

Amendments 7 to 21 to Clause 98 and Schedule 20: Restriction of use of rebated diesel and biofuels

Summary

1. These amendments make changes to paragraph 22 of Schedule 20, which inserts a new Schedule 1A into the Hydrocarbon Oil Duties Act 1979 ('Schedule 1A') setting out what will be regarded as 'excepted machines' entitled to use red diesel and rebated biofuels from 1 April 2022. They make important clarifications, including to maintain such entitlement for agricultural vehicles used off road in the agricultural sector and for private pleasure craft in Northern Ireland; and to preserve existing entitlements for certain vehicles which use fuel gas primarily for off-road purposes. They also make minor amendments to the definition of machines and appliances that are not a vehicle or vessel. These amendments will have effect when Schedule 20 comes into force on 1 April 2022.

Details of the amendments

2. Amendment 7 amends paragraph 2 of the new Schedule 1A so that agricultural vehicles do not need to be kept on land used for purposes relating to agriculture, horticulture, pisciculture or forestry in order to be able to continue to use red diesel or rebated biofuels for the additional purposes of cutting hedges and verges that border roads, and for dealing with frost, ice, snow and flooding. This is to ensure that agricultural contractors are not prevented from also using their vehicles for these purposes.
3. Amendment 8 inserts new sub-paragraph (3A) into paragraph 2 of the new Schedule 1A so that, in addition to the other permitted activities in paragraph 2, an agricultural vehicle fuelled by fuel gas will also be treated as an "excepted machine" when it is used off-road for any other purpose and will therefore be able to continue to use duty-free fuel gas.
4. Amendment 10 amends paragraph 2(4) of the new Schedule 1A to replace the reference to a light agricultural vehicle with a description of single seat light vehicles designed for off-road use. Amendment 9 makes a consequential change.
5. Amendment 11 amends paragraph 2(4)(c) of the new Schedule 1A to ensure that certain vehicles which are designed and constructed for purposes relating to agriculture, horticulture, pisciculture or forestry, but also for other possible uses, are covered by the reference to "agricultural vehicles".

6. Amendment 12 inserts a new sub-paragraph (1A) into paragraph 3 of the new Schedule 1A so that, in addition to the other permitted activities in paragraph 3, a special vehicle fuelled by fuel gas will also be treated as an “excepted machine” when it is used for any other purpose and will therefore be able to continue to use duty-free road fuel gas. Amendment 13 makes a consequential change.
7. Amendment 14 amends paragraph 3(2) of the new Schedule 1A to provide that in order for a special vehicle to be an “excepted machine”, it may be of any weight, but must otherwise be designed, constructed and used as mentioned in Part 4 of Schedule 1 to the Vehicle Excise and Registration Act 1994.
8. Amendment 15 inserts a new sub-paragraph (1A) into paragraph 4 of the new Schedule 1A so that, in addition to the other permitted activities in paragraph 4, an unlicensed vehicle fuelled by fuel gas will be an “excepted machine” when it is used for any other purpose and will therefore be able to continue to use duty-free fuel gas. Amendment 16 makes a consequential change.
9. Amendment 17 inserts new sub-paragraphs (1A) and (1B) into paragraph 6 of the new Schedule 1A so that machines or appliances permanently fitted on a private pleasure craft in Northern Ireland can use red diesel or rebated biofuels provided the fuel they use is drawn from a different supply to that of the engine used for propelling the craft. Amendment 18 makes a consequential change.
10. Amendment 20 amends paragraph 8(1) of new Schedule 1A to remove an unnecessary reference to “an engine” which is already included in that paragraph by virtue of being part either of a machine or an appliance. Amendment 19 makes a consequential change to the title of the paragraph.
11. Amendment 21 amends paragraph 9(1) of the new Schedule 1A to insert a definition of “fuel gas” for the purposes of the Schedule as any substance which would be road fuel gas within the meaning of section 5(1) of the Hydrocarbon Oil Duties Act 1979 if it were used as fuel in a road vehicle.

Background note

12. At Budget 2020 the government announced its intention to reform the entitlement to use red diesel and rebated biofuels from 1 April 2022. A consultation was published in summer 2020 and the summary of responses to that consultation was published at Budget 2021. This confirmed changes to restrict the entitlement to use red diesel and rebated biofuels to the following qualifying uses from 1 April 2022:
- for vehicles and machinery used in agriculture, forestry, horticulture and fish farming;
 - to propel vehicles designed to run on railways;
 - for heating and electricity generation in non-commercial premises - this includes the heating of homes and buildings such as places of worship, non-commercial hospitals and townhalls; and off-grid power generation;
 - for maintaining the facilities of community amateur sports clubs as well as golf courses;
 - as fuel for all commercial water craft refuelling and operating in the UK (including fishing and water freight industries), as well as for private pleasure craft in Great Britain; and
 - for powering the machinery (and caravans) used by travelling fairs and circuses.
13. These amendments to the new Schedule 1A, inserted by Schedule 20 to the Bill, ensure the changes to entitlements to use rebated diesel and biofuels from 1 April 2022 operate in line with the government's policy and correct unintended consequences in the Bill as published relating to fuel gas. As well as a minor drafting change to remove unnecessary words and clarify definitions, the amendments include provisions to allow:
- agricultural vehicles that are kept off-site to continue to use red diesel and rebated biofuels when used in agriculture, as well as horticulture, forestry and fish farming. These vehicles will also be entitled to use such fuels for additional purposes like cutting verges and hedges, or clearing land;
 - vehicles designed and constructed for purposes relating to agriculture (as well as horticulture, pisciculture or forestry), to be considered as "agricultural vehicles", enabling them to continue to use red diesel and rebated biofuels for these purposes, irrespective of whether they are also capable of being used for other purposes;
 - private pleasure craft in Northern Ireland to use red diesel and rebated biofuels for non-propulsion purposes, providing they have a separate fuel supply for their propulsion; and
 - agricultural vehicles, special vehicles and unlicensed vehicles that use fuel gas to continue to use duty-free fuel gas for purposes for which diesel-powered vehicles of the same types may no longer use rebated fuel as a result of the changes in this Bill.