EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLES (INTERNATIONAL CIRCULATION) (AMENDMENT) ORDER 2013

2013 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 This instrument, together with the related Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2013, has the effect of enabling the extension of cabotage operations (domestic goods operations by haulage operators registered in another Member State) for vehicles used for car transportation at the peak vehicle registration periods each March and September. EU cabotage rules introduced by EC Regulation 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market ("Regulation 1072/2009") have had an impact on the ability of UK car manufacturers and retailers to meet retail and export demand for cars at the peak periods. Traditionally the sector has used vehicles from other Member States to supplement the UK fleet at the peak periods.

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

3.1 None.

4. Legislative Context

4.1 This instrument, along with the related Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2013, ("The Operator Licensing Regulations") makes regulatory changes to allow vehicles, essentially car transporters, to carry out unlimited cabotage operations during the peak registration periods. The Operator Licensing Regulations came into force on 15 August 2013.

<u>The Motor Vehicles (International Circulation) (Amendment) Order 2013</u>

4.2 This Order amends article 5 of the Motor Vehicles (International Circulation) Order 1975, which exempts from excise duty certain vehicles brought temporarily into the UK. Relief from excise duty is already available to vehicles used for cabotage operations in the UK in accordance with the provisions of Regulation 1072/2009. This Order exempts vehicles which are being used only for or in connection with the carriage of motor vehicles from excise duty when carrying out unlimited cabotage operations during the permitted periods described.

4.3 The Operator Licensing Regulations create an additional exemption from the need for a user of a goods vehicle to have an Operators License under the Goods Vehicles (Licensing of Operators) Act 1995. The exemption is complementary to that for cabotage operations under the EU Regulations but allows cabotage operations for two specific 6 week periods annually for car transportation in Great Britain without limit on the number of delivery trips or need for an incoming international laden journey.

5. Territorial Extent and Application

5.1 The instrument is limited in its application to the use of vehicles for specific cabotage operations in Great Britain.

6. European Convention on Human Rights

6.1 Robert Goodwill MP has made the following statement regarding Human Rights:

6.2 In my view the provisions of the Motor Vehicles (International Circulation) (Amendment) Order 2013 are compatible with the Convention rights.

7. Policy background

7.1 The proposals support the growth agenda as it will enable the motor manufacturing and distribution industry to meet demand for the supply of new vehicles to UK buyers and for export throughout the year.

7.2 Regulation 1072/2009 revised the previous EU rules governing road haulage cabotage with the intention of clarifying the extent to which carrying out cabotage in another Member State on a temporary basis could be readily identifiable. Chapter III provides an entitlement to carry out up to 3 cabotage operations in the 7 day period following the last delivery on the incoming international journey. Once the limit has been reached the vehicle must leave and re-enter with a new international load in order to undertake further cabotage. These rules were intended to provide a level playing field for road haulage businesses in Member States, but, as indicated by the 5th recital to the Regulation, represent a transitional state of affairs in that the road haulage market is not harmonised throughout the EU and Member States are at liberty to effect greater liberalisation of cabotage in their own territory if they wish.

7.3 Generally, the clarity provided by the 2009 EU rules has been welcomed by industry in place of less certain application of the former rules on ‘temporary use’. However, the explicitness of the new rules has had an appreciable and restrictive impact on the ability to move sufficient motor vehicles in peak periods of demand around the new car registration peaks of March and September. Car transporting vehicles are highly specialised and are not used for other purposes. General haulage vehicles are generally not suitable for the effective distribution of cars. Whereas the core demand outside the peak periods is satisfactorily met by UK vehicles operating domestically at times of peak demand vehicles from other Member States are needed to supplement the UK fleet.

Regulation 1072/2009 has the effect of restricting the amount of work that non UK hauliers can legally undertake on each visit to the UK.

7.3 The Department for Transport considered various options to address this problem. The Traffic Commissioners, who administer the operator licensing regime, were consulted and advised that the existing legislation would not allow domestic operators to specify foreign car transporters on their operator licences and a temporary relaxation of the cabotage requirements is not possible without secondary legislation.

8. Consultation outcome

8.1 The policy is of specialist interest and was the subject of a 4-week targeted consultation aimed at car manufacturers, vehicle distribution companies and the retail sector between 9 May and 5 June 2012.

8.2 There were 13 responses to the consultation exercise, 10 of which were supportive of the proposals. Those supporting the proposal include Honda, Jaguar Land Rover, the Ford Motor Company, Volkswagen, the Road Haulage Association and the Society of Motor Manufacturers and Traders.

8.3 The Association of European Vehicle Logistics and the Ford Motor Company both suggested that any relaxation period should start two weeks before the peak months, i.e. last two weeks in February and last two weeks in August. They suggested that this would allow more vehicles to be delivered for the start of the new registration periods. The Department agrees that it is sensible to allow the relaxation periods to commence before the start of the registration periods and to accommodate the request has proceeded on the basis of the relaxation periods, over and above existing cabotage allowances, covering 22 February to 31 March and 25 August to 30 September each year.

8.4 There were 3 negative responses:

i. Autologic (a UK based car transportation company) suggested that they would have to reduce the size of their fleet if transport operators from other Members States were able to operate in GB without restriction for 2 months of the year. In response, the Department does not agree and would point out that non-UK transporters are more expensive to hire than domestic equivalents and they are expected be used by the sector only when the domestic supply is exhausted.

ii. The Freight Transport Association (FTA) said that instead of relaxing the cabotage rules for non-UK car transporters, the Department should encourage the foreign owners of these vehicles to become established in the UK, albeit for temporary or time-defined periods. The FTA suggested that this could be achieved through the existing operator licensing, vehicle registration and taxation regimes and would reassure UK operators that these visiting operators were meeting the same high safety standards and equally contributing to the use of UK infrastructure. In response, the Department would point out that the FTA's proposals are complex and bureaucratic for short-term use and could have

far reaching consequences beyond the narrow issue of peak transportation of cars and would require major legislative change.

iii. The Traffic Commissioners (TCs) pointed out that foreign goods vehicles were generally more likely to be non-compliant than domestic vehicles and suggested that there was a risk to road safety and fair competition from the proposal. The Department recognised the point made by the TCs that roadworthiness prohibition levels of foreign hauliers were higher than domestic hauliers. Nevertheless, the Department is not convinced that this is likely to be a significant issue. Car transporters are highly specialised and costly pieces of equipment and we believe they are less likely to be non-compliant with routine roadworthiness requirements than the average HGV. We have improving risk systems to target poor operators and have also been influenced by new information exchange systems being introduced EU wide in early 2013 that will improve enforcement for vehicles visiting from other EU states.

8.5 A full summary of responses is on the Department for Transport website at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/86126/cabotage-response.pdf.

9. Guidance

9.1 The Department issued guidance to the sector in August 2013 to ensure they are aware of the proposals.

10. Impact

10.1 An Impact Assessment (IA) is attached to this memorandum and will be published alongside the Explanatory Memorandum on the OPSI website. The IA shows that the proposal relieves business of the requirement to comply with EU cabotage rules during March and September car delivery peaks, leading to an EANCB (equivalent annual net cost to businesses) saving of £1.33m per year.

10.2 The impact on charities or voluntary bodies is unlikely to be significant.

10.3 The impact on the public sector is minimal.

11. Regulating small business

11.1 The legislation applies to small business.

12. Monitoring and review

12.1 The Department for Transport will monitor feedback through statistics and stakeholder discussions.

13. Contact

13.1 Francis Liston at the Department for Transport, telephone number 020 7944 4503 or email: francis.liston@dft.gsi.gov.uk, can answer any queries regarding the instrument.