EXPLANATORY MEMORANDUM TO

(1) THE GOODS VEHICLES (PLATING AND TESTING) (AMENDMENT) REGULATIONS 2012
2012 No. 305

(2) THE MOTOR VEHICLES (TESTS) (AMENDMENT) REGULATIONS 2012
2012 No. 307

(3) THE ROAD VEHICLES (REGISTRATION AND LICENSING) (AMENDMENT) REGULATIONS 2012
2012 No. 304

(4) THE PUBLIC SERVICE VEHICLES (OPERATORS' LICENCES) (FEES) (AMENDMENT) REGULATIONS 2012
2012 No. 306

(5) THE GOODS VEHICLES (LICENSING OF OPERATORS) (FEES) (AMENDMENT) REGULATIONS 2012
2012 No. 308

1. This Explanatory Memorandum has been prepared by the Department for Transport 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 instruments

2.1 Instruments (1), (2) and (3) above make changes to fees charged by the Vehicle and Operator Services Agency (VOSA) for annual testing and the issue of reduced pollution certificates for Heavy Goods Vehicles (HGVs – lorries) and Public Service Vehicles (PSVs – buses and coaches used for hire or reward);

2.2 Instruments (4) and (5) make changes to fees charged for HGV and PSV operator licences.

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

3.1 These changes will come into force on 1st April 2012 in preference to the Common Commencement Date of 6th April because:

- the changes affect only the level of fees not the scope or extent of regulation on business; and
- the normal practice is to change licensing related fees on the 1st of a month since some fees are charged per calendar month or part of a month. It is also the practice to change testing related fees on a Sunday to minimise the effects on businesses of shutting down on-line booking systems for the time needed to change the fees.

4. Legislative Context

(1) **The Goods Vehicles (Plating and Testing) (Amendment) Regulations 2012**

4.1 These Regulations further amend the Goods Vehicles (Plating and Testing) Regulations 1988 (S.I. 1988/1478) and are made to change many of the statutory fees for annual roadworthiness testing, for determining permitted weights and for determining the acceptability of post-registration alterations to HGVs.

(2) **The Motor Vehicles (Tests) (Amendment) Regulations 2012**

4.2 These Regulations further amend the Motor Vehicles (Tests) Regulations 1981 (S.I. 1981/1694) and are made to change many of the statutory fees for annual roadworthiness testing of PSVs.

(3) **The Road Vehicles (Registration and Licensing) (Amendment) Regulations 2012**

4.3 These Regulations further amend the Road Vehicles (Registration and Licensing) Regulations 2002 (S.I. 2002/2742) and are made to change some of the statutory fees for determining applications for Reduced Pollution Certificates (RPCs); to clarify some differences in the charging regime between Great Britain and Northern Ireland; and to bring the definition of periods during which "out of hours" supplements are charged into line with that used for annual tests.

(4) **The Public Service Vehicles (Operators' Licences) (Fees) (Amendment) Regulations 2012**

4.4 These Regulations further amend the Public Service Vehicles (Operators' Licences) (Fees) Regulations 1995 (S.I. 1995/2909) and are made to change some of the statutory fees for PSV operator licensing.

(5) **The Goods Vehicles (Licensing Of Operators) (Fees) (Amendment) Regulations 2012**

4.5 These Regulations further amend the Goods Vehicles (Licensing of Operators) (Fees) Regulations 1995 (S.I. 1995/3000) and are made to change the statutory fees for HGV operator licensing.

5. Territorial Extent and Application

5.1 The Road Vehicles (Registration and Licensing) (Amendment) Regulations 2012 (instrument (3)) apply throughout the United Kingdom albeit that it contains some provisions that do not apply in Northern Ireland. The remaining instruments apply to Great Britain only.

6. European Convention on Human Rights

6.1 As the instruments are subject to the negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

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

7.1 The Secretary of State, through VOSA, recovers the cost of carrying out certain functions by charging fees. The level of fees is normally reviewed annually. Certain examinations covered by the Road Vehicles (Registration and Licensing) (Amendment) Regulations 2012 are supplied in Northern Ireland by the Driver and Vehicle Agency (DVA) which is an agency of Northern Ireland's Department of the Environment. Both agencies operate as a Government Trading Fund.

7.2 VOSA is of the view that, even with anticipated changes in demand for services, its cost control measures will enable in-year costs of existing fee-funded services to be fully covered by fees earned. No general increase in fee levels is therefore being applied.

7.3 However, some fees are being adjusted as part of the continued implementation of policies previously announced; to meet additional requirements of EU Regulations; and to spread the cost of services more fairly across users. The changes being made arise from 3 separate main causes, some of which affect fees set in more than one of the instruments being amended. These are described below grouped under related instruments. The main changes are:

- location differentiation: to reflect more accurately the costs to VOSA of delivering testing and related services at premises provided by VOSA and at premises provided at no cost to VOSA;
- National Register funding: to meet the costs of creating and maintaining a National Register of HGV and PSV operators and their transport managers to comply with EU Regulations; and
- PSV operator licence application fee equalisation: to recognise that the present differential between "standard" and "restricted" licence applications is unjustified.

The Goods Vehicles (Plating and Testing) (Amendment) Regulations 2012,
The Motor Vehicles (Tests) (Amendment) Regulations 2012 and
The Road Vehicles (Registration and Licensing) (Amendment) Regulations 2012

7.4 The changes to fees made by these instruments aim to ensure that VOSA's costs are fully recovered and that the fees more fairly reflect the cost of different service delivery methods. They are a further step in a series of changes having the combined long-term aim of encouraging tests to be carried out at locations which are more convenient for customers by expanding private sector test facility provision.

7.5 The changes being made in these instruments are intended to be cost and revenue neutral by re-balancing the cost of using VOSA and non-VOSA test facilities but without changing either the overall cost to customers or the revenue to VOSA. They reduce the fees for services delivered at non-VOSA premises and increase the fees for the same services delivered at VOSA premises by transferring a larger proportion of the cost of providing VOSA premises to those using them.

7.6 The Road Vehicles (Registration and Licensing) (Amendment) Regulations 2012 also apply to Northern Ireland. The fees for examinations in relation to RPCs at DVA premises in Northern Ireland are increased in line with fees for similar examinations at VOSA premises in GB. The Road Vehicles (Registration and Licensing) Regulations 2002 are also being amended to make it clear, by dis-applying the relevant sub-paragraphs, that fee reductions in respect of examinations at non-government facilities are not available in Northern Ireland because DVA only carries out examinations at its own premises; and that supplements charged by VOSA in GB for examinations outside their normal operating hours do not apply in Northern Ireland because DVA do not offer services outside their normal working hours.

7.7 The main fee change implemented by these regulations is the recovery, over 5 years, of the additional costs to VOSA of developing a National Register of operators and transport managers of HGVs and PSVs to comply with EU Regulations which require the Register to be operational by 1 January 2012 and the recovery of the continuing costs of maintaining the database and the additional data. The National Register is required as one element of a package of regulations on international road transport aimed at creating a more level playing field and reducing distortion of competition for international transport operations across the EU.

7.8 The Public Service Vehicles (Operators' Licences) (Fees) (Amendment) Regulations 2012 also equalise the fees for determining applications for "standard" and "restricted" PSV operators' licences. Before these changes, the fees for applications for "restricted" licences were significantly lower than those for "standard" licences; but the costs of processing the applications were not significantly different. These changes remove that anomaly by reducing the application fees for "standard" licences and increasing those for "restricted" licences. The changes are intended to be cost neutral for the road passenger transport industry as a whole and revenue neutral for VOSA.

- ***Consolidation***

7.9 Owing to resource constraints, plans to consolidate changes which have been made to all of the principal regulations are on hold. Informal consolidations are available from a number of commercial sources.

8. Consultation outcome

8.1 A public written consultation took place between 16 June and 28 July 2011. The Minister agreed a shortened consultation period because location differentiation was the continuation of a longer-term change process which had been generally supported in previous consultations; creation of the National Register is an EU requirement and the increase in operator licence fees adds only a tiny proportion to the operating costs of a transport business (less than 0.01% of vehicle operating costs); and the proposal to equalise PSV operator licence application fees represents, to those whose fees increase, only a tiny proportion of the cost of setting up and running even one or two small buses (the cost of about 7 litres of diesel).

8.2 Letters or Emails announcing the consultation were sent out to over 300 individuals and organisations who use or may be affected by VOSA's services; or who had asked to be told of any such consultations. The consultation was also posted on the internet and can now be found at http://www.dft.gov.uk/consultations/dft-2011-18. Twenty-two responses were received. The Consultation Report containing a summary of the responses received and VOSA's consideration of those responses is attached at Annex A.

8.3 The majority of those who commented supported the proposal to have no general increase.

8.4 In respect of proposals on location differentiation of testing and related fees, the majority of respondents favoured differentiation although some had concerns on the timing of the change.

8.5 In respect of National Register funding, the majority favoured spreading the cost over the widest range of fees. However several respondents considered that the National Register should be funded from taxation or hypothecation of penalties on foreign drivers rather than fees.

8.6 All respondents who answered questions on PSV application fee equalisation supported equalisation, though some felt the change should be phased over 3 years.

9. Guidance

9.1 These Regulations do not create any new obligations but amend the level of fees to be paid under existing obligations. To publicise the changes, VOSA will:

- issue a press release on the new fees;
- post the new fees on the VOSA and Business Link websites;
- display posters publicising the fee changes at relevant test stations and offices;
- use other appropriate media, including direct contacts; and
- inform customers of the correct amount to pay when a fee payment is due.

10. Impact

10.1 With the exception of the fee increases to fund the National Register, the impact on business and civil society organisations of the changes covered by this Explanatory Memorandum is intended to be cost neutral – with the total of increases to some customer groups being balanced by equivalent reductions for others. Funding of the National Register increases operator licence fees aimed at increasing revenue by 1.6%. The exact percentage change varies because individual fees are rounded to whole pounds.

10.2 For some customers the cost of fees will be reduced. Of customers facing increased fees, the most affected (in proportion to their total operating costs) HGV operators will see their costs increase by about £5 per year (0.009% of estimated vehicle operating costs). Owing to a lack of information in the public domain on PSV operating costs, an equivalent calculation has not been possible, but the most affected operators will see their fees increase by about the cost of 7 litres of diesel.

10.3 Three Impact Assessments are attached (as Annexes B, C and D respectively) to this Explanatory Memorandum and will be published alongside it on the OPSI website (www.legislation.gov.uk). By reference to the item numbers for the respective instruments listed in the heading and in paragraph 4, the Impact Assessments are applicable as follows:

Annex B: IA DfT 00073 – applies to instrument (4);
Annex C: IA DfT 00074 – applies to instruments (1), (2) and (3);
Annex D: IA DfT 00075 – applies to instruments (2), (4) and (5).

11. Regulating small business

11.1 The legislation applies to small businesses.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is not to differentiate between different categories of customer (i.e. VOSA does not offer discounted rates for bulk test bookings). It should also be noted that the changes

affect the fees paid for particular services; they do not change the frequency with which businesses are required to use those services.

11.3 A number of small businesses were asked for their views in the consultation either directly or through their membership of Trade and Business Associations such as the Road Haulage Association, the Freight Transport Association, the Confederation of Passenger Transport, the Retail Motor Industry Federation and the Federation of Small Businesses. Not all of these bodies responded, but no issues were raised by respondents on the relative treatment of large and small operators. It should be noted that, although 86% of HGV operators and 73% of PSV operators have 5 or fewer vehicles, this gives no indication of the size of the business. While some small operators may be solely engaged in road transport operations, and therefore small businesses as such, other "small operators" may be the transport department of larger businesses such as manufacturers and suppliers of goods or large hotels.

12. Monitoring & review

12.1 As the fee-setting process is normally an annual process this will be ongoing.

13. Contact

13.1 John MacLellan at VOSA Tel: 0117 954 2531 or email: john.maclellan@vosa.gov.uk can answer any queries regarding the instruments.