



## Amendments to entitlement to use rebated fuels

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### Who is likely to be affected

Businesses and individuals who supply or use rebated fuels to provide electricity or heating to premises that are used for both commercial and non-commercial purposes; businesses and individuals using machines or appliances for purposes relating to arboriculture; and lifeboat charities.

### General description of the measure

This measure introduces minor amendments to changes that were introduced in April 2022 to restrict the entitlement to use rebated diesel and biofuels, including marked oils. The changes were legislated for in Finance Act 2021 and amended by Finance Act 2022. These amendments will:

- Allow machines or appliances used to generate electricity or provide heating primarily for non-commercial premises to use rebated fuels even if they also provide some of the electricity or heat to commercial premises.
- Add arboriculture to the list of activities for which machines and appliances (other than vehicles) can use rebated fuel, a clarification which will allow those working in this sector to use rebated fuel in the same machines and appliances as they did before April 2022.
- Allow the use of rebated fuel in tractors and gear owned by lifeboat charities and used to launch and recover their lifeboats.
- Make a minor technical correction to remove an anomaly in the Hydrocarbon Oil Duties Act 1979 (HODA).

### Policy objective

At Budget 2020, the government announced that it would remove the entitlement to use rebated diesel and biofuels from most sectors to help meet its climate change and air quality targets. The changes took effect from April 2022 and ensure that most users of rebated diesel prior to April 2022 are now required to use fully duty-paid diesel, like motorists, which more fairly reflects the harmful impact of the emissions they produce.

Following the implementation of the changes, the government was made aware of a small number of unintended impacts on fuel users. This measure will make minor amendments in relation to these, as well as correcting a technical legislative issue in section 14B(6) of HODA.

## **Background to the measure**

### Using rebated fuels primarily for heating and generating electricity for premises that are not used for commercial purposes

As part of the reforms introduced in April 2022, the government decided to continue to allow rebated fuel to be used in heating of, and for electricity generation for, premises that are not used for commercial purposes. This was due to a concern that removing entitlement from this use would significantly increase the heating bills of households that use diesel, especially those in areas off the gas grid.

The government has since become aware that there are a small number of heat and power suppliers, such as district heating networks, that primarily supply non-commercial premises but also supply a small number of commercial premises. In areas not linked to the gas grid, these suppliers use diesel for their generators. In line with the initial policy intent, this measure will ensure that the domestic household customers of such suppliers retain the benefit of the non-commercial heating relief. This will also benefit other premises that are primarily used for non-commercial purposes that do not currently benefit from the relief because they are used to some extent for commercial purposes. Examples include bed and breakfast accommodation in rural areas that may only have a few guests each year, or public sector office blocks that also house a commercial shop and rely on a single heating system or generator for the whole premises.

### Arboriculture

As part of the reforms introduced in April 2022, machines and appliances can continue to use rebated fuel for purposes relating to horticulture and forestry. The government has subsequently become aware that because HMRC's interpretation of horticulture and forestry does not include some aspects of arboriculture, machines used for these purposes can no longer use rebated fuel following the 2022 reforms. For example, tending trees in parks and gardens is accepted as a purpose relating to horticulture but tending trees in streets and housing estates is not. Also, the upkeep and management of forests is only accepted as a purpose relating to forestry when growing and harvesting timber.

The government recognises that this has created unintended difficulties for arboriculture businesses whose work requires them to use their machines and appliances for a combination of allowed and no longer allowed purposes. This measure will allow arborists to use rebated fuels in machines and appliances (but not vehicles) for all forms of tree work as they could before the changes made in April 2022.

### Lifeboat charities' launch tractors and gear

Rebated fuel can be used in lifeboats and for generating electricity and heating for lifeboat stations, but not in the tractors and gear used to launch and haul them from the water.

This measure will allow charities operating lifeboats to use rebated fuel in tractors and gear they own and use to launch and haul in their lifeboats. This will mean they can use the same fuel for all of their functions, which will reduce the burdens on these charities associated with buying and storing rebated and fully duty paid diesel.

### Minor technical amendment to HODA

In addition, section 14B(6) of HODA cross refers to a definition in another section of HODA which has been repealed and so a definition needs to be inserted.

## **Detailed proposal**

### **Operative date**

These measures (aside from the technical amendment of section 14B) will have effect in relation to any rebated diesel and biofuels, including marked oils, used from 6pm on 15 March 2023 . The amendment to section 14B will have effect from the date of Royal Assent to the Finance Bill.

### **Current law**

HODA is the UK's primary legislation on the taxation of hydrocarbon oils. It defines the different types of oils and provides for the rate of fuel duty charged on each, the rebate allowed on certain types of oil, and the penalties for misuse of rebated oils. Section 12 provides for when using rebated fuel is not allowed, and section 13 provides for the penalties for using rebated fuel illegally, and for supplying rebated fuel for misuse.

Schedule 1A of HODA specifies the circumstances in which certain vehicles, vessels, machines and appliances are 'excepted machines' that can use rebated fuel rather than fully duty-paid fuel.

Section 19 of HODA provides for a repayment of excise duty in relation to fuel used by RNLI in a lifeboat or for a launch tractor or gear.

There is extensive secondary legislation relating to fuel duty, with around 15 statutory instruments which are relevant to rebated fuels.

### **Proposed revisions**

Spring 2023 Finance Bill will amend HODA. The changes are:

#### Using rebated fuels primarily for heating and generating electricity for premises that are not used for commercial premises

- A change to HODA, Schedule 1A, paragraph 8(1)(d) to provide that a machine may use rebated fuel when it is being used 'primarily' to heat or generate electricity for premises not used for commercial purposes.

- A change to HODA, Schedule 1A, paragraph 8(1)(e) to provide that a machine may use rebated kerosene for fuel when it is being used for heating for any premises.
- An addition to HODA, Schedule 1A, of paragraph (8)(3)(a), to provide that the Commissioners can provide an interpretation of ‘primarily’, for the purposes of paragraph 8(1)(d), in a Public Notice. The intention is to use this power to provide that using a machine ‘primarily’ to heat or generate electricity for premises means that 75% or more of the heat provided or electricity generated by the machine will be used by premises for the purpose of that premises.
- An addition to HODA, Schedule 1A, of paragraph (8)(3)(b), to provide that the Commissioners can provide an interpretation of ‘used for commercial purposes’, for the purposes of paragraph 8(1)(d), in a public Notice. The intention is to use this power to provide that ‘used for commercial purposes’ means used for trading in goods or services with the intention of making a profit. Commercial purposes will not include delivery of a service where it’s intended that any profit made will only cover the costs of delivering that service, such as a charity’s primary purpose trading.

#### Arboriculture

- A change to HODA, Schedule 1A, paragraph 8(1)(a) to include purposes relating to arboriculture as an allowed use of rebated fuel in any machine or appliance other than a vehicle.

#### Lifeboat charities’ launch tractors and gear

- A change to HODA, Schedule 1A, paragraph 6 to include ‘a tractor or gear owned by a charity and used by it for the purpose of launching or hauling in a lifeboat owned by it’ as an excepted machine.

#### Minor change to HODA

- A minor technical amendment to HODA, section 14B(6), to replace the reference to the repealed section 6AB(4) with new definitions of “HO%” and “BD%”.

## Summary of impacts

### Exchequer impact (£m)

2022 to 2023	2023 to 2024	2024 to 2025	2025 to 2026	2026 to 2027	2027 to 2028
negligible	negligible	negligible	negligible	negligible	negligible

This measure is expected to have a negligible Exchequer impact.

## **Economic impact**

This measure is not expected to have any significant macroeconomic impacts.

## **Impact on individuals, households and families**

This measure is not expected to have any significant impact on individuals beyond those already identified [here](#) for the reforms to the tax treatment of rebated diesel and biofuels.

The measure is not expected to impact on family formation, stability or breakdown., family formation, stability or breakdown.

## **Equalities impacts**

It is not anticipated that there will be significant impacts for those in groups sharing protected characteristics.

## **Impact on business including civil society organisations**

The measure is expected to have a negligible impact on a small number of businesses.

### Using rebated fuels primarily for heating and generating electricity for premises that are not used for commercial premises

There will be some one-off transitional costs for users and suppliers to familiarise themselves with the new rules but as most will be effectively returning to systems they operated before April 2022 this will be minor.

### Arboriculture

The measure will reduce the financial burdens of arborists who would otherwise have had to flush out the fuel tanks of their machines when they switched between allowed and non-allowed uses of rebated fuel.

There will be some one-off transitional costs for arborists to familiarise themselves with the new rules but as most will be effectively returning to systems they operated before April 2022 this will be minor.

### Lifeboat charities' launch tractors and gear

There will be negligible impact on charities operating lifeboats. This measure will ensure that tractors and gear that are used for the purpose of launching and hauling in lifeboats from the water can use rebated fuel in the same way as lifeboats and other lifeboat station uses. This change will allow them to use one type of fuel (rebated fuel) rather than two. One-off costs could include familiarisation with the new rules. Continuing savings could include not having to keep separate records or maintain separate supplies of rebated and fully duty-paid fuel. There are not expected to be any continuing costs.

## **Operational impact (£m) (HMRC or other)**

This measure is not expected to have any operational impact beyond those already identified at Budget 2021 [here](#) for the reforms to the tax treatment of rebated diesel and biofuels.

## **Other impacts**

Other impacts beyond those already identified [here](#) for the reforms to the tax treatment of rebated diesel and biofuels have been considered and none has been identified.

## **Monitoring and evaluation**

The measure will be monitored through information collected from fuel duty receipts of rebated fuels and fully duty-paid fuels and by communicating with affected sectors no longer entitled to use rebated fuels as well as developers of greener alternatives.

## **Further advice**

If you have any questions about this change, please contact the Oils Policy Team by email: [oils.policymail@hmrc.gov.uk](mailto:oils.policymail@hmrc.gov.uk)

## **Declaration**

James Cartlidge MP, Exchequer Secretary to the Treasury has read this tax information and impact note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.