EXPLANATORY MEMORANDUM TO

THE AIRCRAFT OPERATORS (ACCOUNTS AND RECORDS) (AMENDMENT) (No. 2) REGULATIONS 2015

2015 No. 942

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument amends the Aircraft Operators (Accounts and Records) Regulations 1994 (S.I. 1994/1737) ("the principal Regulations").

2.2 The Finance Act 2015 amends Chapter 4 of Part 1 of the Finance Act 1994 to provide exemption for children under the age of 16 travelling in the lowest class of travel. This instrument makes consequential amendments to the particulars specified in the principal Regulations of the air passenger duty account that an aircraft operator has to keep.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 It was not possible to lay these Regulations until after Royal Assent to the Finance Act 2015 and they have to come into force on 1st May 2015. Although there are more than 21 days between the date of laying and the Regulations coming into force, these days will elapse when Parliament is dissolved. Unfortunately, this could not be avoided due to the dissolution of Parliament ahead of the General Election.

4. Legislative Context

4.1 Air Passenger Duty ("APD") is charged under Chapter 4 of Part 1 of the Finance Act 1994 (c.9), on the carriage in chargeable aircraft of chargeable passengers. There are a number of exceptions to the definition of chargeable passengers, including for children under the age of 2 who are not allocated a seat of their own.

4.2 The Finance Act 2015 (c.11) amended the Finance Act 1994 so that, with effect from 1st May 2015, children aged under 12 on the date of travel, travelling in the lowest class of travel are exempt, with the exemption further extended from 1st March 2016 to children aged under 16. The existing exemption for children under the age of 2 without their own seat continues to apply to children travelling in all classes.

4.3 Regulations 4 and 5 of, and Schedules 1 and 2 to, the principal Regulations require aircraft operators to keep an APD account containing particulars of the number of chargeable passengers and those who under certain circumstances were not chargeable. This instrument amends the details required to be kept in the APD account to add a reference to the new section being inserted into the Finance Act 1994 to provide for the extended child exemption from 1st May 2015.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- **What is being done and why**

7.1 The liability to pay APD lies with aircraft operators. APD is a self-assessed tax, and registered operators are required to calculate, declare and account for the tax due on a monthly or annual basis, on the APD return.

7.2 As part of their record keeping obligations and in order to provide assurance that the tax has been calculated and declared correctly, aircraft operators are required to maintain an APD account. This APD account contains the particulars of the number of passengers carried at each chargeable rate and those that under certain circumstances are not chargeable. These records form part of the audit trail supporting the declarations on the APD return.

7.3 In order to help families by lowering the cost of air travel for children travelling in the lowest class of travel, the Autumn Statement announced an extension to the APD exemption for children. This instrument makes consequential changes to the record keeping requirements of APD registered operators, to take account of the extended exemption for children.

- **Consolidation**

7.4 There are currently no plans to consolidate the principal Regulations.

8. Consultation outcome

8.1 This is a consequential amendment as a result of changes in primary legislation. No consultation on this consequential change was conducted.

9. Guidance

9.1 Guidance on the changes being made to the APD account will be included in the HMRC Public Notice 550, Air passenger duty.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 A Tax Information and Impact Note was published on 10th December 2014 alongside the draft Finance Bill 2015 and is available at

https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to make only the minimum changes required by the amendments to primary legislation.

11.3 The basis for the final decision on what action to take to assist small business was that no additional regulatory requirement other than that which is necessary is to be introduced.

11.4 APD makes allowances for small businesses, with a de-minimis exemption for flights made in aircraft of less than 5.7 tonnes. HMRC do not expect small businesses that do pay APD to be disadvantaged by the changes.

12. Monitoring & review

12.1 HMRC will work with the industry to ensure effective monitoring of the wider impact of the policy and it would be appropriate to review this instrument as part of this process.

13. Contact

Ann Little at the Transport Taxes Team, HMRC Tel: 03000 586 096 or email: ann.little@hmrc.gsi.gov can answer any queries regarding the instrument.