



HM Treasury

Reforms to the tax treatment of red diesel and other rebated fuels:

Summary of responses to the consultation

March 2021

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ISBN 978-1-911680-40-6 PU 3080

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Chapter 1

Introduction

- 1.1 In June 2019, the UK became the first major economy in the world to pass laws guaranteeing an end to its contribution to climate change by 2050. The target will require the UK to bring all greenhouse gas emissions to net zero by 2050, compared with the previous target of at least an 80% reduction from 1990 levels.
- 1.2 The government also launched an ambitious new strategy to clean up the air and save lives in 2019, recognising that air pollution is one of the biggest ongoing threats to public health in the UK. This comes on top of a commitment to halve the number of people living in areas exceeding World Health Organisation (WHO) guidelines on particulate matter by 2025, making the UK the first major economy to adopt air quality goals based on WHO recommendations.

Ensuring businesses pay for the harmful emissions they produce

- 1.3 The government continues to take its world-leading environmental commitments seriously and remains dedicated to meeting its climate change and wider environmental targets, including improving the UK's air quality. At Budget 2020, the government therefore announced that it would remove the entitlement to use red diesel and rebated biodiesel from most sectors from April 2022.
- 1.4 Red diesel is diesel used for off-road purposes, such as to power bulldozers and cranes in the construction industry, or to power drills for oil extraction. It is dyed red in order to distinguish it from ordinary diesel which is liable for the standard rate of fuel duty. It accounts for around 15% of all the diesel used in the UK and is responsible for the production of nearly 14 million tonnes of carbon dioxide (CO₂) a year. Red diesel used in the construction and infrastructure building sectors was also estimated to have caused 7% of nitrogen oxide (NO_x) emissions and 8% of PM10 emissions (a type of particulate matter) in London in 2018.
- 1.5 Despite diesel being one of the most polluting fuels that vehicles and machinery can use, those entitled to use red diesel pay a duty rate of only 11.14 pence per litre (ppl), which is significantly less (46.81ppl) than those using standard road fuel diesel (duty rate of 57.95ppl). Businesses using red diesel are therefore paying far less for the harmful emissions they produce than individual car owners, even though the emissions produced from using one litre of diesel are broadly the same in both cases. Regardless of where the fuel is burnt, on or off road, the impact on the UK's carbon emissions is the same.

- 1.6 The changes announced at Budget 2020 will mean that most businesses across the UK using diesel will need to use fuel taxed at the standard rate for diesel from April 2022, which more fairly reflects the negative environmental impact of the emissions they produce.

Incentivising the development and adoption of greener alternative technologies

- 1.7 The government has previously received feedback from developers of alternative fuels and technologies that they view the low cost of running a diesel engine with red diesel as a barrier to entry for greener alternatives.
- 1.8 Removing most red diesel entitlements will help to ensure that the tax system incentivises users of polluting fuels like diesel to improve the energy efficiency of their vehicles and machinery, invest in cleaner alternatives, or just use less fuel. It should also act as a signal to manufacturers to design and sell new alternatives, thereby creating a more competitive market and consequently bringing down the price of these alternatives.

Budget 2020 announcement to remove red diesel entitlements from April 2022

- 1.9 The government announced at Budget 2020 its intention to remove the entitlement to use red diesel from most sectors from April 2022, except for the agriculture sector (as well as forestry, horticulture and fish farming), in vehicles designed to run on railway tracks, and where red diesel is used to power non-commercial heating systems, such as in homes, narrowboats and places of worship.
- 1.10 The government recognises the continued importance of red diesel to the agricultural sector. In the rail sector, the removal of the red diesel entitlement for passenger or freight journeys risks creating perverse environmental outcomes, namely transferring rail freight or passengers to more polluting lorries, coaches and cars if costs rise. Finally, if applied to non-commercial heating, this would significantly increase the heating bills of households that use diesel, especially those in areas off the gas grid where there is no alternative and including some which may be vulnerable.

Managing the impact of the tax changes

- 1.11 While reducing the use of red diesel is the right thing to do for the environment and for air quality, and makes sure that businesses pay fairly for the harmful emissions they produce, the government recognised at Budget 2020 that this would be a significant change for some businesses, and it has therefore been taking steps to help manage the impact on those affected.
- 1.12 Firstly, the government announced that businesses will have until April 2022 (two years from announcement) to prepare before any changes take effect.
- 1.13 Secondly, to support the development of alternative energy sources that these businesses can switch to, the government committed at Budget 2020 to at least doubling its investment in energy innovation, accelerating the design and production of innovative clean energy technologies. As part of

the Ten Point Plan for a Green Industrial Revolution, the government announced it will launch the new £1 billion Net Zero Innovation Portfolio. It has previously been informed by users of red diesel that the cost of alternative cleaner technologies is a barrier to switching to non-diesel-powered vehicles and machinery, so this investment will help bring cheaper alternatives to market sooner.

- 1.14 Finally, HM Treasury launched a consultation last July (referred to throughout as 'the consultation') to make sure that it has not overlooked any exceptional reasons why other sectors should be allowed to continue to use red diesel beyond April 2022. The consultation set out that in assessing any claim made by a sector to retain their red diesel entitlement, the government would aim to balance a range of factors, including, but not limited to, the environmental rationale for the changes and the impact on prices of goods and services that households purchase.

Engagement with the consultation (Q1-4)

- 1.15 The government received 436 written responses to the consultation. This included responses from 244 companies and trade bodies, 7 public sector organisations, 8 charities, and 177 individuals.
- 1.16 During the consultation period, the government engaged directly with over 50 organisations to discuss the consultation in more depth. This included representatives from a wide range of sectors, such as construction, mining and quarrying, rail, road treatment, manufacturing, commercial and pleasure boating, fishing, ports and logistics, public entertainment, fuel suppliers and waste management.
- 1.17 This document sets out a summary of responses to the consultation. The number of responses means that this document can only provide a high-level summary, but the government is grateful for the large volume of evidence submitted, which has been used to inform the development of these tax changes. The document also confirms the government's next steps.
- 1.18 Chapter 2 of this document confirms which sectors are retaining their entitlement to use red diesel and rebated biofuels beyond April 2022, whilst chapter 3 outlines the government's approach to implementing the tax changes. Chapter 4 covers the treatment of private pleasure craft and chapter 5 sets out other impacts that stakeholders raised. Chapter 6 discusses the call for evidence on other rebated fuels, and chapter 7 confirms the government's next steps.

Chapter 2

Sectors retaining entitlement to use red diesel

2.1 This section of the consultation sought views from current users of red diesel and rebated biofuels that will be affected by these tax changes, to make sure the government has not overlooked any exceptional reasons why other sectors should be allowed to continue to use red diesel beyond April 2022. It also sought views on the environmental impact of these tax changes and on the government's proposal not to change the entitlement to use red diesel for some sectors, or any of the existing fuel duty reliefs which give specific sectors 100% relief on their fuel duty costs.

Question 5 - Will removing the entitlement to use red diesel in your sector create perverse environmental outcomes? If so, please explain how, providing relevant evidence.

Question 6 - Will removing the entitlement to use red diesel in your sector have an impact on the price of goods and services households and/or voluntary organisations use or pay for over the long-term? If so, please provide relevant evidence.

Question 7 - How will removing the entitlement to use red diesel in your sector impact your organisation? Please provide details on: a) your organisation/sector's current red diesel consumption and costs, including as a proportion of total costs, and broken down by different uses (i.e. what types of vehicles and machinery); b) the operational and financial capacity of your organisation/sector to shift to alternatives to red diesel (specifying what these alternatives are); c) the capacity of your organisation/sector to pass through costs down the supply chain; d) the capacity of your organisation/sector to absorb extra costs

Question 8 - What impact do you expect the removal of red diesel entitlements from most sectors will have on the environment and on air quality? Please provide any evidence you deem relevant.

Question 9 - Do you have any comments on the government's intention to maintain the entitlement to use red diesel for agriculture (as well as forestry, horticulture and pisciculture), rail and for non-commercial heating (including domestic heating) from April 2022?

Question 10 - The government is interested in gathering further information about the use of red diesel for heating. Please provide relevant evidence of your use of red diesel for this purpose, including on: i) the quantity and cost of the fuel; ii) where in the country the fuel is used (including whether you are on or off the gas grid); and iii)

whether you consider that there are any viable alternative energy sources available to you.

Question 11 - Do the announced changes to the tax treatment of red diesel raise any concerns about the application of existing fuel duty reliefs? If so, please provide details on the relief and the issue that you believe will arise.

Environmental impacts of the tax changes and perverse environmental outcomes (Q5 and Q8)

- 2.2 The majority of respondents to the consultation were supportive of the government's wider environmental goals and of efforts to tackle climate change and improve air quality, with a few respondents in particular noting the need to prioritise addressing climate issues above others when considering policy options in this area.
- 2.3 Most business and trade sector respondents disagreed with the timing of the tax changes proposed by the government, saying it was too soon to increase diesel costs since there are few, if any, viable alternatives to diesel-powered equipment and machinery on the market for them to switch to. These respondents - in particular the users of heavy plant and machinery - indicated that potential alternatives to diesel, such as hydrogen-powered machinery, would most likely become commercially available in a number of years at the earliest. On the other hand, some businesses and trade bodies noted that machinery powered by lower-carbon fuels, such as hydrotreated vegetable oil (HVO) and liquefied petroleum gas (LPG), were already commercially viable alternatives and that the low running costs of diesel fuel made these alternatives uncompetitive. Others noted that mains electricity-powered alternatives would only be viable at locations on the electricity grid, and not all locations would be.
- 2.4 In the absence of viable alternatives to diesel-powered equipment and machinery, most respondents suggested that the tax changes would result in businesses switching from red diesel to 'white' (standard rated) diesel in April 2022, instead of switching to greener alternatives. As a consequence of this, some stakeholders argued that the proposed changes would not result in positive environmental impacts over the long-term since the same amount of diesel would be used, just at a higher rate of duty.
- 2.5 Some stakeholders - including some current users of red diesel, developers of alternatives and fuel suppliers - offered the contrary view and said these changes would likely incentivise the uptake of more fuel-efficient diesel-powered machinery where it is not already being used, so having a positive impact on the environment. Others noted that there were some greener alternatives already available and commercially viable, or which would become so following the tax changes. Some respondents were also aware of alternative technologies in the prototype phase that were being trialled for use in their sectors, such as electric/battery options, with others identifying an opportunity to switch to alternatives powered by cleaner fuels in the short-term.
- 2.6 Over half of respondents felt that removing their entitlement to use red diesel would create perverse environmental outcomes. The most common

perverse outcome identified was that increased fuel costs would mean that businesses have less capital to invest in more efficient or greener alternative technologies when these technologies become available. Some respondents said that increasing fuel prices could result in supply chains purchasing cheaper alternatives from abroad which would lead to carbon leakage (i.e. transferring production to other countries with laxer emission constraints).

- 2.7 Separately, logistics providers set out that moving freight via commercial vessels on the UK's rivers and inland waterways cut emissions by 75% compared with road haulage, and that if they became less competitive relative to road haulage then freight could shift from water to road. Whilst the consultation proposed maintaining the entitlement to use red diesel in rail vehicles for locomotion, the rail sector also highlighted that red diesel is used in terminals, such as for loading and unloading trains, and that removing the entitlement from these uses would reduce the competitiveness of rail freight compared with freight transported by road.
- 2.8 Respondents from the waste management sector said that removing their red diesel entitlements could increase the cost of recycling, which may result in waste being diverted to landfill instead and the cost of recycled goods increasing relative to virgin materials.

Impact of removing entitlement on sectors (Q7)

- 2.9 Most respondents to the consultation provided information on their business' or sector's red diesel consumption and how much these tax changes would cost them.
- 2.10 Fuel costs as a proportion of total costs varied widely depending on the business and sector. Most respondents noted that their fuel costs would double following these tax changes and that they would need to pass these extra costs down the supply chain. Some respondents suggested they would not be able to pass costs on to clients as they were locked into long-term fixed-price contracts, but others in that position mentioned that they could use change-of-law clauses to re-negotiate prices. A small number of businesses and their trade bodies said that they would not be able to pass down costs as they competed internationally and so increasing their prices could reduce their ability to export or to compete with imports.
- 2.11 Many respondents suggested that they did not expect to have recovered from the impacts of the COVID-19 pandemic by April 2022, and that the increasing fuel costs will make it more difficult for them to recover and limit their ability to absorb extra costs.

Impacts on the price of goods and services households and/or voluntary organisations use or pay for over the long-term (Q6)

- 2.12 The government received a number of responses from operators of travelling fairgrounds and circuses, along with their representatives, who suggested that red diesel represents a relatively large proportion of their costs and that they had very limited capacity to absorb these costs. They suggested this would have a material impact on ticket prices paid by the people visiting these attractions.

- 2.13 The government received responses suggesting that ferries carrying passengers on the UK's rivers and inland waterways would also not be in a position to absorb extra fuel costs. These extra costs would need to be passed on directly to passengers, materially impacting the price of the tickets they purchase.
- 2.14 The government received some responses from the sports sector who suggested that the increase in their fuel costs for maintaining grounds and facilities would have to be passed on directly to members of these clubs, materially impacting the prices they pay to participate in the sporting activity, especially for amateur sports and golf. They suggested these increased costs would potentially lead to fewer people participating in sports.

Sectors already retaining entitlement (Q9)

- 2.15 Of the respondents that commented specifically on the government's intention not to change the entitlement to use red diesel from April 2022 for agriculture, rail vehicles and for non-commercial heating, most agreed with the government's proposal. Some respondents noted this should be temporary and these sectors should also have to transition to cleaner alternatives in future. A few respondents indicated that some households may not be connected to the electricity grid and may rely on red diesel for electricity generation, either as their main source or as back-up if they use solar power.

Existing reliefs (Q11)

- 2.16 The majority of respondents did not express a view on the government's proposal not to change any of the existing fuel duty reliefs which give specific sectors 100% relief on their fuel duty costs. However, some respondents suggested that although their fuel would still be fully relieved under the Marine Voyages Relief, which gives 100% relief on the fuel duty costs of commercial boats undertaking journeys within the limits of a port or at sea, removing the entitlement to use red diesel in these boats would still be a disruption to the cash flow of businesses. This is because they would have to pay and then reclaim VAT at the standard rate for white diesel, instead of VAT at the reduced rate for red diesel. Some respondents noted that businesses that were not VAT registered would not be able to reclaim VAT paid at a higher rate in future.

Government response

- 2.17 In weighing responses to the consultation, the government has had regard to its long-term environmental objectives. These include the need for the tax system to incentivise the development of greener alternatives to polluting fuels, as well as the need to ensure that, wherever possible, users of polluting fuels are paying the same for the pollution they cause.
- 2.18 That is why the government announced these reforms to red diesel at Budget 2020, and why the consultation launched in July 2020 asked for 'exceptional' reasons why entitlement to red diesel should continue. For example, where increased fuel costs could lead to perverse environmental

impacts, or where removing the entitlement to use red diesel would have a material and direct impact on the price of goods and services households and/or voluntary organisations pay over the long-term.

Environmental impact of the changes and perverse environmental outcomes

- 2.19 The government is confident that the long-term signal to invest in greener alternatives will be considerably strengthened by these changes, incentivising developers to bring forward alternatives to market sooner than if these tax changes were not made as affected businesses look to alternatives. This view was shared by environmental stakeholders and developers of alternative technologies.
- 2.20 In the short-term, and as the market for alternatives is developing, the government's view is that taxing pollution and dangerous greenhouse gas emissions the same, regardless of whether the fuel is burnt on or off road, is fairer than allowing wide distortions to continue.
- 2.21 However, when assessing cases made for continued entitlement to use red diesel on the grounds that removing it could lead to perverse environmental outcomes, the water freight sector made persuasive arguments about the potential for modal shift if their fuel costs rose. As a result, the government accepts that losing the entitlement to use red diesel would have a material impact on the sector's competitiveness when compared with road haulage, and that this could encourage a shift to more polluting road freight.
- 2.22 In assessing similar cases made that removing red diesel used in loading equipment at terminals could lead to modal shift to road (by making rail freight more expensive), the government found less compelling evidence that increased costs would have a material impact on the cost of rail freight. This is in large part down to the government's decision at Budget 2020 to continue to allow red diesel to be used in rail vehicles, which is a larger proportion of rail costs.
- 2.23 Regarding the case made by the waste management sector, the government did not find compelling evidence that the risks they identified of waste being diverted to landfill are likely to materialise, and so does not believe that these arguments outweigh the benefits the government expects from removing red diesel entitlements.
- 2.24 Arguments that increased fuel costs would lead to less capital for businesses to invest in greener alternatives were not found to be compelling, and the government was sceptical that businesses would be incentivised to make these investments without a stronger signal from government.

Impact of removing entitlement from sectors

- 2.25 While the government acknowledges that some users of red diesel will pass increased fuel costs on, the government is confident that the proposed changes will apply evenly across sectors, meaning that competition within sectors in the UK should not be affected. The government is also confident that in most sectors these additional costs will not lead to a material impact on the price of goods and services households and/or voluntary organisations pay. The only exceptions to this are outlined in the section below.

- 2.26 With respect to the small minority of businesses affected who trade internationally and/or compete with imports into the domestic UK market, the government did not find that arguments that they will be made materially less competitive by these changes were compelling. Many factors influence international trade and export performance, including the exchange rate (which has generally favoured UK production in recent years), general demand, and the quality of UK goods relative to their international competitors. Since fuel was found to be a small percentage of overall costs for most firms, we do not anticipate that these changes will significantly impact the competitiveness of these goods. For businesses operating within the UK, whole sectors will be responding to these changes so no company will be at an advantage or disadvantage compared with their competitors.
- 2.27 While the government acknowledges that 2020 was a challenging year for business, the government has provided unprecedented support for workers and businesses to protect against the economic emergency, including guaranteed loans for supporting businesses to access finance, tax deferrals, rental support, mortgage holidays, self-isolation support payments and other business support grants. As these changes to red diesel will not take effect for another year, the government has decided that April 2022 is the right time to implement them.

Impacts on the price of goods and services households and/or voluntary organisations use or pay for over the long-term

- 2.28 The travelling fairground and circus sector made persuasive arguments about the potential impact on ticket prices if their fuel costs rose. As a result, the government accepts that losing the entitlement to use red diesel could have a material impact on the costs of the entertainment that they provide to families all around the country.
- 2.29 The government has also considered whether there is a strong case for continued use of red diesel by ferries carrying paid passengers on the UK's rivers and other inland waterways. In light of the expected increase in fuel costs of such boats, the government was persuaded by the case made that these tax changes could have a direct impact on the costs of tickets for passengers.
- 2.30 In light of the arguments made by representatives from the sports sector that increased costs on their clubs would be passed down to members, the government accepts that removing the entitlement to use red diesel from amateur sports clubs, as well as all golf courses, could affect people's ability to participate in sport and impact on health and well-being.
- 2.31 Taking into account the fact that some households and other non-commercial buildings, such as hospitals, may not be connected to the electricity grid and may rely on red diesel for electricity generation or to power back-up generators, the government agrees to retain the entitlement to use red diesel for non-commercial power generation and heating. This will avoid increasing the electricity bills for households and organisations providing vital public services to their local communities in remote and rural areas.

Commercial marine and freshwater uses

2.32 As the government has been persuaded by the cases made by representatives of the water freight sector and passenger ferries, the government has decided to maintain the entitlement to use red diesel for the whole commercial boat operating industry, regardless of whether they are operating on the UK's rivers and other inland waterways or out at sea, to avoid ports and marinas needing to supply two types of fuel, which would otherwise have been necessary in some cases. Whilst commercial boats undertaking journeys within the limits of a port or at sea, including ferries and fishing boats, will remain entitled to the Marine Voyages Relief, maintaining their red diesel entitlement will avoid fuel suppliers having to offer two types of fuel where marinas/ports serve inland and seagoing vessels.

Final entitlements

2.33 To summarise what this means for entitlement following the consultation, the government confirms that it will not remove the entitlement to use red diesel from April 2022 for the following uses (originally announced at Budget 2020):

- In agriculture, forestry, horticulture and fish farming. This includes agricultural vehicles used for cutting verges and hedges, snow and flooding clearance and gritting roads.
- As fuel to propel passenger, freight or maintenance vehicles designed to run on rail tracks.
- For non-commercial heating. This includes the heating of homes and buildings used for other non-commercial purposes, such as places of worship and townhalls, and heating (and other non-propulsion uses) on permanently-moored houseboats.

2.34 In addition, following consultation, the government has decided to grant further entitlement to use red diesel for:

- The commercial boat operating industry, including but not limited to the fishing and inland water freight industries and passenger ferries.
- The travelling fairground and circus industries when diesel is used for powering their machinery (including their caravans).
- Non-commercial power generation, including households who rely on red diesel for electricity generation in areas not connected to the electricity grid.
- Amateur sports clubs as well as all golf courses. This includes activities such as ground maintenance and the heating and lighting of the clubhouse and changing rooms. Amateur sports clubs will qualify if they are registered as community amateur sports clubs (CASCs).

2.35 The precise definition of these entitlements to use red diesel beyond April 2022 will be set out in the legislation covering the tax changes that will be introduced in the upcoming Finance Bill. The government sets out the implications for private pleasure craft users in chapter 4.

Chapter 3

Implementation and ensuring compliance

3.1 This section of the consultation sought views on the government's approach to implementing the changes to the tax treatment of red diesel, including on how to introduce the changes, whether to mandate that fuel suppliers and end users of red diesel must flush out their tanks, pumps and fuel supplies, and how to ensure compliance is proportionate and appropriate.

Question 12 - Are there any circumstances where, despite nearly two years' notice, users of red diesel that will be losing their entitlement will have already purchased fuel that they do not expect to have used up by April 2022? If so, please provide evidence why you do not expect to be able to manage your supplies so that you have used up all your red diesel by April 2022.

Question 13 - Do you agree with the government's suggested approach of mandating RDCOs that switch a fuel tank from red to white diesel in anticipation of the introduction of the tax changes to flush the tank and pump until no trace of marked rebated fuel remains? If you do not, please explain why.

Question 14 - If you are a fuel supplier, do you foresee any significant difficulties with the proposed arrangements for implementing the changes to the tax treatment of red diesel? If so, please explain why.

Question 15 - Do you agree with the government's suggested approach of not mandating users of red diesel that will lose their entitlement to flush out the fuel supplies of their vehicles and machinery? If you do not, please explain why.

Question 16 - If you are in a sector that will lose entitlement to use red diesel from April 2022, do you foresee any difficulties with the proposed arrangements for implementing the changes to the tax treatment of red diesel? If so, please explain why.

Question 17 - Is the government's suggested approach to compliance proportionate and appropriate? If not, please explain why and outline any scenarios that you anticipate may require bespoke compliance powers or penalties.

Impact of the changes on registered dealers in controlled oil

3.2 A small number of registered dealers in controlled oil (RDCOs) responded and were opposed to the government's proposals to mandate the flushing of fuel tanks on the basis that it would be expensive and time-consuming. Some fuel suppliers felt that fuel would be wasted and/or disposed of inappropriately (causing damage to the environment), while others said that flushing tanks would not remove all traces of dye and marker, so the exercise would be ineffective. Many end users also took the opportunity to answer the government's questions on RDCOs, and the majority were also opposed

to flushing tanks as they felt costs would be passed on to the consumer in the form of higher fuel prices.

- 3.3 A minority of respondents who replied to this section of the consultation supported the flushing proposal, feeling it was important for RDCOs to flush their tanks properly to prevent them from supplying contaminated white diesel to individuals who have never been entitled to use red diesel, such as car owners.

End users

- 3.4 The government sought views from individuals asking if there were any circumstances where, despite having two years' notice since the Budget 2020 announcement, they would not be able to manage down fuel supplies by April 2022.
- 3.5 Many end users who responded to the consultation suggested it would be difficult to manage down stocks so that they run out of red diesel exactly on 31 March 2022. Some users suggested that generators would always need a full fuel tank for safety reasons in the event of a power cut, but that they use these generators so infrequently that it would be impossible to run down their fuel tanks without burning fuel unnecessarily. Other respondents suggested individuals would stockpile fuel before April 2022.
- 3.6 Given some of these challenges, a minority of respondents suggested that rather than banning the use of red diesel from April 2022, the government should ban the purchase of red diesel after March 2022 and allow a grace period where some dye and marker would be permissible. Almost all respondents that said they could see difficulties in implementing the proposed changes cited increased costs rather than practical reasons.
- 3.7 Almost all respondents agreed with the government's suggestion that end users who lose their entitlement should not be mandated to flush their tanks for practical and environmental reasons. Some respondents added that if they were not required to flush tanks, HMRC's enforcement needed to be proportionate and recognise that chemical residues and markers would remain in tanks for years.

HMRC enforcement

- 3.8 There was a mixed response to the government's enforcement proposals. The consultation set out that in cases where HMRC compliance officers found that vehicles and machinery that had lost their entitlement still had some red diesel marker in their fuel supplies after 1 April 2022, these vehicles and machinery, as well as the fuel, would be liable to be seized. It is HMRC policy to act if they consider that red diesel is being used illegally and an offence has been committed. However, the consultation set out that the user of the vehicle or machinery would be able to appeal the liability if they believed they were still entitled to use red diesel. Respondents were split between agreeing, disagreeing or not having an opinion on the proposal. For those that did not agree, the main reason given was that they did not believe HMRC should seize machinery before the user was actually proven guilty of fuel misuse in court.

Government response

- 3.9 The government wants to design and implement these changes to the tax treatment of red diesel in a way that promotes compliance and prevents avoidance and evasion. Effective compliance must be proportionate and should not place undue burdens on businesses.
- 3.10 The government has decided to implement its proposal to mandate that RDCOs switching a fuel tank from red to white diesel will need to flush out the tank and supply lines until no trace of marked rebated fuel remains. This will significantly aid HMRC to ensure compliance and detect any misuse of red diesel as it will minimise the risk that white diesel that has had the full duty rate paid on it is sold contaminated with the red diesel marker. It will also help maintain a level playing field for compliant businesses.
- 3.11 Since the government now intends to allow almost all boats and ships to continue to use red diesel (see chapter 4 for implications for private pleasure craft users), this means that most waterside fuel suppliers will not need to change the colour of fuel they supply, addressing the concerns of a large number of respondents from these sectors.
- 3.12 The government has also decided to stick with its proposal that end users will not be mandated to flush out the tanks of their vehicles or machinery as this can be expensive and this approach also avoids damage to the environment that could arise from the unsupervised and unsafe disposal of red diesel. However, the government expects users of vehicles and machinery losing their red diesel entitlement to ensure that they do not purchase red diesel for use from 1 April 2022 and run down their existing stocks before that date. Fuel put into these vehicles and machinery after that date will be liable for forfeiture and penalties as it will be illegal fuel use, and so end users should not be stockpiling fuel before April 2022.
- 3.13 In response to users raising concerns about their ability to run down fuel stocks in back-up generators, the government has decided to give HMRC officers the ability to disapply the liability to seizure where the user can provide evidence to satisfy officers that they have not built up their stocks or taken red diesel into the fuel system after the rules changed. The government recognises that for some users, for example, a data centre that holds a 3-day supply of diesel in their generator in case of emergencies but may only use it for a few hours a year, their last purchase of red diesel may be some time before the tax change.
- 3.14 HMRC will publish detailed guidance and appropriate communications covering all aspects of these changes, including that end users must keep receipts as evidence of red diesel purchased before the change and white diesel purchased after the change. This is already part of end users' record-keeping obligations. In its enforcement activities, HMRC officers will also consider the type of machinery and the frequency of use in deciding whether detected traces are at a level consistent with compliance with the new rules.

Chapter 4

Private pleasure craft

4.1 At Budget 2020, the government announced that it would include enabling legislation in Finance Bill 2020 to prohibit the use of red diesel to propel private pleasure craft, and indicated that details on the implementation of this power would be set out in due course. This section sought views on the government's proposal to introduce a new relief scheme to prevent private pleasure craft users from having to pay a higher rate of duty on their non-propulsion use than they would otherwise have to pay.

Question 18 - Do you agree with the government's suggested approach of introducing a new relief scheme where the fuel supplier would deduct from the sale price the duty difference on the proportion of white diesel purchased by private pleasure craft users for non-propulsion use? If you do not, please explain why and give details of an alternative that you believe would be better.

Question 19 - Do you consider that 60% for propulsion and 40% for non-propulsion use still reflects most crafts' typical fuel use? If not, and you are a private pleasure craft user, please provide evidence on your own use. If you are a fuel supplier, please provide evidence on the number of craft users that claim they use more than 40% of their fuel for non-propulsion use.

Question 20 - If the government decides to introduce a new relief scheme, do you consider that the relief should be set as a fixed percentage to reflect most crafts' use or capped at a maximum percentage, meaning that craft users that use less than the maximum for non-propulsion would claim back less? Please explain the reasons for your view.

Question 21 - If you are a fuel supplier selling fuel to private pleasure craft, do you foresee any difficulties with implementing the new relief scheme outlined above if the government decides to introduce it? If so, please explain why and whether the government could adapt the scheme to mitigate these difficulties.

Question 22 - Do you agree with the suggested approach for private pleasure craft with two fuel tanks (one for propulsion and a separate one for non-propulsion) to be allowed to continue to use red diesel in the non-propulsion tank where it can obtain it?

Relief scheme

4.2 The majority of private pleasure craft users who responded to the consultation agreed with the government's proposal to introduce a new relief scheme where approved fuel suppliers would be able to deduct from the sale price the duty difference on the proportion of white diesel intended for non-propulsion use. The few respondents who disagreed with the proposal suggested that the government should be looking to disincentivise

the use of polluting fuels, so introducing a relief would be counter-productive.

- 4.3 The consultation sought views on whether a new relief scheme should be set as a fixed percentage to reflect most crafts' use or capped at a maximum percentage, meaning that craft users that use less than the maximum for non-propulsion would claim back less. In the case of a fixed percentage, the consultation also sought views on whether a split of 60% for propulsion and 40% for non-propulsion use reflected most crafts' typical fuel use, as suggested by previous analysis from industry and HMRC.
- 4.4 There were differing views from stakeholders who responded to these questions on the design of the relief scheme. Most fuel suppliers suggested that if a new relief scheme were to be introduced, it should be set at a fixed percentage of 60% for propulsion and 40% for non-propulsion to keep it simple. Private pleasure craft users and their representatives had more mixed views. Around half agreed with the majority of fuel suppliers to introduce a relief scheme set at a fixed percentage as it would be easier to administer, whilst a large minority preferred a relief scheme which more accurately reflected the amount of diesel they intended to use for non-propulsion, particularly in winter months when private pleasure craft users are likely to use more fuel for heating. Some respondents did not express a preference.

Craft with two fuel tanks

- 4.5 The majority of private pleasure craft users and their representatives who responded to question 22 agreed with the government's proposal to allow private pleasure craft with two fuel tanks (one for propulsion and a separate one for non-propulsion) to be able to continue using red diesel in the non-propulsion tank, although they noted that only a small minority of craft have two tanks.

Government response

- 4.6 Following consultation, the government has decided to maintain the entitlement to use red diesel beyond April 2022 for all commercial boat operating industries, including but not limited to the fishing and inland water freight industries.
- 4.7 The government has therefore decided not to change the treatment of private pleasure craft in Great Britain, where they will continue to be able to use red diesel and pay their fuel supplier the difference between the red diesel rate and the white diesel rate on the proportion they intend to use for propulsion.
- 4.8 In Northern Ireland, private pleasure craft users will no longer be able to use red diesel for propelling their craft. This will achieve consistency with the 2018 judgment by the Court of Justice of the European Union (CJEU) and ensure the UK meets its international obligations under the Northern Ireland Protocol of the Withdrawal Agreement. It will also align with fuel used by private pleasure craft in the Republic of Ireland, which should make it simpler for private pleasure craft users to access the fuel they need if they sail between Northern Ireland and the Republic of Ireland (and vice versa).

- 4.9 This change will take effect no later than June this year, with the specific date to be confirmed in due course. Once implemented, private pleasure craft users in Northern Ireland will have to use white diesel for propulsion instead of red diesel. This will not affect the fuel duty rate they pay on fuel used for propulsion since they are already paying the standard white diesel rate for this use of fuel.
- 4.10 Private pleasure craft in Northern Ireland will remain entitled to use red diesel for non-propulsion uses, such as for heating, and lighting and powering appliances such as fridges via a battery charged by an engine that uses red diesel (provided they have a separate fuel tank for this purpose). If they have only one fuel tank on board their craft, they will need to use white diesel.
- 4.11 To ensure that private pleasure craft users in Northern Ireland with only one fuel tank on board for propulsion and non-propulsion do not have to pay a higher rate of duty on their non-propulsion use of diesel than they would otherwise have to pay, the government will introduce a new relief scheme in Northern Ireland, effective from the date that users become obliged to use white diesel.
- 4.12 These private pleasure craft users will be able to self-declare the proportion of fuel they intend to use for non-propulsion when buying fuel and fuel suppliers will deduct from the sale price the duty difference on the proportion of white diesel intended for non-propulsion use. The fuel suppliers will then reclaim this deducted duty from HMRC. To save them making new declarations each time they refuel, private pleasure craft users will, as now, be able to lodge a standing declaration with any supplier where they are a regular customer.

Chapter 5

Assessment of other impacts

- 5.1 This section of the consultation set out the government's assessment of what impacts the changes to the tax treatment of red diesel and rebated biofuels would likely generate. It sought views on whether these changes would generate any unintended impacts that had not been outlined in the consultation.

Question 23 - Is there anything you have not already included in your response that you would like us to note about the impact of the changes to the tax treatment of red diesel, especially any potentially adverse impacts on groups with protected characteristics?

Impact on groups with protected characteristics

- 5.2 No respondents to the consultation suggested that the tax changes could potentially have adverse impacts on groups with protected characteristics. Some respondents did suggest that the tax changes could potentially impact the cultural heritage of travelling showmen.

Fuel theft

- 5.3 A number of respondents voiced concerns that if they lost their entitlement to use red diesel and needed to switch to using white diesel, this could result in greater fuel theft. They suggested that red dye acts as a deterrent to fuel theft as selling the stolen fuel comes with the risk of detection for misuse or requires the fuel to be laundered, whereas white diesel can be sold on with no detection risk. These respondents suggested that in trying to steal white diesel, criminals could damage plant and machinery.

Government response

- 5.4 The government has decided to maintain the entitlement to use red diesel for non-commercial heating, non-commercial power generation, and for travelling fairground and circus industries when used in their machinery and their caravans. As a result, these tax changes will not adversely impact travelling showmen. The government has published alongside Budget 2021 a tax information and impact note on these tax changes.
- 5.5 With regard to the possibility of fuel theft, the government is determined to drive down crime in rural and urban areas, which is why it is recruiting an additional 20,000 police officers over the next three years, with 4,000 of these officers already on the UK's streets. This is unprecedented and reflects the biggest recruitment drive in decades.

- 5.6 The government recognises that there can be particular challenges in responding to rural crime and therefore welcomes the rural affairs strategy published by the National Police Chiefs' Council in July 2018, developed following a period of consultation with rural stakeholders. The strategy sets out operational and organisational policing priorities in respect of tackling crimes that particularly affect rural areas, with two of the six priority themes being the theft of fuel and the theft of farm machinery, plant and vehicles.

Chapter 6

Tax treatment of other rebated fuels - call for evidence

6.1 This section of the consultation set out that the government was considering whether to revisit the tax treatment of other rebated fuels, such as non-aviation kerosene and fuel oil, to support its environmental and air quality objectives. It sought further information about the current end uses of these fuels.

Question 24 - The government is interested in gathering further information about the end use of non-aviation kerosene, fuel oil, other heavy oils, LPG and natural gas. Please provide relevant evidence on usage of these fuels.

Question 25 - Is there any other information that you wish to highlight to help the government reach a decision on whether to reconsider the tax treatment of these other rebated fuels?

Question 26 - If you believe the tax treatment of these other rebated fuels should be reconsidered, do you have any suggestions for how it could be reformed and implemented? Please provide any evidence you deem relevant and consider how this would interact with the changes to the tax treatment to red diesel, both in terms of which sectors the changes would affect (chapter 4) and how the changes would be implemented (chapter 5).

Use of other rebated fuels

6.2 Few respondents to the consultation provided information on the end use of other rebated fuels. Some respondents suggested that red diesel users losing their entitlement should switch to LPG as it is a cleaner alternative, and that its use should be incentivised in the tax system compared with kerosene and other polluting rebated fuels.

Government response

6.3 Beyond red diesel and rebated biodiesel, other fuels are currently subject to fuel duty at rebated rates for certain uses, including kerosene and fuel oil. All these types of heavy oil are very polluting, producing between 2.5 and 3.2 kilograms of CO₂ per litre consumed (similar to the 2.7 kilograms of CO₂ produced per litre of diesel consumed). They also produce noxious gases when used, including nitrogen oxides and particulate matter, both of which are hazardous to human health.

6.4 To meet the government's net zero target, emissions from the heating of buildings will need to be significantly reduced by 2050, which involves switching to greener forms of heating. In this context, the government will

continue to consider whether to revisit the tax treatment of these other rebated fuels when used for commercial purposes.

Chapter 7

Next steps

- 7.1 The government will be amending fuel duty primary legislation in Finance Bill 2021 to implement the changes to the tax treatment of red diesel and rebated biodiesel from 1 April 2022. It will also lay secondary legislation later this year to make the changes to the use of fuel by private pleasure craft in Northern Ireland, including to introduce a relief scheme for non-propulsion use. The changes in Northern Ireland will take effect no later than June this year. In spring 2022, the secondary legislation necessary to complete the changes to red diesel entitlements will be laid before Parliament.
- 7.2 HMRC will work closely with fuel suppliers and trade bodies representing sectors that will lose their red diesel entitlement ahead of the introduction of the tax changes to ensure businesses understand what these changes are and are clear on what they will need to do in preparation. This includes working with fuel suppliers and trade bodies to communicate the changes with sufficient notice to all their customers and members so that they avoid purchasing fuel that they will not be able to use up by April 2022. HMRC will publish guidance providing more detail on these next steps later this year.
- 7.3 As these tax changes are introduced, the government will monitor fuel duty receipts of red and white diesel to evaluate the extent to which current users of red diesel that have lost their entitlement to use red diesel are switching to greener alternatives. The Treasury will also work closely with the Department for Business, Energy and Industrial Strategy to evaluate the extent to which these tax changes are accelerating the development of greener alternatives and how this interacts with the work of the government's energy innovation programmes, like the Net Zero Innovation Portfolio.

Annex A

List of respondents

A.W. Jenkinson
ABC Leisure Group
Aceblade Ltd T/A Rand & Asquith
Aggregate Industries UK
Agricultural Engineers Association
Airport Operators Association
All-Party Parliamentary Group for Golf
Alsop Transport Services
Amana Trust
Amusement Catering Equipment Society
Angling Trust
Aquablast
Arboricultural Association
Associated British Ports
Association of Circus Proprietors
Association of Independent Festivals
Association of Independent Showmen
Association of Manufacturers and suppliers of Power generating Systems
Association for Renewable Energy and Clean Technology
Baglan Service Station
Balfour Beatty
Banks Group
Bristol Airport
Bristol Port Company
British Aggregates Association
British Association of Landscape Industries
British Ceramic Confederation
British Frozen Food Federation
British Gliding Association
British Gypsum
British Industrial Truck Association
British Marine
British Metals Recycling Association
Build UK
British Ports Association
Burke Contracts
C. Caspersen & Sons
Calder Masonry
Calder Navigation Society
Calder Oils Ltd

Calor Gas
Camden Canals & Narrowboat Association
Castell Howell
CEMEX
Churchill Retirement PLC
Civil Engineering Contractors Association
Clews Recycling Ltd
Clola Farms
Cold Chain Federation
Commercial Boat Operators Association
Company of Watermen and Lightermen
Compass Fuels
Concord International
Confederation of Forest Industries
CONSTRUCT
Construction Equipment Association
Construction Plant-hire Association
Construction Plant Services Ltd
Cook and Son Sand Suppliers
Cruising Association
Cuchulain Construction Ltd
D Noble Ltd
DB Cargo
DBA - The Barge Association
DEM Ltd
DFDS Seaways PLC
Donald Morton Contracting
Dorset Highway Operations
DP World
DU Groundworks
Easy Fuels
EDF Energy
Energy Networks Association
Energy UK
ENVA England Ltd
Environmental Services Association
FCC Environment
Federation of Master Builders
Federation of Wholesale Distributors
Fenstone Group
Flatley Construction
Fletcher Plant Ltd
Flogas Britain Ltd
Forth Ports
Freightliner and Pentalver
From the Fields
Fuel Experts Association
Galloway Stone Products Ltd
Glennon Brothers
Global Switch
Gower Plant Hire Ltd

Grafo Products
Green Energy
Green Gathering Festival
Ground Developments Ltd
Grounds Management Association
H.V. Bowen & Sons
Harwich Haven Authority
Headswood Ltd
Heritage Railway Association
Hickeys Funfairs
Hills Waste Solutions
Hire Association Europe
Hire Power Generators
Hutchison Ports
Hydracrat Ltd
Inland Waterways Association
Institute of Environmental Management and Assessment
International Powered Access Federation
Irvin Amusements
Isles of Scilly Steamship Company
J. White & Co. (TDE) Ltd
James Jones & Sons
James Noyce & Sons Funfairs
JCB
Jetsweep
Johnsons Wellfield
KB Surveys Ltd
Largs Yacht Haven
Leaside Engineering
Lightwater Holdings
Liquid Gas UK
Lock Goil Cruisers
Logistics UK
Longcliffe Quarries
Lowland Canals Association
M&G Plant and Tool Hire
Make UK
Malcolm Lippiatt Homes
Manx Fish Producers Organisation
Maritime Heritage Trust
Mark Jukes Containers
Medway Council
Mills Oil
Milton of Ardtalnaig Farm
Mineral Products Association
Mineral Products Association Northern Ireland
Mining Association of the United Kingdom
Mona Group
Mone Brothers Group
Moray Council
Moreton C Cullimore Gravels Ltd

MSM Contract Ltd
Multi-Hire Power Tools Ltd
Mytholm Stone Sales
Nagel Logistics
National Association of Agricultural Contractors
National Association of Boat Owners
National Bargee Travellers Association
National Farmers' Union
National Farmers' Union Scotland
National Federation of Builders and House Builders Association
National Federation of Demolition Contractors
National Federation of Fishermen's Organisation
NDLT Limited
Neath Port Talbot Council
Niddry Bing
North Yorkshire Council
Northern Ireland Oil Federation
Northern Ireland Chamber of Commerce and Industry
Northern Ireland Fish Producers' Organisation
NWF Fuels
Oil 4 Wales
Oil Firing Technical Association
One Group Construction
Online Lubricants Ltd
OpenHeath Adventures
OTS Group Ltd
Peak Gen Power Ltd
Petroineos
Petrol Retailers Association
Phillips 66
Plastecowood
Pond Quarry Stone Company Limited
Portland Stone Firms Ltd
Quayside Fuel LLP
R&A
Rail Delivery Group
Rail Freight Group
Rapidgrid
Read Plant Hire & Sales
Red Eagle Fuel Supplies Ltd
Re-Gen Waste
Renewable UK
Resource Management Association Scotland
Retail Motor Industry Federation
Ricardo
RNA Plant Ltd
Road Haulage Association
Road Safety Markings Association
Road Surface Treatment Association
Royal Norfolk & Suffolk Yacht Club
Royal Yachting Association

Ryse Hydrogen
Scotch Whisky Association
Scotline Ltd
Scott Mcfall Accident Repair Company Ltd
Scottish Fishermen's Federation
Scottish Land & Estates
Scottish Plant Owners Association
SSE
Scottish and Southern Electricity Networks
Scottish White Fish Producers Association
Sea-juicer Fishing Charters
Seagull Trust Cruises
Shell
Shire Cruisers
Shotley Point Yacht Club
Showmen's Guild of Great Britain
Sibley's Fuel and Marine Services
Silverdale Enterprises
Society of Independent Roundabout Proprietors
SMMT Off-Highway Engine and Equipment Group
South East Fisherman's Protection Association
South Pennine Boat Club
South Wales Supplies
Speyside Trailer Techs
Sports and Recreation Alliance
St Agnes Boating
St Pancras Cruising Club
Stoke-on-Trent City Council
Stokes Funfairs
Sussex Sea Charters
T.A.D Builders
Tanks Storage Association
Tarmac
TDI Leisure Ltd
TechUK
The Handy Log Man
The Swan Sanctuary
Thorne Cruising Club
Thornton Facilities Management
Tilly's Garden Party & Marquee Hire
Trevor Smith Fun Fairs
Triple A Transport Services
Triton Power
Tudor Griffiths Group
UK and Ireland Fuel Distributors Association
UK Major Ports Group
UK Petroleum Industry Association
Ulster Farmers' Union
United Resource Operators Consortium
Valero
Veolia

ViC Group
Viridor
W.S.Crossley York Stone Limited
Went Valley Aggregates and Recycling Ltd
Westview Marina
Weymouth Sailing Club
White Locks Development Ltd
William Hughes Civil Engineering
Woburn Abbey
Wood Recyclers Association
Wrightbus
York Motor Yacht Club

The government also received responses from 177 individuals who responded in a private capacity.

HM Treasury contacts

This document can be downloaded from www.gov.uk

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