EXPLANATORY MEMORANDUM TO

THE APPROVED MILEAGE ALLOWANCE PAYMENTS (RATES) REGULATIONS 2011

2011 No. 896

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) on behalf of Her Majesty's Treasury and is laid before the House of Commons by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 With effect from 6 April 2011, this instrument increases the higher rate of approved mileage allowance payments (AMAPs) for cars provided for in section 230 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) from 40 pence per mile to 45 pence per mile for the first 10,000 of business travel in an employee's private car or van.

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

3.1 This instrument implements uprating measures announced as part of the Budget. As a matter of policy uprating measures are not pre-announced before the Budget. The uprating measures, generally, are to take effect from 6 April 2011, the beginning of the next tax year after the Budget to ensure that the maximum number of businesses will benefit from the changes. Consequently, it was not possible to lay this instrument before the House of Commons 21 days before commencement

3.2 As announced by the Exchequer Secretary to the Treasury on 15 March 2011 http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110315/wmstext/110315m0001.htm from Budget Day 2011 onwards the Government has adopted a new process for undertaking impact assessment of tax and national insurance contributions (NICs) policy changes. This new tailored Tax Impact Assessment process will be used throughout the development of tax and NICs policy and will be summarised in Tax Information and Impact Notes (TIIN). TIINs will be produced for all substantive changes in tax and NICs policy by primary and secondary legislation at the point at which the policy design is final or nearly final. TIINs will provide a clear statement of the policy objective, impact on the Exchequer, the economy, individuals, businesses and civil society organisations as well as any equality and other specific impact.

3.3 This instrument, which is made and laid on Budget Day, is the first for which a TIIN has been prepared in accordance with that commitment.

4. Legislative Context

4.1 These Regulations are made by Her Majesty's Treasury under section 230(6) ITEPA.

4.2 Where an employee uses their own car for business purposes, an employer may reimburse them at the rates provided for under AMAPs without the need for detailed record keeping. Where AMAPs rates are used, HMRC will accept that there is no taxable profit.

4.3 Where an employer pays less than the AMAPs rate provided for, employees may claim tax relief on the shortfall through use of the mileage allowance relief set out in section 231 ITEPA.

4.4 This instrument increases the higher rate of AMAPs for cars and vans from 40 pence per mile to 45 pence per mile with effect from 6 April 2011.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Economic Secretary to the Treasury has made the following statement regarding Human Rights:

In my view the provisions of the Approved Mileage Allowance Payments (Rates) Regulations 2011 are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 The current rates were introduced in the tax year 2002-03 and have not been amended since. They cater for a wide range of car drivers and the rates are designed to take into account all relevant factors. The levels strike a balance between allowing for the running costs of all cars, large and small, and delivering the Government's environmental objectives, but are not linked to any particular inflation measures.

7.2 The rates reflect not just fuel costs, but all of the major expenses associated with running a car, including insurance, Vehicle Excise Duty, repairs and depreciation.

7.3 The Government announced the changes in the 2011 Budget Report. These Regulations give effect to that announcement.

8. Consultation outcome

8.1 Consultation was not appropriate.

9. Guidance

9.1 The change was announced at Budget and the relevant HMRC guidance will be amended in line with these Regulations.

10. Impact

10.1 The impact on business is negligible. However, this increase is likely to be welcomed by charities and voluntary bodies who have made representations for this increase as it will support volunteering.

10.2 No impact on the public sector is foreseen.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm.

11. Regulating small business

11.1 The legislation applies to small businesses if they reimburse employees for business mileage incurred in a private car. There is no indication that they would have any difficulty in implementing the change, which will simply need a substitution of the monetary value in claims made by employees. HMRC will amend their external guidance to support employers and employees.

11.2 In addition, it is a matter for employers how much they pay their employees for the business use of a private car. If they choose not to meet the statutory increase, employees can seek tax relief on the amount up to the AMAPs limit through the use of the mileage allowance relief scheme.

11.3 HMRC has regular contact with industry groups which include representatives of small business, such as the Benefits and Expenses sub-group.

12. Monitoring and Review

12.1 This policy will be monitored and assessed alongside other measures in the Government's package of personal tax and benefits changes.

13. Contact

Mrs Su McLean-Tooke at HMRC Tel: 020 7147 2665 or email: susan.mclean-tooke@hmrc.gsi.gov.uk can answer any queries regarding this instrument.