EXPLANATORY MEMORANDUM TO

THE EXCEPTED VEHICLES (AMENDMENT OF SCHEDULE 1 TO THE HYDROCARBON OIL DUTIES ACT 1979) ORDER 2013

2013 No. [XXXX]

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

2. Purpose of the instrument

2.1 This order amends paragraphs 2 (Tractors), 3 (Light Agricultural vehicles) and 4 (Agricultural Material Handlers) of Schedule 1 to the Hydrocarbon Oil Duties Act 1979 ("HODA") to allow agricultural tractors, light agricultural vehicles and agricultural material handlers to use rebated ("red diesel") for gritting roads.

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

3.1 None

4. Legislative Context

4.1 Section 6(1) of HODA imposes a charge to excise duty on hydrocarbon oil imported into, or produced in, the United Kingdom, at the rates laid down in section 6(1A).

4.2 Section 11 provides for a rebate of excise duty on heavy oil (rebated heavy oil is commonly known as "red diesel" and we call it "red diesel" from this point). Section 12 provides that red diesel may not be used as fuel for 'road vehicles'.

4.3 Section 27 provides that a 'road vehicle' is 'a vehicle constructed or adapted for use on roads' other than an 'excepted vehicle' and that an 'excepted vehicle' is a vehicle listed in Schedule 1.

4.4 Paragraph 8 of Schedule 1 lists (under 'gritters') vehicles that are constructed or adapted solely for the conveyance of machinery for spreading material on roads to deal with frost, ice or snow'. Paragraphs 2, 3 and 4 concern, respectively, 'agricultural tractors', 'light agricultural vehicles' and 'agricultural material handlers'. These vehicles are (in accordance with their definitions) used on public roads only for 'purposes relating to agriculture, horticulture or forestry' or (in the case of agricultural tractors and agricultural material handlers) for cutting verges, hedges, or trees bordering public roads.

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, Mr Sajid Javid, has made the following statement regarding Human Rights:

"In my view the provisions of the Excepted Vehicles (Amendment of Schedule 1 to the Hydrocarbon Oil Duties Act 1979) Order 2013 are compatible with the Convention rights."

7. Policy background

7.1 A series of severe winters in the UK has led to increased calls for farmers to use their vehicles to grit roads in rural areas. Extreme weather conditions are difficult to predict, and the severity and duration of icy conditions are rarely consistent across the country. Farmers can play an important role in helping with gritting in rural areas in times of severe weather. However, Schedule 1 to HODA does not permit them to use red diesel for that purpose. It is therefore appropriate to ensure that farmers are able to use red diesel for gritting purposes.

7.2 Following an internal review and a public consultation (both of which were very favourable to the proposal in general terms), the Government has decided to amend paragraphs 2 (Tractors), 3 (Light Agricultural Vehicles) and 4 (Agricultural Material Handlers) of Schedule 1 to HODA to extend them to include vehicles used for gritting.

8. Consultation outcome

8.1 In July 2012, HMRC launched a formal consultation, entitled "Use of Rebated Fuel for Gritting in Rural Areas", to discover whether there was an appetite for a change to the legislation and how such a change might affect commercial operators and official gritting authorities. The response was overwhelmingly positive. However, while all were in favour of extending the gritting exemption to agricultural tractors, there was no clear consensus on what other vehicles to include, if any. The Government has decided that 'light agricultural vehicles' and 'agricultural material handlers' are the only other types of vehicle suitable for inclusion and have accordingly decided to include them.

9. Guidance

9.1 The provisions for excepted vehicles are described in Public Notice 75 which is published on the HMRC website. The public notice will be updated to reflect this change.

10. Impact

10.1 HMRC estimates that up to 10,000 farms and 500 gritting businesses will be affected to some extent. It is likely that, as gritting coverage is extended to areas not normally covered by commercial gritters, there will be a small, but manageable increase in demand for salt and grit. Local businesses in rural areas are likely to benefit from access to villages being maintained. Compliance costs to business will be negligible.

10.2 This change is expected to have a negligible impact on the Exchequer.

10.3 A Tax Information and Impact Note (relating to the Use of Rebated Fuel for Gritting) covering this instrument will be published on the HMRC website alongside this explanatory memorandum and provides an accurate summary of the impacts of this instrument.

11. Regulating small business

11.1 The legislation applies to small business.

12. Monitoring & review

12.1 Although we do not plan to monitor the effect of these particular amendments, we will continue (as before) to keep all aspects of Schedule 1 HODA under review.

13. Contact

Steve Clarke at Her Majesty's Revenue and Customs can answer any queries regarding the instrument. Email: steve.clarke2@hmrc.gsi.gov.uk.