



National Association of Agricultural Contractors

Red Diesel – Abuse it and Lose it!

The NAAC has been working closely with HMRC and DVLA for the past four years in reviewing and updating the rebated fuel legislation, before publishing the new [Memorandum of Agreement](#), launched in January 2008.

The details of the changes to the law are set out in the recently revised [Notice 75](#) which includes the latest list of approved vehicles allowed to use rebated fuel. This includes agricultural tractors, agricultural engines, agricultural materials handlers and agricultural processing vehicles, such as seed and feed mobiles.

To be allowed to use rebated fuel the intention is that the road use must be ‘incidental’ to the off-road agricultural, horticultural or forestry activity.

Whilst this seems like common sense, there has been significant confusion about the definition of ‘agricultural, horticultural or forestry use’. To try and clarify this and other issues, the NAAC has put considerable time and effort into assisting HMRC and others to produce the new [Memorandum of Agreement](#).

This excellent new guidance finally gets it in writing that it is ok for an agricultural contractor to use rebated fuel provided they are only carrying out a defined agricultural activity (see [Memorandum](#)).

This is good news from our point of view as the industry and enforcement officers can all have access to the same guidance and if contractors are stopped in future they can feel confident that big fines are not coming their way!

Whilst I am sure that members and other contractors will have more questions (!), we have included some key FAQs likely to be applicable to all land-based contractors below. This is a good starting point to ensure that our sector of the industry continues to meet its obligations to act in a professional manner on the right side of the law!

Jill Hewitt, Chief Executive

*This FAQ is not intended to address every possible circumstance. It is for illustrative purposes only and is issued without prejudice. Each case must be judged on its merits. The **Memorandum of Agreement in Respect of the Use of Agricultural Vehicles on the Road** provides guidance to those engaged in agriculture, horticulture and forestry, and to agencies enforcing compliance with the legislation, and should be referred to in cases of uncertainty. Where disputes arise these will continue to be considered on an individual basis with regard to the relevant legislation, and any definitive interpretation of the law would remain to be given by the courts.*

1. When is transportation of agricultural, horticultural or forestry produce permitted?

Tractors licensed as agricultural machines and running on red diesel on the public road may only transport agricultural, horticultural or forestry produce to a place where it is to be consolidated, processed or sold where this is accepted as being incidental to an agricultural, horticultural or forestry operation. If the distance travelled exceeds 24 km you are likely to require a restricted Operators licence. The parties to the Memorandum have agreed that exemption from the requirement to hold an Operators licence is a reasonable indication of whether such transportation can be considered to be incidental to the agricultural operation, but each case should be determined in the light of individual circumstances. Consideration should always be given to using other forms of transport where practical.

2. Do different rules apply to contractors?

No, but the position is different for a contractor who has been contracted to both harvest and deliver produce, and one who has been contracted to only deliver produce.

3. I am a contractor employed by a farmer to assist with the harvest. Can I use a tractor licensed as an agricultural machine and running on red diesel to move grain by public road from the field to the farmer's store?

Yes, providing the tractor is being used as an integral part of the harvesting team e.g. it is working in the field as well being used on the road, the same rules apply as to the farmer.

4. I am a contractor employed by a farmer to move sugar beet from a field clamp to a factory. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

No, not if you have been employed solely to perform haulage.

5. I am a contractor. Can I use a tractor licensed as an agricultural machine and running on red diesel to deliver agricultural inputs (feed, fertilizer, fence posts, etc) to a farm?

No, not unless you are being employed by the farmer to carry out an operation requiring those inputs, e.g. feeding stock, spreading fertilizer, repairing fences.

If you are being employed by the farmer to carry out an agricultural activity and need the inputs to carry out this activity (eg seed for drilling) then it is ok to use red.

6. I am a contractor. Can I use a tractor licensed as an agricultural machine and running on red diesel to deliver road planings to a farm for track repairs?

No, not unless you are being employed by the farmer to perform the repair.

7. I am a contractor. Can I use a tractor licensed as an agricultural machine and running on red diesel to deliver agricultural machinery to a farm?

No, not unless you are employed by the farmer to carry out an operation requiring the use of that machinery.

If you are employed by the farmer and use the machine to carry out this agricultural activity you can use red.

8. I am a contractor. Can I use a tractor licensed as an agricultural machine and running on red diesel to move agricultural plastics waste to a collection site or waste tip?

No, not unless you were employed by the farmer in the operation that generated the waste.

If, for example, you have done a spraying job for a farmer and have waste spray cans from that job you can remove the waste.

9. I am a contractor employed by a farmer to transport and spread waste on his fields as an agricultural input. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

Yes, if the sole purpose of the operation is to enrich the land rather than to dispose of the waste. As a rule of thumb, a good guide is that a 'fertiliser' is an input paid for by the farmer to put on his land for agricultural benefit.

10. Can I use a tractor licensed as an agricultural machine and running on red diesel for purposes that are not related to agriculture, horticulture or forestry, or cutting verges or hedges bordering public roads?

Yes, but only if the activity does not involve any use of the public road, and the tractor does not use the public road to get to the place where it is to be used for that activity.

11. I run a horse riding stables/livery yard. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

No. The keeping of a creature for sport or recreation is not an accepted use, and red diesel can only be used by the tractor (when involved in this sort of non-agricultural activity) if it is only used off-road.

12. I do grass management work (e.g. spraying, topping, cultivation, haymaking etc) on grassland which is used for livestock or horses. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

Yes, if the purpose of the operation is to grow grass as fodder. If as a contractor you are not expected to have to find out which animals are likely to graze the land.

13. I buy the straw on a field, then bale it and move it from the point of production to storage. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

Yes, as this is part of an agricultural operation.

14. I buy hay/straw already baled off a field, sell it and haul it to my customers. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

No, you are a dealer.

15. I buy hay/straw already baled off a field, then move it to my own store for my own livestock/use. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

Yes, as this is an agricultural input i.e. fodder or bedding.

16. I am a contractor and transport bales for fodder from the point of production to horse owners. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

No, not unless you were also involved in the forage operation (i.e. mowing and/or baling) and are not just being paid for the haulage operation.

17. I want to use my tractor for ditch clearing for land drainage. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

Yes, provided you only carry out drainage work for agricultural benefit on agricultural land – not for flood prevention etc. (e.g. for drainage authorities).

18. I want to use my agricultural tractor to move stone and soil for my neighbour who is building a new house. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

No, this is haulage and is not for the purposes of agriculture, horticulture or forestry.

19. I want to move materials to build my own house on my agricultural property. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

No, the tractor is being used for haulage and construction work, not for the purposes of agriculture, horticulture or forestry.

20. I want to move materials for building a new barn/shed in my yard for my farm/farm contracting business. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

No, the tractor is being used for haulage and construction work, not for the purposes of agriculture, horticulture or forestry.

21. I want to move materials on public roads for repairing my barn/shed in my yard for my farm/farm contracting business. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

Yes, if you are conducting the repair yourself and the building is used solely for purposes relating to agriculture, horticulture or forestry.

22. I carry out verge-cutting on public roads for the local authority. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

Yes, this activity is specifically permitted in the agricultural tractor definition.

23. I carry out hedge-cutting on public roads for the local authority. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

Yes, this activity is specifically permitted in the agricultural tractor definition.

24. I carry out hedge-cutting for local companies in our industrial area. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

No, not unless the hedges are bordering public roads, or if the work is on agricultural land. If the hedges are off-road in an industrial area then you must use white diesel to travel to the site.

25. I am a contractor engaged to pick up and remove cuttings from hedges or verges on public roads. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

No, not unless you were also employed to do the cutting.

26. I carry out highways weed control. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

No, this activity is not accepted as being for the purposes of agriculture, horticulture or forestry, and is not otherwise permitted in the agricultural tractor definition. To the use public road the tractor must be licensed in the Private Light Goods taxation class (PLG) if used without a trailer, or in the General Haulage taxation class if used with a trailer, and use white diesel.

27. I carry out grass maintenance and other amenity work (e.g. playing fields, golf courses, local authority spraying, commercial property maintenance etc). Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

No, this activity is not accepted as being for the purposes of agriculture, horticulture or forestry, and is not otherwise permitted in the agricultural tractor definition. To use the public road the tractor must be licensed in the PLG taxation class if used without a trailer, or in the General Haulage taxation class if used with a trailer and use white diesel.

28. I carry out grass maintenance and other amenity work with a tractor licensed as an agricultural vehicle, but the tractor is taken to site on a low-loader. I may however need to cross a road or travel short distances on the road between jobs on red diesel. Is this ok?

No, no use of the public road is allowed.

29. I have a self-propelled mower which I use for grass maintenance on playing fields etc. Can I use red diesel on the public road?

Yes, mowing machines can use red diesel at all times.

30. I carry out grass maintenance and other amenity work, taking all terrain vehicles (ATVs) to the site on a low loader using white diesel. Is it ok for me to use red diesel if only doing off-road work?

If the vehicles are not licensed for use on the public road they can run on red diesel off road.

31. I carry out tree surgery on public amenity land or commercial property. Can I use a tractor licensed as an agricultural machine and running on red diesel on the public road?

No, this activity is not accepted as being for the purposes of agriculture, horticulture or forestry, and is not otherwise permitted in the agricultural tractor definition. To the use public road the tractor must be licensed in the PLG taxation class if used without a trailer, or in the General Haulage taxation class if used with a trailer and use white diesel.

32. I want to use my agricultural tractor as a gritter. Can I use red diesel?

No. Only a vehicle that has been constructed or adapted for gritting use, and is used solely for that purpose, can use red diesel.

33. My combine is taxed as an agricultural machine but it fits the description of an agricultural engine in this Memorandum for red diesel. Can I use red diesel?

Yes, provided a vehicle is taxed as an agricultural machine and fits the definitions within the Hydrocarbons Oil Duties Act 1979 (the legislation governing use of rebated fuel), then it can use red diesel. Examples of agricultural engines include self-propelled agricultural machinery such as combines, sprayers, forage harvesters etc.

34. Can I tow my combine header behind a tractor?

Yes, provided the tractor will be used as part of the harvesting operation and is not just used for moving the header. Alternatively, the header can be towed behind the combine.

35. I have a mobile seed (or feed) processor which has built-in processing machinery. Can I use red diesel?

Yes, these vehicles are classified as 'agricultural processing vehicles' and are exempted (provided the vehicle fits the definition in the legislation).