EXPLANATORY MEMORANDUM TO THE FOLLOWING REGULATIONS:

The Motor Vehicles (Tests) (Amendment) (No. 2) Regulations 2004 No. 1879

The Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) (Amendment) Regulations 2004 No. 1880

The Goods Vehicles (Plating and Testing) (Amendment) Regulations 2004 No. 1873

The International Carriage of Dangerous Goods by Road (Fees) (Amendment) Regulations 2004 No. 1884

The International Transport of Goods under Cover of TIR Carnets (Fees) (Amendment) Regulations 2004 No. 1911

The Passenger and Goods Vehicles (Recording Equipment) (Approval of Fitters and Workshops) (Amendment) Regulations 2004 No. 1885

The Public Service Vehicles Accessibility (Amendment) Regulations 2004 No. 1881

The Road Vehicles (Registration and Licensing) (Amendment) (No. 3) Regulations 2004 No. 1872

1. This Explanatory Memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty. It contains information for the Joint Committee of Statutory Instruments.

2. Description

2.1 The eight sets of Regulations covered by this Explanatory Memorandum increase the fees for certain vehicle tests and inspections conducted by the Vehicle and Operator Services Agency ("VOSA") on behalf of the Secretary of State for Transport. The Regulations listed above respectively amend Regulations (a) - (h):

(a) The Motor Vehicles (Tests) Regulations 1981

(b) The Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) Regulations 1981

(c) The Goods Vehicles (Plating and Testing) Regulations 1988

(d) The International Carriage of Dangerous Goods by Road (Fees) Regulations 1988

(e) The International Transport of Goods under Cover of TIR Carnets (Fees) Regulations 1988.

(f) The Passenger and Goods Vehicles (Recording Equipment) (Approval of Fitters and Workshops) Regulations 1986.

(g) The Public Service Vehicles Accessibility Regulations 2000

(h) The Road Vehicles (Registration and Licensing) Regulations 2002

2.2 The Regulations amending the Goods Vehicles (Plating and Testing) Regulations 1988 also amend Part II of Schedule 3 to those Regulations to extend the annual test for heavy goods vehicles to include additional checks.

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

General

3.1 The Secretary of State through his executive agency VOSA (formed from the merger of the Vehicle Inspectorate "VI" and the Traffic Area Network part of the Department for Transport) recovers the cost of carrying out his function of vehicle testing by charging fees.

3.2 The fees pay for the provision of examiners, together with management support plus technical and administrative services. They also provide funds to equip and maintain VOSA's vehicle testing stations. At the applicant's request, certain examinations can be carried out either outside normal working hours or on premises that are not owned or operated the Secretary of State, or a combination of the two. In such cases, supplementary fees are payable to recover the additional cost of providing the service under non-standard conditions.

3.3. VOSA is required to break even on its costs, normally year on year. Thus, if there is a deficit at the end of a year, higher fees must usually be levied in the succeeding year(s). The aim is to ensure that the fee charged for a particular examination is, and continues to be, commensurate to the cost to VOSA of conducting the particular inspection. Separate accounts are maintained within VOSA for inspection fees under each set of Regulations.

3.4 This year it is necessary for VOSA to introduce fee increases in excess of the rate of inflation. The increases average at 10% plus inflation. The increases are needed to bring VOSA's separate accounts into balance as, at present, the levels of income generated from fees are less than the levels of expenditure required to provide the testing service and the accounts are in deficit. The

increases represent the next step in a staged approach to removing the deficits that began last year.

3.5 VOSA is seeking to recover its deficits over the next two years. The two-year time period enables a good balance to be struck between the size of the increases required and the length of time the accounts remain in the red.

3.6 The fee increases also provide an opportunity in the longer term for investment in facilities and services to enable the inspection functions to be maintained and continued in the future. Alongside loans, testing fees contribute towards the on-going cost of the £100m programme of test station refurbishment and modernisation of services that VOSA began last year. Further details of the programme are given in the section "Policy Background" below.

3.7 It is forecast that further fee increases averaging 10% plus inflation will be needed in 2005 to continue to finance the refurbishment programme. The implementation of the final phase of the restructuring of test fees for multi-axle heavy goods vehicles is also planned for next year. This will mean that some test fees will increase by more than 10% plus inflation.

3.8 Further detail on the increases introduced by each set of Regulations is set out below and complements the information contained in the Explanatory Note to each instrument, which detail the increases in tabular form where appropriate. Most of the information contained in the Explanatory Notes is not repeated in this Memorandum.

<u>The Motor Vehicles (Tests) (Amendment) (No. 2) Regulations 2004</u>

3.9 These Regulations increase the average fee for an annual roadworthiness test (an "MOT" test) for a public service vehicle by 13% (including inflation). The fees for MOT tests conducted "out of hours" and/or at designated premises are increased by a similar percentage. A public service vehicle is a bus or a coach with over 8 passenger seats used for the carriage of passengers for hire or reward. All such vehicles are tested by VOSA after the first year of operation and every year after that.

3.10 The increases in MOT re-test fees for public service vehicles range from 29.1% to 57% (for re-tests carried out within 14 days after the previous re-test) and from 11.8% to 13.6% (for re-tests later than 14 days after the previous test) depending upon the size of the vehicle and whether the re-test is held at a designated premises and/or "out of hours". The percentage increase for each fee is shown in the Explanatory Note.

3.11 A new £10 fee is also introduced by these Regulations for re-tests of public service vehicles carried out in the circumstances specified in regulation 20(7) of the Motor Vehicles (Tests) Regulations 1981. That is to say where public service vehicles are re-tested no later than the day after their previous test, by an examiner that was already at the premises for the purpose of testing other vehicles, and where the re-test only relates to one or more specified vehicle requirements. Such re-tests were previously provided without charge.

3.12 The decision to remove the free re-test provision has been made because the current combination of paid and free re-tests do not cover a sufficient proportion of the overhead costs of the whole testing service. There is also the desire to improve test preparation and levels of compliance. Currently over one public service vehicle in three is unable to meet the minimum roadworthiness and environmental requirements when presented for the annual test.

The Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) (Amendment) Regulations 2004

3.13 The fees prescribed by the Public Service Vehicles (Conditions of Fitness etc.) Regulations 1981 for certificates of initial fitness on first and subsequent applications; various type approvals; and certificates of conformity and duplicate certificates are all increased by 50% or just under 50%. Full detail is contained in the Explanatory Note. The increase is necessary to ensure that the fee charged is commensurate with the cost of carrying out the inspection.

The Goods Vehicles (Plating and Testing) (Amendment) Regulations 2004

3.14 The increases made to the cost of a standard annual inspection of a heavy goods vehicle ("HGV") or trailer by these Regulations range from 2.4% (for a HGV with 2 axles) to 44.4% (for a trailer with 3 or more axles). In monetary, rather than percentage, terms the largest increase is to the annual test fee for a HGV with four or more axles. The fee for this test increases by £14 (from £54 to £68). A heavy goods vehicle is either a motor vehicles that has a gross vehicle weight in excess of 3500kg or a trailer with an unladen weight greater than 1020kg. All such vehicles are tested by VOSA after the first year of operation and once a year after that.

3.15 The most important fee for the majority of HGV operators is the testing fee for vehicles with 2 axles (71% of all lorries). This only increases by £1 (from £42 to £43).

3.16 In percentage terms the supplementary fees for requested "out of hours" and designated premises annual tests increase by 11.8% and 11.1% for a vehicle and 12.5% and 25% for trailer. However, in monetary terms the additional fees only increase by £3 and £1 for vehicle and £2 and £1 for a trailer.

3.17 These Regulations alter the fee structure for re-tests of HGVs and trailers carried out within 14 days of the previously failed test. At present, a re-test fee of £23.50 is payable for a vehicle and a re-test fee of £12.50 is payable for a trailer. These Regulations replace these fees with a scale of fees linked to the size of the vehicle or trailer. Accordingly, the impact of this change varies for each category of vehicle or trailer and the largest HGVs and trailers are subject to the largest increases. The re-test fee increases by 91.5% for a HGV with 4 or more axles and by 108% for a trailer with 3 or more axles.

3.18 The introduction of a scale of fees for re-tests is an important step towards the realignment of HGV re-testing fees with real cost of providing HGV examinations. A four-axle vehicle takes approximately twice as long to test as a vehicle with 2 axles yet the cost for a re-test was previously the same.

3.19 A new fee is introduced by these Regulations (£10 for a vehicle and £5 for a trailer) for re-tests of HGVs and trailers carried out on the same day, or the day after, the previous test where the fee for the previous test has been paid and the re-test only relates to one or more specified vehicle requirements.

3.20 The decision to remove the free re-test provision for HGV vehicles and trailers has been taken (as it has for public service vehicles) because the current combination of paid and free re-tests do not cover a sufficient proportion of the overhead costs of the whole testing service. There is also the desire to improve test preparation and levels of compliance. Currently, over 2 heavy goods vehicles in 5 are unable to meet the minimum roadworthiness and environmental requirements when presented for annual test.

3.21 The increases to the additional fees for re-tests "out of hours" and re-tests at designated premises later than 14 days after the previous test are identical to the supplementary fees relating to annual tests outlined above. The increases to the additional fees for re-tests "out of hours" and/or at designated premises within 14 days are broadly similar. Further detail is contained in the Explanatory Note.

3.22 Above inflation rate increases are made by these Regulations to the fees payable for an amendment to a plating certificate, related supplementary fees, and for the alteration of the plated weights of a vehicle (all the increases are less the 12%).

<u>The International Carriage of Dangerous Goods by Road (Fees) (Amendment) Regulations 2004</u>

3.23 Certain vehicles used to carry dangerous goods require an additional test and certificate over and above the standard HGV roadworthiness examination. The test ensures that vehicles comply with the special construction requirements contained in Annex B to the European Agreement concerning

the International Carriage of Dangerous Goods by Road (ADR). The specific requirements vary according to the exact nature of the dangerous goods carried.

3.24 The fee for a vehicle inspection following an application for an ADR certificate is increased by 4.3% (both where the inspection is carried out at the same time as an examination under the Goods (Plating and Testing) Regulations 1988 and otherwise) and the fee for a re-examination within 14 days is increased by 5.7%. Full detail is contained in the Explanatory Note. The increase is necessary to ensure that the fee charged is commensurate with the cost of carrying out the inspection.

The International Transport of Goods under Cover of TIR Carnets (Fees) (Amendment) Regulations 2004

3.25 The Transports Internationaux Routiers (TIR) agreement simplifies Customs requirements by permitting the contents of approved load compartments, sealed by customs authorities, to pass through customs control on international journeys without delay or payment of duty. Vehicles with load compartments meeting the required standards can obtain TIR approval by undergoing an individual inspection or through the vehicle design-type route. With the latter, VOSA examines an example vehicle and, if a design-type approval is issued, all vehicles built to the same design can be approved without further inspection.

3.26 These Regulations increase the fees payable in connection with the approval of a vehicle design-type and with the issue of a certificate of approval for a road vehicle following an inspection. The increases range from 3.1% to 4.1%. Full detail is contained in the Explanatory Note. The increase is necessary to ensure that the fee charged is commensurate with the cost of carrying out the inspection.

3.27 The fee for the issue of a certificate of approval for a vehicle remains unchanged (£11) where the vehicle is of a design-type for which TIR design-type approval has already been granted.

The Passenger and Goods Vehicles (Recording Equipment) (Approval of Fitters and Workshops) (Amendment) Regulations 2004

3.28 The fee for issue of a fitter or workshop approval for the installation or repair of recording equipment is increased by 3%. The renewal fee for approvals is increased by 3.7%. Full detail is contained in the Explanatory Note. The increase is necessary to ensure that the fee charged is commensurate with the cost of carrying out the inspection.

The Public Service Vehicles Accessibility (Amendment) Regulations 2004

3.29 These Regulations increase the fees payable for inspections of buses and coaches pursuant to first and subsequent applications for accessibility certificates. The fee increases range from 42.9% to 49.1%. Full detail is contained in the Explanatory Note. The increase is necessary to ensure that the fee charged is commensurate with the cost of carrying out the inspection.

The Road Vehicles (Registration and Licensing) (Amendment) (No.3) Regulations 2004

3.30 These Regulations increase the standard and supplementary fees relating to the examination of a HGV or PSV to determine whether a vehicle has been satisfactorily adapted to meet certain pollution emissions requirements and thus qualifies for a lower rate of excise duty. The various fees increase by either £1 or 50p.

4. Legislative Background

4.1 The Motor Vehicles (Tests) (Amendment) (No. 2) Regulations 2004 are made under sections 45 and 46 of the Road Traffic Act 1988 and by virtue of the Department of Transport (Fees) Order 1988.

4.2 The Goods Vehicles (Plating and Testing) (Amendment) Regulations 2004 are made under sections 49 and 51(1) of the Road Traffic Act 1988 and by virtue of the Department of Transport (Fees) Order 1988.

4.3 The International Carriage of Dangerous Goods by Road (Fees) (Amendment) Regulations 2004; the International Transport of Goods under Cover of TIR Carnets (Fees) (Amendment) Regulations 2004 and the Passenger and Goods Vehicles (Recording Equipment) (Approval of Fitters and Workshops) (Amendment) Regulations 2004 are made under sections 56(1) and (2) of the Finance Act 1973 and by virtue of the Department of Transport (Fees) Order 1988.

4.4 The Public Service Vehicles Accessibility (Amendment) Regulations 2004 are made under sections 45(1) and 67 of the Disability Discrimination Act 1995.

4.5 The Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) (Amendment) Regulations 2004 are made under sections 10(1), 52(1) and 60 of the Public Passenger Vehicles Act 1981 and by virtue of the Department of Transport (Fees) Order 1988.

4.6 The Road Vehicles (Registration and Licensing) (Amendment) (No. 3) Regulations 2004 are made under sections 57 and 61B of the Vehicle Excise and Registration Act 1994.

4.7 Regulations such as these to amend the various fees collected by VOSA are typically made on an annual basis. Each year the fees are reviewed and, if necessary, adjusted in accordance with the cost of providing the particular examination.

5. Extent

5.1 The Road Vehicles (Registration and Licensing) (Amendment) (No. 3) Regulations 2004 applies to all of the United Kingdom. The seven other instruments apply to Great Britain.

6. European Convention on Human Rights

6.1 Not applicable. These Regulations are subject to negative resolution and do not amend primary legislation.

7. Policy Background

7.1 Over the last 10 years, on average, HGV and PSV tests fees have been amended annually. In the mid-1990s the HGV and PSV schemes unintentionally produced cumulative surpluses, which were returned to operators and presenters of vehicles in the form of lower fees and charges, instead of increases commensurate with inflation. After that, fees were increased broadly in line with inflation. Last year saw the first significant rise in fees when they were increased by an average of 10% plus inflation. Last year's increases were necessary to begin to address deficits that had arisen in VOSA's accounts and to meet the cost of a refurbishment and modernisation programme. As projected last year, this year's increases continue that process and continue to require increases above the rate of inflation.

7.2 The refurbishment of VOSA's test station network (which consists of 92 full and part-time vehicle testing stations in England, Wales and Scotland) is necessary because almost all of the stations were built in the late 1960s and they are now increasingly costly to maintain to an acceptable standard. Many of the structures are at the end of their useful lives and are unable to cope with the demands imposed by modern vehicle designs and weights. Indeed, the ability of the VOSA to carry out its inspection functions and the operational serviceability of many sites is threatened by the risk of significant unplanned downtime. The refurbishment programme is expected to take 10 years to complete.

7.3 VOSA's main consultation on the fee increases introduced by these Regulations took place at a presentation to the Trade Associations and some of their members. A largely positive response was received. Although there has been some questioning of VOSA's proposals, the trade is broadly supportive of VOSA's initiatives to improve its testing facilities and recognises the need for increased fees that more accurately reflect the cost of providing the vehicle testing service. The written consultation process produced fewer responses this year than last year, 15 as opposed to 40.

Additional amendments to the Goods Vehicles (Plating and Testing) Regulations 1988

7.4 Some serious accidents have led to the decision to extend the annual test for HGVs to include a check of container twistlocks and loading arms and legs. The twistlocks inspection will ensure that the twistlocks are undamaged and capable of securing a freight container effectively and the loading arms and legs check will ensure the locking devices are effective and do not allow the arm or leg to extend inadvertently.

8. Impact

8.1 A full regulatory impact assessment of the effect that these Regulations will have on the costs of business has been prepared and a copy is attached.

8.2 There is no impact on the public sector.

9. Contact

The official within the Department for Transport who can be contacted with any queries on the Regulations is Roger Trubridge, Vehicle Operator Services Agency Product Policy Schemes Office, Berkeley House, Croydon Street, Bristol, BS5 0DA; Tel 0117 9543272, e-mail Roger.Trubridge@vosa.gov.uk.