



APSE One Day Parks Seminar

“Managing Parks in Challenging Times”

Use of Rebated Fuel (Red Diesel)

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Legislation

What has Changed

- HM Revenue and Customs Notice 75 December 2002 has been amended to incorporate changes in the Regulations regarding the legal use of rebated heavy oil (Red Diesel).
- This has been necessitated by changes in the following Statutory Instrument:
2007/93 The Excepted Vehicles (Amendment of Schedule 1 to the Hydrocarbon Oils Duty Act 1979) Order 2007.



Legislation

- This Order revises the previous excepted vehicle categories that have hitherto been legally using red diesel.
- Although there has been a phased issue since 1 April 2007, all changes are now fully effective as of 1 April 2008.



Legislation

- It is now illegal to use rebated fuel on the public highway (roads maintained at the public expense) in all road vehicles unless they are specifically exempted within the legislation or licensed by HM Revenue and Customs to allow the difference between the full rate of duty on the fuel and the rebated rate to be paid on the fuel used.



Memorandum of Agreement

- In order to issue clearly understandable guidelines, government departments and agencies have reached a common position (subject to definitive interpretation by the Courts) on how the legislation shall be applied.

HM Revenue and Customs. Driver Vehicle Licensing Agency.

National Farmers Union. National Association of
Agricultural Contractors.

Confederation of Forestry industries.



Excepted Vehicles

Vehicles that **can** use Rebated Fuel on the Road:

- Vehicles not licensed for road use. (Not used on roads)
- Self propelled and pedestrian operated road rollers.
- Purpose built road surfacing vehicles max speed 20 kph and purpose built tar sprayers
- Auxiliary machinery used on a vehicle not directly connected to vehicles main fuel supply e.g. a brush donkey engine on a sweeper.



Agriculture – Farming, Food and Plant Production

Scope of Agreement

- **In respect of the entitlement to use rebated gas oil (red diesel), the agreement is restricted to the use of agricultural vehicles engaged in agricultural, horticultural and forestry operations on the owners land or by his contractor when using the following vehicles on public roads.**
- Agricultural tractors - Agricultural material handling vehicles - Light Agricultural vehicles (Travel within 1 Km for transport of good or from one part of private premises to another)
- In addition, agricultural handlers may also use red diesel whilst cutting verges bordering public roads, and cutting trees or hedges bordering public roads.
- Note; the definition of light agricultural vehicles are those that do not exceed 1000 kilograms and are constructed to seat only the driver



Definition of Non Agricultural Activities

Activities **not** accepted as falling within the definition of agriculture, horticulture or forestry and therefore are **not** entitled to use rebated gas oil (red diesel) on public roads include:

- The maintenance of recreational and amenity facilities including flood protection
- Landscaping, and dealing in agricultural, horticultural and forestry products.
- Breeding, rearing or keeping of any creature for purposes related to sport or recreation e.g. horse racing, wild animals and fish.
- Dealing in agricultural, horticultural or forestry products.
- Transportation of agricultural, horticultural or forestry produce, implements and inputs or waste other than waste moved within different parts of land owned by the same person
- Peat and loam extraction.



Storage of rebated fuels

- Marked gas oil must be stored separately from unmarked oil
- All drums tanks and pumps etc. containing rebated oil must be indelible marked to that effect and that the oil is not to be used for general road fuel.



Offences and Penalties

- Use rebated oil in a restricted road vehicle: £250 for each offence and the rebate duty recovered.
- Obstruction of officers:
Unlimited fine or up to two years imprisonment or both.
- Criminal intent:
Unlimited fine or up to seven years imprisonment or both.



Frequently Asked Questions

- Can a pedestrian operated mower running on red diesel travelling on the highway from operating site to operating site?

YES, if this vehicle is a purpose-built mower (with built-in mowing machinery).

- Can a pedestrian operated mower running on red diesel being transported by vehicle using white diesel and trailer from operating site to operating site?

YES, the transporting vehicle must use white as this is road haulage or transport. The mower can of course use red unconditionally, if it is as described in the answer to the first question.



Frequently Asked Questions

- Can a pedestrian operated grounds maintenance equipment spiker / roller running on red diesel travel on the on the highway from operating site to operating site?.

NO. Not unless it is transported by a vehicle not using rebated fuel. Ground maintenance of leisure facilities is not agricultural, horticultural or forestry work where something is grown and harvested. The work would have to fall into the latter group of activities to qualify for red diesel use.

- Can a single seat ride on mower running on red diesel under 1000kg in weight travelling on the highway from operating site to operating site?

YES. If this machine is a purpose built mower it can use red diesel unconditionally.



Frequently Asked Questions

- Can single seat ride on mower running on red diesel under 1000kg in weight be transported by vehicle using white diesel and trailer from operating site to operating site?

Yes. As above, moving the equipment by a low loader requires white diesel – this is merely road haulage / transportation.

- An a single seat ride on mower running on red diesel under 1000kg in weight operating on solely on single sites such as sports fields or amenity areas?
- Yes, if it is a purpose-built mower with built-in mowing machinery it can use red diesel unconditionally.



Frequently Asked Questions

- Can a single seat ride on mower running on red diesel over 1000kg in weight travelling on the highway from operating site to operating site?

YES . If it is a machine as described in the last answer, yes.

- Can a tractor using mounting grass cutting equipment running on red diesel travelling on the highway from operating site to operating site?

- Depends on the work being done :-

YES. If on farmland for agricultural, horticultural or forestry purposes it may use red diesel. In other words, if the grass is being cut for animal fodder or the like, or if the tractor is being used to cut the farmers trees, verges or hedges bordering public roads.

- NO. If recreational or amenity sites.



Frequently Asked Questions

- Can a tractor running on red diesel operating on solely on single sites such as sports fields schools etc?
- Only if the vehicle has a SORN (statutory off road notice) taken out at DVLA, which allows it to use red diesel off road but **SORN'd vehicles may NOT travel on public roads at all.**
- There are many sites in our industry such as sports complexes, college campuses and MOD sites that have several integral operating areas within the same complex connected by public or internal roads. Is there any provision to allow the use of red diesel for equipment operating on these complexes which require limited travelling on the highway?
- **NO, unless the vehicle qualifies for red diesel in its own right, such as a purpose-built mowing machine. The bottom line here is that tractors cannot perform work on recreational areas while fuelled with red diesel**



Working on Slopes with Ride on Equipment

- **Make suitable and sufficient site-specific assessments of the risks to which mower operators are exposed.**
- **Ensure a register of site slopes is created identifying gradients and other risks e.g. affect of conditions and make known to operatives and management.**
- **Ensure that operatives are adequately trained**
- **Ensure that a competent person properly planned the grass cutting operations on and adjacent to sloping ground.**
- **Have in place a system of work, which ensured the safety of employees.**
- **Ensure that the risk to employees from a mower rolling over are minimised by fitting a suitable roll-over protective structure.**
- **Ensure that mowers are fitted with a suitable restraining system to prevent the driver being crushed in the event of it rolling over.**
- **Identify and adequately inform employees of the boundaries for safe operation of these machines.**
- **Ensure that the grass cutting operations are appropriately supervised.**
- **Ensure that the grass cutting equipment is used within the safe operating limits prescribed by the manufacturer.**



Working on Slopes with Ride on Equipment

- If ground unsuitable for ride-on mower or exceeds manufactures recommendations, what then?
- If it does need mowing
 - Pedestrian
 - Walking behind
 - Remote controlled.
 - Tractor mounted flail
 - Specialist ride on (limits to those as well).
 - Does it need mowing?
 - Plant it
 - Landscape it
 - Spray it
 - Leave it
 - Graze it