

CPA guidance and information on forthcoming changes to the use of red diesel and rebated fuels from 1st April 2022

1st Edition – Winter 2022

Main points to note and actions

- 1.** Plant-hire companies who operate plant and machinery in construction that uses red diesel must fill tanks with white diesel or duty paid biofuels (I.e., HVO) from 1st April 2022
- 2.** Companies can continue to operate plant with any red diesel that is already in a vehicle or machine's engine from 1st April, but they will not be allowed to refill fuel-tanks with red diesel from this date onwards
- 3.** Red diesel can continue to be used by operators for plant and machinery that is hired out to clients if it is being used solely for agricultural or forestry purposes, but the fuel tanks must be drained and replaced with white diesel ahead of the machinery being hired out to a construction client
- 4.** Operators are not expected to flush out fuel-tanks of red diesel in advance of 1st April, but they will be expected to make sure that any excess fuel they have in storage tanks is disposed of properly. Suppliers can sell or give their excess fuel to someone still entitled to use it or sell it to an oils dealer or dispose of it through waste oil or disposal companies
- 5.** We advise CPA members to work closely with their existing fuel suppliers to ensure both sides are aware of the changes and the procedures to follow. Fuel suppliers are being contacted by HMRC to ensure they are following the new regulations
- 6.** We urge members in the weeks leading up to 1st April, to run down stocks and keep records /receipts of orders of deliveries and supplies of red diesel, along with records for when and how much red diesel, has been added to engines. In addition, we advise members to make sure they have full records for what activity the machinery and plant has been hired out for – I.e., is it being used for construction, agriculture, or forestry purposes
- 7.** We advise members to review existing security arrangements, whether in depot sites or working with clients when equipment is on site, to deter the theft of white diesel
- 8.** Raise awareness amongst staff and clients of the changes that come into effect and what procedures they must follow both ahead of the 1st April deadline and afterwards

Introduction – what is changing with the status of red diesel and rebated fuels from 1st April – and why?

Construction companies who use red diesel to power their construction plant machinery will no longer legally, be allowed to. From Friday 1st April, companies operating construction machinery and equipment, will no longer be allowed to use rebated red diesel or rebated biofuels (i.e., HVO). While companies will still be able to use biofuels such as HVO, they will be required to pay the full amount of duty on the fuel. Those who can continue to run on red diesel, i.e., farmers using plant and machinery for agricultural purposes, must run their equipment on white diesel for construction related purposes from April 1st.

The government wants to lower the UK's carbon footprint – this is part of the longer-term plan for the UK to be a net-zero economy by the middle part of the century. Policymakers believe scrapping the rebate for red diesel and making the construction sector switch to white diesel will act as an incentive in moving the industry towards alternative power sources such as electric or hydrogen powered plant.

The CPA has been involved throughout the consultation process since this policy was first announced in Budget 2020. We have ongoing concerns about the impact raised costs will have on members, as well as the heightened risk of theft and security concerns with the switch to white diesel.

This guide is designed to help the plant-hire sector understand the changes that are being made, and how to prepare for them. We urge members to read them and make sure that you, your colleagues, and your clients and customers, are aware of what these changes mean and how they will affect your business and day to day operations.

Over the coming weeks and as the new system takes effect post April, the CPA will be working closely with HMRC to make sure the switch to white diesel does not impact on their ability to meet the needs and demands of their customers. We remain committed to working with members, stakeholders, and government in ensuring the new policy is implemented as smoothly as possible.

Using red diesel in construction plant up to and including 1st April

In the short-term, plant-hire companies are advised to continue to order red diesel fuel stocks as they would normally, however, ahead of the 1st April, companies are urged to start preparations with their fuel suppliers to replace red diesel with white. HMRC have asked registered dealers in controlled oil (RDCO) to work with their customers in understanding what new rules are coming in and to start their preparations.

HMRC are working with RDCOs to monitor the ordering of red diesel

HMRC have told us they are working with fuel suppliers to monitor orders and make sure that those companies affected are not over ordering supplies of red diesel on top of their usual orders ahead of the 1st April deadline. Suppliers are being asked by HMRC to make sure their customers are not:

- Stockpiling red diesel
- Purchasing above normal levels
- Placing larger orders than would normally be expected.

Companies are asked to only order supplies of red diesel that they know they would ordinarily use in the weeks leading up to 1st April. While plant-hire companies are not expected to flush out red diesel from their storage tanks, they are asked to manage their weekly use of red diesel and measure how much they are likely to have left.

Unless you are using red diesel for allowed activities such as agricultural or forestry work, then HMRC advise companies to:

- Sell or pass on the red diesel to someone who is allowed to use it
- Sell or give the red diesel to any RDCO
- Dispose of the red diesel via an approved waste oil recycling or disposal company.

Companies are asked to retain records of how and when and where excess red diesel was disposed of, or who it was sold to. This can be done without getting approval from HMRC. If companies believe they will have large volumes of red diesel they will not be able to use or are unable to dispose of it before 1st April, then they should contact oils.policy@mail.hmrc.gov.uk for further information.

Please note - companies will still be able to fill their vehicles with red diesel in the weeks leading up to the 1st April. Companies are permitted to fill and re-fill fuel tanks with red diesel up to and including the 31st March.

What will happen on the 1st April?

From 1st April onwards, when refuelling or topping up fuel tanks, if it is being used for construction related purposes, vehicles and machinery **must only be filled with white diesel** or duty paid biodiesel fuels. Construction plant-hire companies and construction-based clients and customers **cannot** add red diesel to fuel tanks or fuel storage tanks based on construction sites, after the 31st March.

Moving engines from red to white diesel

HMRC accept that vehicles will be using red diesel on construction sites in the weeks after the 1st April, however, as tanks run low, companies and clients will be required to replace the used red diesel, with white diesel, or duty paid biodiesel. HMRC are working on the basis that fuel colourisation within tanks and the fuel itself will gradually change as the tanks are re-filled with white diesel or equivalent, where the plant is consistently worked in construction operations.

HMRC will be taking a pragmatic approach to enforcing the new rules

HMRC guidance states they will take a pragmatic and realistic approach to enforcement of the new rules. If you can demonstrate to HMRC that you have been refilling with white diesel only from 1st April then they will not take any action against you if they find traces of red diesel marker in the engine. You should retain invoices or receipts that can show you bought fully paid diesel or biodiesel after 1 April to help them.

HMRC are keen to work with the plant-hire community to making sure they comply, rather than actively look to catch out companies who have worked to make this switch to their day-to-day business operations.

What about machinery that can be hired out for agricultural purposes?

HMRC guidance states that if the machine is being hired out for agricultural purposes, then it can **legitimately use red diesel** for the duration of the hire. At the end of the hire, once the machine has been returned to the plant-hire company, unless it is being hired out to another agricultural user, **then the fuel tank must be drained of red diesel** and replaced with either white diesel or duty paid biodiesel.

In our discussions with HMRC, they accept that even if the fuel tank is fully drained, there will be traces of red diesel within the fuel tank. If a company is challenged on why there are

trace elements of red in what is meant to be white diesel, then we advise members to make sure they keep all records of hire contracts for machinery, showing when and for what purpose the machinery was being sent out, and what type of fuel it was allowed to use.

We acknowledge this is time consuming and there is an operational impact of switching different types of fuels between machinery for different hires. Each company operates differently. If agricultural hires or forestry work forms a core part of a companies' client base, then it might be worth considering having separate machinery for this type of work, thus saving time and effort on having to drain fuel tanks, however, we appreciate this is not a realistic alternative for many companies.

Why is the rebate for HVO and other biodiesels being removed at the same time as red diesel?

The development and use of HVO and other biodiesels as alternative fuels in construction plant machinery has been well documented in recent months. Seen by many users and suppliers as an environmentally friendly alternative to using fossil fuels such as red and white diesel, its popularity has increased. Yet from 1st April, users will have to pay the full duty on these fuels – they will be treated the same as traditional diesel fuels. As an example, HVO is a liquid hydrocarbon under HMRC excise purposes, it is classified as a heavy oil, and is therefore treated the same as diesel.

Please note: Owners may wish to confirm with their plant and machine suppliers to ensure that if alternative fuels are used, this will not affect the engine's performance, or the machine's warranty.

Security and storage of white diesel

We urge members to review their current security arrangements for their depot(s), as well as for plant and machinery out on hire on a customer's site, together with any fuel stores. This review could for example include, CCTV, fuel tanks alarms, and restricted access through enhanced fencing, and up-to-date records.

Although the CPA have repeatedly made the authorities aware of the threat to industry, it is not HMRC's responsibility to safeguard against fuel theft or combat this type of criminal activity, this remains the responsibility of the police.

Working with customers and colleagues on raising awareness of the forthcoming changes

We urge members to work closely within their own company and with their customers and clients to ensure they are fully aware of the changes to come and what to expect from 1stApril.

This can extend to:

- Putting stickers on or near fuel tanks on plant and machinery, reminding users to put white diesel (or equivalent) into fuel tanks from 1stApril
- Posters up in welfare facilities and around depots and construction sites with details of the new regulations to help employees understand the changes
- Emailing this guidance and links to the official HMRC guidance on the changes to key members within your organisation, and to clients
- Speaking with your current fuel suppliers to make sure both parties are aware of the changes when they apply and what to expect from April onwards.

Members should keep all receipts and records of when supplies of red diesel are ordered and delivered.

The new rules apply to anyone using red diesel in plant and machinery on construction sites. While the plant-hire industry will be impacted the most, the new regulations extend to contractors and operators of their own equipment – all must make the switch to white diesel from 1st April. **Please note** - renewable fuels such as HVO are currently treated no differently from fossil fuels such as conventional diesel – only fuel on which full duty has been paid can be used, regardless of origin

When machinery is out on hire and on sites where there are existing fuel storage facilities, we recommend ahead of the April deadline, that the plant-hire company makes it clear that from 1st April, machinery should only be filled with white diesel. While we expect contractors to be working with their own fuel suppliers to ensure they are using up their stocks of red diesel and are preparing for the change to white diesel, it is best to plan and make sure that everyone across the hire chain knows and understands these changes.

We recommend that at the start of the hire and when the machinery is returned, the plant-hire company is able to provide evidence towards what type and how much fuel was in the machine when it went out, and to check what type and how much fuel is within the tank when it is returned. We advise members to refer to Clause 28 in the CPA Model Conditions, which states the customer will be liable for damages or losses if the wrong fuel is added to the machinery.

Failure to check on what fuel has been added, may well undermine the new regulations and could result in potential action from HMRC.

Other points to note

Use of red diesel outside of the UK

In other countries or jurisdictions outside of the UK, such as EU member states, the use of red diesel will still be legal in some construction vehicles. If the fuel tank is refilled outside of the UK with red diesel, companies will still be able to use red diesel in the UK, provided they are able to prove to HMRC, that the vehicle was filled lawfully outside of the UK.

We recommend members check directly in whatever EU state or jurisdiction they are operating in, to ensure they are able to use red diesel in their construction plant.

Please note, both Northern Ireland and the Isle of Man will be following the same rules as the rest of the UK on the use of red diesel. If operating in the Channel Islands, again, it is worth checking with the local jurisdiction to see if you can continue to use red diesel.

Using dye in white diesel

Many members have asked if it is possible to add a dye, such as a blue marker, into fuel tanks, to differentiate from white and act as a deterrent to thieves looking to steal white diesel. We would recommend talking directly to HMRC and your diesel suppliers on whether you will be able to do so. At the time of writing, it is unclear if this would be possible.

Using red diesel in plant-hire depots

Companies **will not** be able to use red diesel in forklift trucks or other support vehicles in depots or yards. This comes back to the point of what the vehicle is being used for – by extension, if it is part of the logistical support for vehicles and machinery involved in construction, and had been run on red diesel, then from 1st April, it must follow the new regulations.

Useful links and email addresses

- For companies uncertain whether they will use up existing stocks of red diesel in fuel tanks, please contact oils.policymail@hmrc.gov.uk for further information
- For queries on the existing HMRC guidance and procedures to follow, contact [reddieselentitlement@hmrc.gov.uk](mailto:redieselentitlement@hmrc.gov.uk)
- Official HMRC red diesel guidance - [Changes to rebated fuels entitlement from 1 April 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/changes-to-rebated-fuels-entitlement-from-1-april-2022)
- To view the CPA / HMRC red diesel webinar from December 2021, please go to <https://youtu.be/hwdiKDMgM6s>

CPA Disclaimer

This document has been put together in partnership with HMRC, for CPA members and is correct at the time of writing. We recommend that users of red diesel who will be switching to white diesel, should refer directly to the official HMRC guidance for wider points of clarification and reference.

We will be updating this document as and when the official HMRC guidance is updated accordingly.

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