



HM Treasury

**Reforms to the tax treatment of red diesel and other rebated fuels:  
Consultation response submission form**

Publication date: 9 July 2020

Closing date for comments: 1 October 2020

## About you

### 1. What is your name?

National Bargee Travellers Association

### 2. What is your email address?

secretariat@bargee-traveller.org.uk

### 3. Which category in the following list best describes you or the business/representative organisation you represent?

Charity or voluntary organisation

**If you are replying on behalf of a business or representative organisation, please provide the name of the organisation/sector you represent, where your business(es) is located, and an approximate size/number of staff (where applicable).**

The National Bargee Travellers Association (NBTA) is a volunteer organisation formed in 2009 that campaigns and provides advice for Bargee Travellers: itinerant boat dwellers on Britain's inland and coastal waterways. This includes anyone whose home is a boat and who does not have a permanent mooring for their boat with planning permission for residential use. The NBTA is the only national organisation in Britain dedicated to upholding and defending the rights of itinerant boat dwellers. The NBTA has members on all the major navigation authorities' waterways and beyond. The NBTA has around 900 members and deals with approximately 200 individual cases each year.

Red diesel is used by the vast majority of the UK's boat dwellers. There are no accurate statistics for the total number of boat dwellers in the UK or for the numbers of boat dwellers with and without permanent moorings. Estimates suggest a total of 50,000 to 70,000 boat dwellers, of whom around 15,000 to 20,000 are itinerant and do not have permanent moorings.

Please note that the NBTA objects to the use of the term 'private pleasure craft'. The boats used by NBTA members are people's homes and as such they are not used for pleasure or recreation; they are used out of necessity.

### 4. Would you like your response to be confidential and, if so, why?

No

## Sectors retaining entitlement to use red diesel – chapter 4

**Chapter 4 sets out why the government is not proposing to change the entitlement to use red diesel and rebated biofuels for agriculture (including forestry, horticulture and pisciculture), rail and for non-commercial heating (including domestic heating). It seeks views on whether the continued entitlement to use red diesel and rebated biofuels is justified for any other users.**

## Questions

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

Yes. This is evidenced by the responses from the suppliers of red diesel to boaters to the previous HMRC consultation in June 2019. See the responses to question 8 of that consultation; the summary of responses published by HMRC on 9th July 2020 states (our emphasis) that:

*"Fuel suppliers with majority PPC customers: The majority of these suppliers stated they would switch from supplying red to white diesel. The location of these fuel suppliers suggests this would lead to commercial craft being unable to refuel in certain inland waterway locations. In addition, a significant number stated they would stop supplying fuel because the wholesale cost to them was higher than that for local roadside filling stations, thereby making it likely that PPC users would purchase and then transport fuel from roadside filling stations."*

These responses showed that the outcome of removing the entitlement to use red diesel for private boats will lead to a significant reduction in the number of diesel suppliers on the inland waterways. Bargee Travellers may be forced by a lack of diesel supplies available from boatyards and from fuel boats to buy diesel in small cans from garages on nearby roads. When filling boat fuel tanks from cans it can be difficult to avoid spillage. Increased numbers of boaters filling their fuel tanks from small cans will vastly increase the amount of diesel spillage into the water, causing increased pollution and adverse effects on aquatic plants and wildlife.

**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.**

Yes. There will be a significant adverse financial impact on Bargee Traveller households given that the summary of responses to the 2019 HMRC consultation shows that fuel suppliers will find it uneconomic to supply white diesel to private boats with the obvious outcome of an increase in price to the customer for those that do decide to supply it.. Bargee Travellers are typically either working people on low incomes, or retired people living on the State Pension and/or small fixed incomes. A study in 2011 by Kennet and Avon Boating Community showed that 80% of Bargee Travellers were working; that 51% had an annual income of £20,000 or less; that 40% had an income below the minimum wage and that only 14% claimed welfare benefits. See <http://kanda.boatingcommunity.org.uk/wordpress/wp-content/uploads/2011/10/KA-boaters-survey-interim-report.pdf>

The consequences of the direct adverse financial impact are very likely to include an increased risk of homelessness to Bargee Travellers if they can no longer afford to buy diesel in the same quantities as they can at present. This applies especially to Bargee Travellers who navigate on Canal & River Trust waterways, who are expected to comply with unlawful requirements regarding their range of travel. If they cannot afford to buy enough diesel to meet these unlawful travel requirements, they risk their boat licence renewal being refused or restricted. The consequence of a boat remaining unlicensed is that it can be removed and seized by Canal & River Trust using its powers under Section 8(1) of the British Waterways Act 1983, rendering the occupants homeless.

**7. How will removing the entitlement to use red diesel in your sector impact your organisation? Please provide details on:**

The NBTA as an organisation will not be directly affected, however please see the response to Question 7 for details of the significant adverse impact on our members.

**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)**

Bargee Travellers may use as little as 80 litres per year for propulsion for private use and 100 to 160 litres per year for non-propulsion use (mainly to charge batteries in winter and sometimes to heat water). For those who trade from their boats the propulsion use is dual private and commercial use. Even where Bargee Travellers fill up their tank in one fuelling, it may take them 18 months to use up the tank.

**b. The operational and financial capacity of your organisation/sector to shift to alternatives to red diesel (specifying what these alternatives are)**

N/A

**c. The capacity of your organisation/sector to pass through costs down the supply chain**

N/A

**d. The capacity of your organisation/sector to absorb extra costs**

Bargee Travellers as a group are already living on low to minimal incomes and have no capacity to absorb extra costs.

**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.**

If the price of diesel increases and availability of diesel is reduced, Bargee Travellers (and other users of private boats) may choose to move away from using diesel for heating and use solid fuels instead, which may cause an increase in air pollution, although the number of boats is insignificant compared to other sources of air pollution caused by domestic heating. For generation of electricity, boaters may move from using diesel to using solar power in the summer, but solar power is ineffective to generate the electricity required in winter.

**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?**

The continuation of the entitlement to use red diesel for domestic heating must also be applied to the use of red diesel for domestic electricity generation on private boats. This must also apply to boats without a permanent mooring and boats that do not have separate fuel tanks for propulsion and domestic heat and light. The majority of boats

occupied by Bargee Travellers do not have separate fuel tanks and it would be either impractical, dangerous or prohibitively expensive to install a second fuel tank.

**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.**

Red diesel is used for heating by a significant minority of Bargee Travellers. They are located on the UK's inland and coastal waterways; the network of connected waterways and disconnected waterways exists throughout the UK. The inland and coastal waterways are not connected to the gas grid. Solid fuels (wood, coal and smokeless coal) are viable alternative heating energy sources that Bargee Travellers can use. Bargee Travellers rarely use moorings where there is an electricity supply; electricity supplied to moorings tends to be far more expensive than that supplied to houses. Bottled gas is not a viable source of heating on a boat due to the cost, the moisture produced, the fumes and the increased risk of CO poisoning.

**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.**

At present many fuel suppliers allow the owners of private boats to self-declare the percentages of red diesel that used for propulsion and for domestic heating and power generation. Self-declaration must be continued. To impose an arbitrary split between generation and propulsion would unfairly penalise Bargee Travellers whose use of diesel for domestic electricity generation and heating is likely to fluctuate and to be far greater than their use for propulsion at certain times of year, especially in winter.

## **Implementation and ensuring compliance – chapter 5**

**Chapter 5 outlines the government's proposals for implementing the changes announced at Budget. It seeks views on proposals to introduce the tax changes, and whether to mandate that fuel suppliers and end users of red diesel must flush out their tanks, pumps and fuel supplies. It also seeks views on whether the government's suggested approach to ensuring compliance is proportionate and appropriate, as well as setting out the specific implications for private pleasure craft.**

## **Questions**

### **Introduction of changes**

**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 to explain 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.**

The majority of Bargee Travellers are on low incomes. This means that their homes are frequently boats that are more than 20 years old. After 20 years there can be considerable residue at the bottom of diesel tanks that will clog the fuel system if it is drawn into the fuel lines. Flushing and cleaning a fuel tank is expensive. Therefore many boaters never run down their diesel tanks. All diesel tanks that have been used for red diesel will test positive for red for some considerable time after red diesel becomes unavailable. This is because even after all usable red diesel is used up, there will still be a significant amount of red diesel below the fuel pipe which will contaminate any white diesel that is added. It could take between several years to indefinitely before all traces of red diesel disappear from tanks.

In addition, Bargee Travellers are likely to buy diesel where and when they can, either because they can afford it at a particular time or because they are travelling on waterways where fuel suppliers are scarce. This means it is quite possible that a boat's diesel tank will still have a significant quantity of red diesel in it on 1st April 2022. Further, some boaters will be so concerned about the possibility of a scarcity of diesel after April 2022 that they will deliberately stockpile beforehand whatever diesel is available, which may be red diesel. This is especially true on Canal & River Trust waterways, where Bargee Travellers risk losing their homes if they are unable to travel and may fear they will be made homeless if they run out of diesel, leading them into panic-buying red diesel.

There is a very high risk of injustice to boaters who are found with traces of red diesel in their tanks if the Treasury does not accept the above. The NBTA recommends that the Treasury fully investigates and measures through modelling and actual examination the length of time it takes for red diesel residue to fully disappear from specific types and designs of fuel tank. The Treasury must do this before implementing any enforcement regime. Alternatively the Treasury must provide funding for every affected boater to have their fuel tank professionally cleaned. This is a very expensive job.

### **Ensuring compliance: fuel suppliers**

**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.**

N/A

**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.**

N/A

### **Ensuring compliance: red diesel users**

**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.**

Yes

**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.**

It is not clear how private boaters who will be entitled to a rebate from the cost of purchasing white diesel for use for domestic heating and domestic power generation will obtain this rebate. If they will have to claim the rebate after purchase this will be prohibitive for most Bargee Travellers, who are very unlikely to have facilities for printing claim forms and photocopying receipts. Any rebate scheme must offer the rebate at the point of purchase. The current system of declaration for private boaters' purchases of red diesel since 2008 is known to be workable and boaters are familiar with it.

### **Ensuring compliance: HMRC enforcement powers and penalties**

**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.**

Including seizure and destruction of boats used as homes in the proposed penalties will not be compatible with the European Convention on Human Rights or with the Human Rights Act 1998. Even where it can be proven that the red diesel was purchased after April 2022, such penalties will violate the rights of boat dwellers to due process and respect for their homes under Articles 6 and 8 of the European Convention on Human Rights and the Human Rights Act 1998. It is unlawful for a boat that is someone's home to be seized and destroyed without due process that gives the boat dweller the opportunity to have the proportionality of depriving them of their home scrutinised by an independent Court. The Treasury cannot lawfully seize a boat that is somebody's home unless a Court Order has been obtained.

If penalties include the seizure of boats, this will have a very significant disproportionate adverse effect on Bargee Travellers who will consequently lose their homes. It is a draconian penalty to seize and remove a home because of traces of red diesel in a situation where the boater has not been required to flush out the tank.

Additionally, if a boat that is someone's home is seized and then returned due to the red diesel residue being the result of fuel purchases before April 2022, where will the occupants live while the boat is held by the Treasury? Will the Treasury pay for alternative accommodation? Will the occupants be able to continue living on the boat while the Treasury examines the fuel system? We do not believe that the Treasury has thought through the practical consequences of penalties that include the seizure of a person's home.

In addition, the proposed penalties are not proportionate or appropriate given that it is proposed that private boaters will not be required to flush out the red diesel from their fuel tanks by April 2022. We foresee an extremely high risk of injustice due to the fact that all diesel tanks that have been used for red diesel will test positive for red for some considerable time after red diesel becomes unavailable. This is because after all usable red diesel is used up, there will still be a significant amount of red diesel below the fuel pipe which will contaminate any white diesel that is added. It could take between several years to never before all traces of red diesel disappear from tanks because the dye is very

persistent. How will the Treasury tell whether red diesel in a tank is legitimately left over from purchases before April 2022 or has been newly, illegally bought?

We cannot stress enough the high possibility for such abject injustices to occur if the Treasury does not accept that traces of red diesel may take many years to disappear from a fuel tank. Due to the very long life within diesel tanks of traces of red diesel, the Treasury needs to accept that in the interests of justice, new regulations will be unenforceable for some time and it will have to accept a low percentage of red in any tank that is tested.

The Treasury has not thought through the consequence of creating such a climate of fear among our community. Bargee Travellers already face regular threats of seizure and removal of their homes from Canal & River Trust and private mooring enforcement companies. This proposed enforcement regime would unjustly increase the stress our community faces.

The impact of unjustly imposed penalties for having red diesel residue in a tank will have a disproportionately high impact on Bargee Travellers. Unlike recreational boaters, who can simply give up a hobby, and static residential boat dwellers who will not be affected, Bargee Travellers will be penalised for simply living in, heating and lighting their homes. This is grossly disproportionate in comparison with the proposed offence and in comparison to house dwellers, who will not face such consequences for continuing to use rebated diesel to heat their homes. Any enforcement regime must above all include measures to avoid such injustices taking place.

The NBTA will be advising its members to retain all their diesel receipts after any change is implemented and to record their engine hours and/or mileage in order to mitigate any unjust accusations of having red diesel in their tanks after any changes are implemented. However this alone will not prevent such injustices occurring.

### **Private pleasure craft**

**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.**

Yes. A relief scheme must be available at the point of purchase in order to avoid disadvantage to those who would have difficulty in affording the unrebated price and in claiming relief retrospectively. If a relief scheme is not implemented, Bargee Travellers would be discriminated against by having duty imposed on diesel used for domestic heating and power generation when house dwellers do not incur this tax. Any relief scheme must include a rebate for a proportion of the diesel that has a dual use. Even when a boat is being driven under power, the diesel used to power the engine fulfils a domestic function because it charges the domestic batteries (used to run lights, pumps and other appliances) while the boat is under way and is often used to heat water for domestic use and to run or charge appliances such as washing machines, refrigerators, shower pumps, laptops or phones while the boat is moving. A higher tax on diesel used for propulsion by boat dwellers would be unfairly imposed as the diesel is being used for domestic purposes at the same time.



The Treasury has not fully thought through the extent of a relief scheme. If boaters are forced by the lack of diesel suppliers on the waterways, they will have no choice but to buy diesel at roadside garages, including diesel for non-propulsion uses that they would be entitled to claim relief for. Does the Treasury envisage extending the relief scheme to roadside garages?

The NBTA observes that requiring a retailer, in supplying a customer with diesel for domestic utility use, to levy duty of approximately 50.39% and VAT of 20%, is unlawful for the purposes of VATA. Parliament has not sanctioned an amendment to VATA that provides for this material effect.

**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.**

No. A 60% propulsion/ 40% generation split does not and never did reflect the typical fuel use of most boats. Bargee Travellers' engine hours for propulsion vary from 5% to 100% and in addition vary between summer and winter. The blanket imposition of a 60/40 split penalises some and gives an unfair advantage to others.

**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.**

The relief scheme should not be a fixed percentage. Any relief scheme should allow self-declaration and should not be capped at a maximum percentage, in order to avoid an unfair financial penalty being imposed on those who do not fit fixed criteria.

**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.**

N/A

**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?**

Yes, but this applies to very few boats and to no Bargee Travellers that we know of.

## **Assessment of other impacts – chapter 6**

**Chapter 6 sets out the government's current assessment of what impacts the changes to the tax treatment of red diesel and rebated biofuels are expected to generate. It seeks views on whether these changes will generate any unintended impacts that have not been outlined in this consultation.**

## Questions

**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?**

Bargee Travellers most frequently buy their diesel fuel from boatyards and from coal and fuel boats that travel around and supply fuel to boats. They are less likely to buy fuel from marinas unless there is no other supplier. However where the choice of suppliers is limited they will need to buy fuel from the only supplier. There have been isolated incidents where fuel suppliers have refused to sell to Bargee Travellers out of prejudice.

There is a legal requirement specified in the British Waterways Act 1995 on Canal & River Trust waterways that a boat without a permanent mooring must travel to a different place after spending 14 continuous days in any one place. In addition, Canal & River Trust has imposed an unlawful requirement on boats without a home mooring to travel a range of at least 20 miles during the licence period. If boaters without a permanent mooring do not meet this requirement they risk having their boats seized and removed by Canal & River Trust, making them homeless. These requirements do not apply on other navigation authorities' waterways. However, on other waterways, enforcement such as £100 per day fines for mooring, and prejudice against Bargee Travellers, means that they are increasingly being forced to travel longer distances, thus needing to use more diesel. Either way, Bargee Travellers with diesel powered boats are required by a combination of the law and unlawful enforcement measures to use diesel for propulsion. Therefore they need the correct type of diesel to be available.

The NBTA is extremely concerned that the removal of the entitlement to use red diesel for propulsion for private boats will have the unintended consequence that existing suppliers of red diesel will stop supplying diesel altogether due to the higher wholesale cost to them compared to roadside filling stations. For example, on the River Great Ouse there is already hardly anywhere to buy diesel. We are concerned that diesel will simply become unavailable on the inland waterways and that white diesel will not be available on the coast for the reasons stated in the summary of responses to the previous HMRC consultation in June 2019. This will put boaters, and especially Bargee Travellers, in the very difficult position of not being able to obtain enough diesel to comply with movement requirements (whether lawful or unlawful), risking the loss of their home as a consequence of waterway enforcement, and/or not being able to heat water, to light their homes, to run water pumps, to charge phones and laptops or in some cases to heat their homes, effectively making their homes uninhabitable. In coastal areas where only red diesel is available, it will put Bargee Travellers in the invidious position of having to choose between breaking the law and rendering their homes uninhabitable, or in the life-threatening position of having to choose between breaking the law and navigational safety. This is unacceptable and the Treasury must act to mitigate such unintended consequences by providing financial incentives to ensure a continued supply of both red and white diesel where it is needed on the inland and coastal waterways.

The evidence provided by diesel suppliers to the 2019 HMRC consultation demonstrates that the price of diesel on the inland waterways is likely to increase once red diesel is phased out. This will have an adverse financial impact on Bargee Travellers who have certain protected characteristics. It is well known that women, older people, people from Black and minority ethnic communities, and people with disabilities, have lower incomes

than those who do not share those protected characteristics. The impact on Bargee Travellers with those protected characteristics of an increase in the price of diesel on the waterways will be significant.

If the only place that Bargee Travellers can buy diesel in a particular area is a roadside garage, they will be doubly disadvantaged by not having the opportunity to obtain the rebate for diesel used for non-propulsion uses, unless roadside garages are included as operators of a rebate scheme. This would create further unfairness.

In order to mitigate these risks and to combat air pollution, the Treasury and other Government agencies should investigate and promote the greater availability of biodiesel on the inland and coastal waterways. This should include information and resources on how boaters can make and use their own biodiesel.

### **Tax treatment of other rebated fuels, call for evidence – chapter 7**

**Chapter 7 sets out that the government is considering whether to revisit the tax treatment of other rebated fuels, such as non-aviation kerosene and fuel oil, to support its environment and air quality objectives. It seeks further information about the current end uses of these fuels.**

#### **Questions**

**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, particularly in relation to:**

**a. the purpose and type of use, such as business, public sector or domestic. Where the fuel is used as motor fuel, it would be useful to know what types of machinery, including excepted vehicles, it is used to power and what they are used for**

Most Bargee Travellers, boat dwellers and recreational boaters use LPG for cooking.

**b. the quantity and cost of the fuel used**

The quantity used varies but most inland waterway boats use LPG in 13kg bottles or smaller. This is significantly more expensive per kg than the 47kg bottles used in houses. The cost of LPG when bought in 13kg bottles is around 30% more expensive than the Autogas LPG sold at petrol filling stations even though it is the same gas.

**c. where in the country these fuels are used (including whether they are on or off the gas grid)**

The inland and coastal waterways are not on the gas grid.

**d. whether you consider that there are any viable alternative fuels available to you to power such machinery, including excepted vehicles, or equipment.**

No, unless the boat has a solid fuel stove that can be used for cooking.

**If you know your Standard Industrial Classification code, please also provide this.**

**You are invited to provide any evidence you deem relevant to this call for evidence, not limited to the information requested.**

N/A

**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?**

Domestic use of LPG for cooking and heating should not be taxed at a higher rate than any other fuel used for domestic purposes.

**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).**

N/A

**ENDS**

**National Bargee Travellers Association  
September 2020**

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