

Foreword

This notice cancels and replaces Notice 75 (November 1996 and October 1997 supplement). Details of any changes to the previous version can be found in paragraph 1.1 of this notice.

Further help and advice

If you need general advice or more copies of Customs and Excise notices, please ring the **National Advice Service** on **0845 010 9000**. You can call between **8.00 am and 8.00 pm, Monday to Friday**.

If you have **hearing difficulties**, please ring the **Textphone** service on **0845 000 0200**.

If you would like to speak to someone in **Welsh**, please ring **0845 010 0300**, between **8.00 am and 6.00 pm, Monday to Friday**.

All calls are charged at the local rate within the UK. Charges may differ for mobile phones.

1. Introduction

1.1 What is this notice about?

It is about the fuel you can legally use in a road vehicle.

1.2 What's changed?

This notice has also been restructured and rewritten to improve readability. References to DERV have been changed to ULSD in keeping with the reduction of the sulphur content of road fuels as a result of UK and EU legislation.

You can access details of any changes to this notice since December 2002 either on our website at www.hmce.gov.uk, or by telephoning our National Advice Service on 0845 010 9000.

This notice and others mentioned are available both on paper and our Internet website.

1.3 Who should read this notice?

Suppliers and users of rebated fuels, and owners of 'excepted vehicles' (see paragraph 2.3) that are eligible to use these fuels.

1.4 What law covers this notice?

UK law

- The Hydrocarbon Oil Duties Act 1979;
- The Hydrocarbon Oil (Repayment of Rebates) Regulations 1996;
- The Customs and Excise Management Act 1979;
- The Hydrocarbon Oil Regulations 1973; and
- The Hydrocarbon Oil (Marking) Regulations 2002.

Community law

- Council Directive 92/81 EEC of 19.10.92;
- Council Directive 92/82/EEC of 19.10.92;
- Council Directive 1993/12/EEC of 23.3.93;
- Council Directive 1998/70/EC of 13.10.98;
- Council Directive (EEC) 95/60 of 27.11.95;
- Commission Decision 2001/574/EC of 13.7.01 and Amendment to Commission Decision 2001/574/EC of 8.4.02.

Nothing in this notice modifies the law.

2. Fuel which may be used in road vehicles

2.1 What fuel can I legally use in a diesel-engined road vehicle?

The law requires that you must always use fully duty paid fuel.

2.2 Can I use rebated heavy oils as fuel in a road vehicle?

No. It is illegal to use these oils (eg gas oil or kerosene) as fuel in a road vehicle, unless you hold a licence from the Commissioners (see paragraph 2.6).

2.3 Can any vehicles use rebated heavy oils as road fuel?

Only those which are specifically excluded from the legal definition of “road vehicle” may use rebated heavy oil as road fuel. These are certain specialised vehicles known as 'excepted vehicles' and are listed in section 8. Unless the vehicle is shown in that section it counts as a “road vehicle”, and must use fully duty paid fuel.

2.4 So all other DVLA-licensed vehicles must always use fully duty paid fuel?

Yes - both on and off public roads.

2.5 What about vehicles without a DVLA-licence?

They must use fully duty paid fuel if they are driven on public roads.

If driven elsewhere (eg on private land), they may use rebated heavy oil, but, to run on public roads, that oil must be drained down, the system flushed through with fully duty paid fuel, re-drained, the filter changed and the vehicle fuelled again on fully duty paid fuel.

2.6 Can a road vehicle ever use fuel other than fully duty paid fuel?

Only in very limited circumstances. You must first get a licence from us and pay us the rebate - ie the difference between the full rate of duty on the fuel and the rebated rate actually paid on the fuel used. Section 6 explains how to do this. 'Limited circumstances' does not include moving site vehicles from one area to another by road under their own power when low loaders should be properly used instead.

3. Testing of heavy oils

3.1 How do rebated heavy oils differ from fully duty paid fuel?

The excise duty on fully duty paid fuels is much higher than the rates on both gas oil (liable to a rebated rate of duty) and kerosene (liable to a nil rate of duty, also referred to as 'fully rebated'). Both gas oil and kerosene contain chemical markers. Gas oil is also dyed red. Kerosene is dyed a pale yellow colour.

3.2 Why are rebated heavy oils dyed and/or marked?

To assist identification by our officers if they are used as fuel in road vehicles.

3.3 How do you check if fully duty paid fuel or another oil is being used?

The law gives our road fuel testing officers the power to sample the fuel of vehicles they choose to check. The powers are described in section 7.

3.4 Must I make my fuel available for testing?

Yes, if one of our officers asks you to.

3.5 Can my fuel be tested in my absence?

Yes, but you will be informed of the test in writing.

3.6 How can I avoid needless delay if my vehicle is chosen for testing?

Make sure your drivers know that our officers may ask for a sample of the vehicle's fuel.

It is your responsibility to provide a fuel sample so ensure that the fuel in any tank on the vehicle is easily accessible.

3.7 Will Customs officers also test for foreign marked oil?

Yes. Customs will take action against those responsible for the presence of marked oils containing any UK or EU marker chemicals. These include:

- Coumarin - a UK marker;
- Quinizarin - a UK marker; and
- the 'Euomarker', Solvent Yellow 124, a marker used in all EU Member States.

4. General questions about rebated fuels

4.1 What must I do if I supply or store rebated fuels?

The statement "This oil is not to be used as road fuel" must:

(a) be shown on each delivery note which you issue to any person if you sell or supply them with (irrespective of the use they intend to put it to):

- **any** quantity of marked gas oil; or
- **more than 250 litres** of marked kerosene at any one time;

Or

(b) if fully duty paid fuel is kept on the same premises, be indelibly marked or labelled at the outlet on all separate tanks or containers you use for rebated oil.

4.2 Does any separate machinery on my road vehicle also have to use fully duty paid fuel?

You need not use fully duty paid fuel for your separate machinery so long as it has its own fuel supply and engine separate from the vehicle's fuel supply and engine. You must use fully duty paid fuel if the vehicle's fuel supply OR engine drive the separate machinery. If your vehicle is allowed under section 8 to use oil other than fully duty paid fuel as fuel, you can similarly fuel any separate machinery on it.

4.3 Can I store rebated oil in auxiliary (belly) tanks on a vehicle or trailer?

Yes, but only in fuel tanks not capable of connection to the engine used to propel the vehicle (unless it is an excepted vehicle). The standard running tank(s), whether connected or disconnected, must contain only fully duty paid fuel. Rebated gas oil must not be taken into the standard running tanks or auxiliary tanks fitted to vehicles or trailers except where these tanks are solely and permanently connected to the auxiliary machinery (eg refrigeration motors). All other tanks on a vehicle, trailer or bulk carrier, whether directly connected to the propelling engine or not, will be considered to be part of the road fuel system. Dual fuel systems are not permitted, even where they can connect to a power take off to switch the tanks.

5. The law

5.1 Offences and penalties

Offence	Penalty
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<p>If you:</p> <ul style="list-style-type: none"> • misuse or supply oil (other than fully duty paid fuel) for use as fuel in a road vehicle; • misuse or supply rebated kerosene for use to propel an excepted vehicle or as fuel in an engine (other than to provide heating); or • mix any rebated or duty free oil with any oil on which no rebate has been allowed. 	<p>A penalty of £250 may be imposed for each offence and the duty rebate recovered.</p> <p>In all cases, your vehicle (or engine) may be seized and forfeited.</p> <p>The penalty and duty rebate may be secured as part of the restoration amount for the seized vehicle or by the issue of a fixed civil penalty and Notice of Assessment.</p> <p>If your conduct involves dishonesty, a penalty of up to 100% of the duty evaded may be imposed.</p>
<p>If you:</p> <ul style="list-style-type: none"> • remove any designated chemical marker of dye from any fuel; or • add any substance to the fuel to prevent the chemical marker from being identified. 	<p>A penalty of £250 may be imposed for each offence.</p> <p>The goods and oil may be seized and forfeited.</p> <p>The penalty may be secured as part of the restoration amount for the items seized or by the issue of a fixed civil penalty.</p>
<p>If you obstruct one of our officers inspecting premises or vehicles or testing or sampling oil.</p>	<p>An unlimited fine or imprisonment for up to two years, or both.</p>

In the more serious cases involving dishonesty criminal action may be taken, and you can be fined an unlimited amount or you may be imprisoned for up to seven years, or both.

5.2 Can I appeal against the restoration amount or other penalties imposed?

Yes. The Finance Act 1994 introduced a formal two-stage process to deal with appeals against many Excise decisions.

If you disagree with any of the following:

- the terms offered for restoration of a vehicle (or engine) we have seized;
- our refusal to restore any vehicle (or engine) we have seized;
- the imposition of a civil penalty or civil evasion penalty; or
- the assessment,

you may request a formal Departmental review. Your request should set out the reasons for your disagreement, and must be submitted in writing to your local Excise Office, within 45 days of our original written decision.

The review will be undertaken by an independent Review Officer, who will not have been involved in the decision. The review will be completed within 45 days of your written request and the outcome will be notified to you in writing.

If you disagree with our review decision you will have a further 30 days to lodge your appeal with the VAT and duties tribunal. You may not lodge an appeal with that tribunal until our review decision is given.

Further information is given in Notice 990 Excise and Customs Appeals.

Cases involving criminal proceedings are not subject to these appeal arrangements.

5.3 Can I appeal against the seizure of my vehicle?

The actual seizure of goods liable for forfeiture is excluded from the appeal arrangements outlined at paragraph 5.2.

In such cases, if you disagree with our decision to seize your vehicle (or engine) you can appeal in writing to your local Excise Office within one month of the date of seizure. We must then bring civil (“condemnation”) proceedings in the courts to determine the matter, and you can challenge the seizure and forfeiture there.

6. Repaying rebate to enable rebated oil to be used on the road

6.1 What is this section about?

It explains how, in exceptional circumstances, you can repay the rebate on rebated heavy oil and then legally use it as road fuel, or if the oil is kerosene as fuel to propel excepted vehicles or as fuel in the engine of a road vehicle.

6.2 Do I need to be authorised?

Yes. You **must** have our licence **before** you can:

- pay the rebate on rebated heavy oil; or
- use it as fuel in a vehicle.

We only give this authority in very exceptional circumstances. Moving site vehicles from one area to another under their own power rather than using low loaders would not constitute sufficient grounds for the granting of a licence. However, moving airport service vehicles under their own power by road for periodic maintenance or repair, or to provide orienteering training for the crews of airport emergency vehicles would constitute sufficient grounds.

6.3 How do I apply?

Write to your local Excise Office explaining:

- where the oil is stored (if not at the address shown on your letter);
- what uses you intend making of the oil;
- why you cannot use fully duty paid fuel and must use rebated heavy oil;
- what sort of rebated heavy oil you intend to use as fuel;
- roughly how much you intend to use each year and when you will start;
- whether you are likely to use any rebated heavy oil for purposes other than as fuel, and without payment of rebate; and
- the price you are currently paying (including excise duty) per litre of rebated heavy oil.

6.4 What happens then?

We may issue a licence to you to pay rebate, and send you Form HO72. Before you use any rebated oil as fuel, you must fill in that form and send it to the Accounting Centre shown on it, together with the payment of the rebate.

6.5 Accounting for the rebate: How do I fill in Form HO72?

Show the quantity (volume) of rebated heavy oil you estimate you will use as fuel in the first accounting period, follow the notes that accompany the form. Your licence will tell you which accounting periods apply to you.

If you intend to continue operating under the licence for second and later accounting periods, also send us a HO72 before you continue using rebated heavy oil in the new periods.

On each HO72 show the quantity of rebated heavy oil which you estimate you will use as fuel in that accounting period.

6.6 What are the accounting periods?

Normally, they are the quarters starting on 1 January, 1 April, 1 July and 1 October, but we may licence you to use an annual accounting period, starting on 1 January.

6.7 What must I do if I have to use more oil in an accounting period than my Form HO72 showed?

As soon as you have used the volume of oil paid for with Form HO72, you must stop using rebated oil as fuel until you have completed Form HO73, and paid the further amount to our Accounting Centre. That form has notes on completion to help you. Forms are available from our Advice Centres.

6.8 What if duty rates change in a period?

If the change increases or decreases the amount of rebate due for a period, you must complete and send in a Form HO74. This form will be sent to you on Budget Day by our Accounting Centre, if you have made payment with Form HO72 in that period.

6.9 What must I do at the end of an accounting period?

Complete Form HO75, which our Accounting Centre will send to you, as explained in the notes with that form. When it is returned to our Accounting Centre you will receive a refund from us of any overpayment made.

6.10 What records must I keep?

The law requires you to keep a **daily** record of all the rebated heavy oil you use as road fuel; you must record the details on the same day as the fuel is used.

Show in the record the registration mark and number of every road vehicle using rebated heavy oil as fuel. Also show for each vehicle:

- the quantity and description of oil supplied to the vehicle for use as fuel;
- the date of, and number of miles travelled in, any journey on public roads;
- the total number of hours the vehicle is used at places when it is not on a journey; and

- the quantity of oil used in the vehicle while not travelling eg to drive machinery or pumps.

You must also keep a record of rebated kerosene used in an engine, or to propel an excepted vehicle, showing the same details as for road fuel. Record these details on the same day that you use the oil as fuel.

6.11 What form must the records take?

You must agree with our officer the permanent form of the records.

6.12 Must I keep my records ready to be inspected?

Yes. If one of our officers asks to see your records, they must be available at any reasonable time.

6.13 Where should I keep my records?

Either at the same place where your vehicles are kept or at any other premises agreed with our officer.

6.14 How long must I keep them?

You must keep them for at least 12 months from the date of the last entry in them.

7. Powers of Customs and Excise officers

(referred to in paragraph 3.3)

Customs and Excise are allowed by law to:

- examine any vehicle and any oil in or on it and to inspect, test or sample any oil in the fuel supply;
- require vehicle owners or anyone in charge of a vehicle to open or cause to be opened the fuel tank or other source of the fuel supply so that the fuel can be located and inspected, tested or sampled. If there is anything in the supply which might hinder this, it must be removed;
- require anyone in charge of a vehicle to produce any books or documents relating to the vehicle or to oil carried on it and which are carried by that person or on the vehicle;

- enter and inspect any premises (except private dwelling houses) and inspect, test and sample any oil on the premises, whether in a vehicle or elsewhere. In entering the premises, an officer may bring with him any vehicle used for carrying out official duties;
- require the occupier of premises or the person in charge of them to give facilities to inspect, test or sample oil on the premises or oil in the fuel supply of vehicles on the premises, irrespective of whether the oil or the vehicle belongs to that person or someone else; and
- require anyone concerned with the sale, purchase or disposal of any oil to produce on demand any relevant books or documents.

8. Excepted vehicles

(referred to in section 9 and paragraphs 2.3 and 4.2)

8.1 Unlicensed vehicles not used on public roads

(1) A vehicle is an excepted vehicle while:

- (a) it is not used on a public road, and
- (b) no licence under the vehicle Excise and Registration Act 1994 is in force in respect of it.

(2) A vehicle in respect of which there is a current certificate or document in the form of a licence issued under the regulations under section 22(2) of the Vehicle excise and Registration Act 1994 shall be treated for the purposes of sub-paragraph (1) above as a vehicle in respect of which a licence under that Act is in force.

8.2 Tractors

(1) A vehicle is an excepted vehicle if it is an agricultural tractor.

(2) In sub-paragraph (1) above "agricultural tractor" means a tractor used on public roads solely for purposes relating to agriculture, horticulture, forestry or activities falling within sub paragraph (3) below.

(3) The activities falling within this sub-paragraph are:

- (a) cutting verges bordering public roads;
- (b) cutting hedges or trees bordering public roads or bordering verges which border public roads.

8.3 Light agricultural vehicles

(1) A vehicle is an excepted vehicle if it is a light agricultural vehicle.

(2) In sub-paragraph (1) above "light agricultural vehicle" means a vehicle which:

- (a) has a revenue weight not exceeding 1,000 kilograms,
- (b) is designed and constructed so as to seat only the driver,
- (c) is designed and constructed primarily for use otherwise than on roads, and
- (d) is used solely for purposes relating to agriculture, horticulture or forestry.

(3) In sub paragraph (2)(a) above "revenue weight" has the meaning given by section 60A of the Vehicle Excise and Registration Act 1994.

8.4 Agricultural engines

An agricultural engine is an excepted vehicle.

8.5 Vehicles used between different parts of the land

A vehicle is an excepted vehicle:

- (a) it is used only for purposes relating to agriculture, horticulture or forestry;
- (b) it is used on public roads only in passing between different areas of land occupied by the same person;
- (c) the distance it travels on public roads in passing between any two such areas does not exceed 1.5 kilometres; and
- (d) the vehicle has a vehicle excise licence as a limited use vehicle.

If the vehicle is taxed for the road without limited use categorization, even if only used for the purposes outlined in this category, we would expect it to run on fully duty paid fuel. If it is untaxed, it is not an excepted vehicle when used as public roads as per item 1.

8.6 Mowing machines

A mowing machine is an excepted vehicle.

8.7 Snow clearing vehicles

A vehicle is an excepted vehicle when it is:

- (a) being used, or
- (b) going to or from the place where it is to be or has been used,

for the purpose of clearing snow from public roads by means of a snow plough or similar device (whether or not forming part of the vehicle).

8.8 Gritters

A vehicle is an excepted vehicle if it is constructed or adapted, and used, solely for the conveyance of machinery for spreading material on roads to deal with frost, ice or snow (with or without articles or material used for the purposes of the machinery).

8.9 Mobile cranes

(1) A mobile crane is an excepted vehicle

(2) In sub-paragraph (1) above "mobile crane" means a vehicle which is designed and constructed as a mobile crane and which:

- (a) is used on public roads only as a crane in connection with work carried on at a site in the immediate vicinity or for the purpose of proceeding to and from a place where it is to be or has been used as a crane, and
- (b) when so proceeding does not carry any load except such as is necessary for its propulsion or equipment.

8.10 Digging machines

(1) A digging machine is an excepted vehicle.

(2) In sub-paragraph (1) above "digging machine" means a vehicle which is designed, constructed and used for the purpose of trench digging, or any kind of excavating or shovelling work, and which:

- (a) is used on public roads only for that purpose or for the purpose of proceeding to and from the place where it is to be or has been used for that purpose, and
- (b) when so proceeding does not carry any load except such as is necessary for its propulsion or equipment.

8.11 Works trucks

(1) A works truck is an excepted vehicle.

(2) In sub-paragraph (1) above "works truck" means a goods vehicle which is designed for use in private premises and is used on public road only:

- (a) for carrying goods between private premises and a vehicle on a road within one kilometre of those premises,
- (b) in passing from one part of private premises to another,
- (c) in passing between private premises and other private premises in a case where the premises are within one kilometre of each other, or
- (d) in connection with road works at the site of the works or within one kilometre of the site of the works.

(3) In sub-paragraph (2) above "goods vehicle" means a vehicle constructed or adapted for use and used for the conveyance of goods or burden of any description, whether in the course of trade or not.

8.12 Road construction vehicles

(1) A vehicle is an excepted if it is:

- (a) a road construction vehicle, and
- (b) used or kept solely for the conveyance of built in road construction machinery (with or without articles or material used for the purposes of the machinery).

(2) In sub paragraph (1) above "road construction vehicle" means a vehicle:

- (a) which is constructed or adapted for use for the conveyance of built-in road construction machinery, and
- (b) which is not constructed or adapted for the conveyance of any other load except articles and material used for the purposes of such machinery.

(3) In sub-paragraphs (1) and (2) above "built-in road construction machinery" in relation to a vehicle means road construction machinery built in as part of, or permanently attached to, the vehicle.

(4) In sub-paragraph (3) above "road construction machinery" means a machine or device suitable for use for the construction or repair of roads and used for no purpose other than the construction or repair of roads.

8.13 Road rollers

A road roller is an excepted vehicle.

8.14 Interpretation

In this schedule "public road" means a road which is repairable at the public expense.

9. Glossary

DERV: Fuel for Diesel Engined Road Vehicles. It is heavy oil which carries a higher rate of excise duty than other heavy oils. In general usage it has now been replaced by ULSD

Designated marker: A chemical added to oil to indicate excise duty at rebated rate has been paid, and consequently that oil is not to be used as fuel for road vehicles. It is usually used with a dye so that rebated oil can easily be identified. The current gas oil dye is a red colour.

Duty: Government tax imposed on products such as hydrocarbon oil

DVLA: Driver and Vehicle Licensing Agency, in Swansea

Excepted vehicle: A vehicle listed in section 8

Gas oil: A heavy oil which carries a lower (rebated) rate of duty. It is also commonly known as "red", "red diesel" (because of the red dye) or "marine gas oil".

Heavy oil: Oils such as aviation kerosene, DERV, fuel oil, gas oil, kerosene and ULSD. By definition any oil which does not meet the criteria for classification as a light oil. The criteria are based on boiling point, and the temperature at which vapours are given off.

Kerosene: A heavy oil also known as burning oil or paraffin. Kerosene carries a nil rate of duty (fully rebated) when used as a heating fuel.

Public roads: Roads repairable at public expense

Rebate licence: A licence to use rebated heavy oil as road fuel, issued by us

Rebated heavy oils: Usually gas oil or kerosene. These are heavy oils that carry a lower rate of duty than that for fully duty paid fuel such as DERV, ULSD, gasoline, liquid petroleum gas (LPG) or compressed natural gas (CNG). There are restrictions to the uses that rebated heavy oils can be put.

Road vehicle: Any vehicle which is constructed or adapted for use on roads, but does not include any vehicle which is an excepted vehicle

Ultra Low Sulphur Diesel (ULSD): A more environmentally-friendly replacement for DERV with a much lower sulphur content.

Vehicle licence: The vehicle excise licence - sometimes called a 'tax disc' or 'road fund' licence - issued under the Vehicle Excise and Registration Act 1994 by the DVLA or its agents.

Do you have any comments?

We would be pleased to receive any comments or suggestions you may have about this notice. Please write to:

**HM Customs and Excise
Oils Environmental Taxes Regimes Division
3rd Floor West
Ralli Quays
3 Stanley Street
Salford
M60 9LA**

Please note this address is **not for general enquiries**. You should ring our National Advice Service about those.

If you have a complaint or suggestion

If you have a complaint please try to resolve it on the spot with our officer. If you are unable to do so, or have a suggestion about how we can improve our service, you should contact one of our Regional Complaints Units. You will find the telephone number under 'Customs and Excise - complaints and suggestions' in your local telephone book. Ask for a copy of our code of practice 'Complaints and putting things right' (Notice 1000). You will find further information on our website at <http://www.hmce.gov.uk>.

If we are unable to resolve your complaint to your satisfaction you can ask the Adjudicator to look into it. The Adjudicator, whose services are free, is a fair and unbiased referee whose recommendations are independent of Customs and Excise.

You can contact the Adjudicator at:

The Adjudicator's Office
Haymarket House
28 Haymarket
LONDON
SW1Y 4SP

Phone: (020) 7930 2292

Fax: (020) 7930 2298

E-mail: adjudicators@gtnet.gov.uk

Internet: <http://www.adjudicatorsoffice.gov.uk/>