EXPLANATORY MEMORANDUM TO

THE ROADS VEHICLES (PAYMENT OF DUTY BY CREDIT CARD) (PRESCRIBED FEE) REGULATIONS 2017

2017 No. 1239

1. Introduction

1.1 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 These Regulations revoke and restate with amendments the existing fee regulations. The effect is to remove the need to pay a fee where Vehicle Excise Duty ("VED") is paid using a personal credit card, or personal credit card account (i.e. non business credit card or credit card account). However they continue the previous fee of £2.50 where VED is paid using a business credit card or business credit card account. This maintains the status quo insofar as businesses are concerned.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 These Regulations revoke and replace the Road Vehicles (Payment of Duty by Credit Card) (Prescribed Fee) Regulations 2005.

4.2 These changes are made in consequence of Directive 2015/2366/EU of the European Parliament and of the Council (OJ No L 337, 23.12.2015, p.35), also known as the Revised Payment Services Directive ("PSD2") which prohibits the charging of fees for the use of certain types of payment for certain transactions.

4.3 The effect of these Regulations is to remove the need to pay a fee where VED is paid using a personal credit card or personal credit card account (i.e. non business credit card or credit card account), thereby ensuring compliance with PSD2 in the context of the payment of VED.

4.4 The Regulations also continue the previous fee of £2.50 where VED is paid using a business credit card or business credit card account. This maintains the status quo insofar as businesses are concerned.

4.5 The Regulations achieve this by changing the definition of "credit card", for the purposes of the prescribed fee payable under section 19C of the Vehicle Excise and Registration Act 1994, so that the definition of "credit card" is limited to mean a

"commercial card" which is used to initiate a "credit card transaction" within the meaning of Article 2(6) and 2(5) of Regulations (EU) 2015/751 of the European Parliament and of the Council of 29th April 2015 on interchange fees for card-based payment transactions (OJ No L 123, 19.5.2015, p.1).

4.6 PSD2 has been transposed by the Treasury in the Payment Services Regulations 2017 (S.I. 2017/752).

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 Since 2005 the Driver and Vehicle Licensing Agency (DVLA) have applied a flat fee of £2.50 where a customer chooses to use a credit card to pay VED.

7.2 The fee was introduced following a public consultation in 2004, and was provided for in the Road Vehicles (Payment of Duty by Credit Card) (Prescribed Fee) Regulations 2005 ("the 2005 Regulations").

7.3 Following PSD2, the 2005 Regulations have been revoked and replaced in order to remove the fee where VED is paid using a personal credit card or personal credit card account. However the flat fee of £2.50 has been continued where VED is paid using a business credit card or business credit card account.

Consolidation

7.4 There are no plans to consolidate the legislation affected by these Regulations.

8. Consultation outcome

8.1 Consultation has not been carried out because the practical effect of the Regulations is to continue charging the existing fee for credit card payments, save for those cases where such fees are now prohibited by PSD2.

9. Guidance

9.1 No guidance is being published.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is not significant.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The Regulations do not change the fee hitherto payable by small businesses for payment of VED using a business credit card or business credit card account.

12. Monitoring & review

12.1 The Parliamentary Under Secretary of State for Roads, Local Transport and Devolution, Jesse Norman MP has made the following statement: "Having had regard to sections 28 to 32 of the Small Business Enterprise and Employment Act 2015 and the Statutory Review Guidance for Departments published under section 31(3) of that Act, I have decided that it is not appropriate to make provision for review in this instrument because it would be disproportionate taking into account the economic impact of the regulations. The regulations continue an existing fee of £2.50 which has been in place since 2005. Furthermore, they do not create or impose any new regulatory regime for businesses to comply with. Finally, the fee is a small flat rate fee which is there to pass on costs incurred by DVLA in providing a credit card payment service to customers. Customers continue to have the choice to pay VED by other means which do not attract a fee."

13. Contact

13.1 Paul Johnson at the Driver and Vehicle Licensing Agency (DVLA), Swansea SA99 7LJ Telephone: (01792) 783934 or email: paul.johnson@dvla.gsi.gov.uk can answer any queries regarding the instrument.