



## Regulations and Technical Services Group

### **The Post Brexit Use of UK Marine Red Diesel by Pleasure Craft for Overseas Visits When In EU and other Maritime State Waters**

**June 2021**

#### **General**

**The marine pleasure craft use of our red diesel continues to be valid in England, Scotland, Wales. In Northern Ireland, it is valid until October 1st 2021; after this date, in accord with the Northern Ireland Protocol (Withdrawal Agreement), owners will have to refuel with the legally EU required white diesel.**

RATS has issued the advice below following confirmation by HMRC that the presence of UK red marine diesel for the propulsion in craft visiting foreign States is permitted under the Istanbul Convention of 1990 (Temporary Admission). The Convention is applicable since the fuel has been bought in a foreign country and the fuel is considered to be VAT and duty neutral.

This advice applies only to short-term visits, not to situations where the yacht is then to be relocated into an EU country, or other countries, for an extended period. The Istanbul Convention does not apply to extended visits.

The EU and its countries along with many others, have signed this Convention. They have no reason to contravene its validity relating to pleasure craft fuel.

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#### **Advice**

#### **The advice which CA Members should follow for voyages leaving the United Kingdom to the European Union and other foreign States**

- as required by UK law, the full 100% duty rate must be paid on all of the UK marine diesel purchased for propulsion use. The printed and signed receipt(s) for this purchase must show that the full 100% duty (and no other rate) has been paid for this purpose
- the UK issued receipt must be carried on board the vessel and be available for inspection by the Customs Official(s) at the port of entry of the State being visited

- if all the re-fuelling was done over a year ago the last signed fuel receipt must be available. Previous evidence of the engine hours run and log records will be useful to demonstrate the validity of the situation if there is any Customs concern
- to avoid complications with an inspecting official over any fuel purchase history, it is advised that re-fuelling is done prior to departure to ensure there is a full engine tank(s) to overcome the possible need to carry spare fuel container(s)
- whenever refuelling is carried out in another country it is wise to keep all fuel purchase receipts and details as evidence of observing the fuel regulations of that country
- the Channel Islands are a Crown Dependency which is not part of United Kingdom. They are outside the VAT area of the European Union and are not Members of it. Red diesel fuel purchases made in the Channel Islands by pleasure craft boats should have on board their invoices and paid bills to avoid doubt with any EU State or other country's inspecting Customs official(s).
- **Northern Island vessels visiting Scotland, Wales and England, which refuel with UK red diesel (under SOLAS V requirements), must keep all records of their purchase receipts and use, such as log of the voyage and engine hours, to prove at any time to Custom Officials the valid reason for traces of red diesel in the engine tank(s).**

## Reminders

### Members are reminded

- Whilst RATS understands this is their best advice, it is up to the skipper or the owner of the vessel to make their decision about visiting foreign maritime States
- You are not allowed to purchase and fill up the boat tank(s) with red diesel in EU States and other countries. At the first opportunity in the EU port or marina of arrival, you should refuel and you must use white diesel, or the legal dyed diesel for marine propulsion for that country. Be aware it may contain bio diesel
- Make certain you keep all receipts for proof of using white, or the legal diesel of any other country. This will show that you are obeying the diesel fuel regulations of every country you visit
- Should extra UK red diesel be needed for passage safety under SOLAS V regulations (see below), for example, because of a small, fixed, engine tank, then spare can(s) must be of an approved design and securely stowed in a locker. A receipt for any spare fuel must be from a HMRC registered UK supply source, dated and signed to show Officials that the 100% duty for propulsion use has been paid. A record of the consumption of this fuel will help to show that it has been properly used only for engine propulsion purposes
- If spare fuel containers are still required for further voyages, then to avoid any confusion on arrival, empty container(s) should be re-filled with the legal marine diesel and the purchase invoices kept to prove this action
- Be aware, problems have arisen over the use of non-approved containers. Extreme caution should be exercised especially with small containers of inflammable petrol
- In the unlikely event that there is a dispute with Customs, refer them to the Istanbul Convention references below. Keep all paperwork and other details for evidence if required. Make certain you request to see the ID of the visiting Official(s)
- **If appropriate, immediately contact the staff of your port of arrival for assistance and guidance**

## References & Comments

### SOLAS --- Safety of Life at Sea

Marine diesel is a factor to be taken into account under SOLAS V and the use of spare fuel containers.

Regulation 34 of SOLAS Chapter V, Safety of Navigation, makes clear that passage planning is required for all vessels that put to sea. Annex 23, paragraph 9, deals with passage planning for small craft and expressly states that one of the factors to be taken into account is:

“The limitations of the vessel should be considered as to whether the vessel and crew are suited to the proposed trip and that you have sufficient safety equipment and stores with you.”

This is reinforced by paragraph 7.3 of Marine Guidance Note MGN 599 (M) which applies to leisure vessels where stores include fuel.

It would be seriously amiss for a skipper to plan a passage, including diversions to havens of safety, without considering the current fuel tank levels and how to meet the consumption requirements for all sea conditions, and emergencies, by possibly using (approved) spare containers for additional fuel consistent to meet any engine usage; and where the craft might refuel.

### Istanbul Convention 1990 (Temporary Admission) Convention

#### Annex C

#### Concerning means of transport

#### Extracts

#### Chapter 1. Article 1

- (a). the term "means of transport" means: any vessel {(including lighters and barges, whether or not ship borne, and hydrofoils), hovercraft, aircraft, motor road vehicles (including cycles with engines, trailers, semitrailers and combinations of vehicles) and railway rolling stock;} together with their normal spare parts, accessories and equipment carried on board means of transport {(including special equipment for the loading, unloading, handling and protection of cargo)}**
- (c). the term "private use" means: the transport exclusively for personal use by the person concerned excluding commercial use**
- (e). the term "normal tanks" means: the tanks designed by the manufacturer for all means of transport of the same type as the means of transport in question and whose permanent fitting enables a fuel to be used directly, both for the purpose of propulsion {and, where appropriate, for the operation, during transport, of refrigeration systems and other systems. Tanks fitted to means of transport designed for direct use of other types of fuel} and tanks fitted to the other systems with which the means of transport may be equipped shall also be considered to be normal tanks**

## Chapter 2. Article 4

(1) The fuel contained in the normal tanks of the means of transport temporarily admitted as well as lubrication oils for the normal use of such means of transport shall be admitted without payment of import duties and taxes and without application of import prohibitions or restrictions.

### Signatures of States

The EU countries and the Nordic countries have all signed the Istanbul Convention. Denmark, Finland, Norway and Sweden have also ratified it.

See: <https://treaties.fco.gov.uk/data/Library2/pdf/1999-TS0060.pdf>

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**It is suggested that a printed copy of the RATS advice should be kept with the vessel's paperwork.**

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