EXPLANATORY MEMORANDUM TO

THE HGV ROAD USER LEVY (EXEMPTION OF SPECIFIED ROADS) ORDER 2014

2014 No. XXXX

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2.1. The purpose of the Statutory Instrument (SI) covered by this Memorandum is to exempt certain specified roads from the roads to which the HGV Road User Levy Act 2013 ("the 2013 Act") applies.

2.2. The roads to which the 2013 Act will not apply are:

2.2.1. the M6 Toll road located near to Birmingham; and

2.2.2. approximately 7 miles of road that weaves across the border between Northern Ireland and the Republic of Ireland, comprising of:

- the A37 in Northern Ireland, and
- the two sections of the A3 in Northern Ireland to the west of Clones.

3. Matters of Special Interest to the Select Committee on Statutory Instruments

3.1. None.

4. Legislative Context

4.1. Clause 3 of the 2013 Act allows the Secretary of State to make an order providing that the 2013 Act does not apply to specified roads.

4.2. During the passage of the 2013 Act, the Department informed Parliament that we intended to use the power to exempt certain roads that criss-crossed the border between Northern Ireland and the Republic of Ireland[1]. The Department did not mention excluding the M6 Toll Road because, at the time, its inclusion was considered not to contravene the Eurovignette Directive[2]. Subsequently, the Commission advised that the M6 Toll Road should be exempted from the levy to ensure compliance with the EU law.

4.3. The M6 Toll Road is therefore being exempted from the 2013 Act to ensure that the UK is compliant with the Eurovignette directive. Article 7(2) of the Directive prohibits imposing a toll (distance based) and user charge (time based) on a single section of road. However where a user charge is imposed on its network, a Member State may also impose tolls on bridges, tunnels and

[1] Public Bill Committee, *HGV Road User Levy Bill(HC 2012-13) cols 70-71.*

[2] Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures (OJ 187, 20.7.1999, p.42) as amended by Directives 2006/38/EC, 2006/103/EC, 2011/76/EU and 2013/22/EU.

mountain passes where the higher costs of construction are often recouped through the charging of tolls. This means that the UK is entitled to impose a toll and a user charge on bridges and tunnels, such as the Severn Bridge, but the UK cannot impose a toll and a user charge on a normal stretch of road, such as the M6 Toll Road.

4.4. The Department's view was that the charge for using the M6 Toll Road amounted to a congestion charge to alleviate congestion in the Birmingham area. Article 9 of the Eurovignette Directive allows charges designed to reduce congestion in urban areas to coexist with a time-based charge on the same stretch of road. However, the Commission advised that to ensure compliance with the Directive, the M6 Toll Road should be exempted from the scope of the levy.

5. Territorial Extent and Application

5.1. This Instrument applies to the United Kingdom.

6. European Convention on Human Rights

6.1. Robert Goodwill, Parliamentary Under Secretary of State for Transport, has made the following statement regarding Human Rights:

"In my view the provisions of the HGV Road User Levy (Exemption of Specified Roads) Order 2014 are compatible with the Human Rights Convention."

7. Policy Background

What is being done and why

7.1. The 2013 Act introduces a levy for using or keeping a heavy goods vehicle ("HGV") of 12 tonnes (12,000 kg) or more on public roads in the UK. The amount of the levy is determined in accordance with the weight and number of axles of the vehicle, and applies equally to UK and non-UK registered vehicles.

7.2. A person using or keeping a HGV registered in the UK will pay the levy on an annual or six-monthly basis at the same time as their vehicle excise duty. A person using or keeping a HGV registered outside the UK will pay the levy for the amount of time he or she intends to use or keep their vehicle on a public road in the UK (i.e. they may pay on a daily, weekly, monthly or annual basis).

7.3. It is an offence to use or keep a HGV on a public road in the UK without paying the appropriate levy, and on summary conviction a fine of up to level 5 on the standard scale may be imposed.

Exemption of the M6 Toll

7.4. The M6 Toll is being exempted to ensure that the UK is not imposing a toll and a user charge on the same stretch of road contrary to EU law.

Exemptions for roads in Northern Ireland

7.5. The Irish border is around 220 miles long, and is the only land border where the HGV Road User Levy will apply on one side only.

7.6. The border is crossed by a huge number of minor roads, and a few major roads of the type normally used by HGVs. In some cases, there are main roads along which hauliers from the Republic of Ireland travel for relatively short periods on roads in Northern Ireland to reach destinations in different parts of the Republic of Ireland.

7.7. The planned exclusion of around 7 miles of roads from the charge zone should not affect the overall cohesiveness of the scheme in Northern Ireland. These exemptions will ensure that operators who are making trips mainly within the Republic of Ireland do not risk being penalised for using the most sensible route even though it may cross the border for a short distance.

Consolidation

7.8. None required.

8. Consultation Outcome

8.1. There is no statutory requirement to consult on these regulations. On that basis and because the Minister discussed these matters during the Parliamentary passage of the 2013 Act, we did not consult on exempting the specified roads from the application of the 2013 Act.

9. Guidance

9.1. None required.

10. Impact

10.1. An impact assessment has not been produced for this instrument as the changes have been assessed as mechanical, and no impact on the private, voluntary, or public sectors is foreseen.

11. Regulating Small Business

11.1. The SI applies to small business.

11.2. The nature of the road exemptions are very limited, and therefore should not have an impact on the requirement to pay the charge.

12. Monitoring and Review

12.1. The Department for Transport and HM Treasury will continue to liaise with stakeholders from time to time to discuss the implementation of the scheme, and the impact (if any) that it is having.

13. Contact

Peter Steele at the Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR, Tel: 020 7944 8177 or email:

HGVCharging@dft.gsi.gov.uk can answer queries regarding this instrument or the policy area.