated fuel than a customer no longer able to use it may realistically use before the rules change.
- Ensure impacted customers who will no longer be able to use rebated diesel are aware of the guidance around stockpiling or purchasing larger than normal amounts ahead of April 2022.
- All tanks not storing red diesel will need to be flushed out to remove all tracers of fuel markers before being re-deployed.

You should be able to demonstrate to HMRC that you have undertaken the necessary steps as outlined above.