EXPLANATORY MEMORANDUM TO

THE TAXES, ETC. (FEES FOR PAYMENT BY TELEPHONE) REGULATIONS 2012

2012 No. 689

1. This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

This instrument contains information for the Select Committee on Statutory Instruments.

2. Purpose of the Instrument

2.1 These Regulations, with effect from 2nd April 2012, revoke and replace the existing regulations, the Taxes, etc. (Fees for Payment by Telephone) Regulations 2009 (S.I. 2009/3073), which state that a fee must be paid in respect of any payment made to the Commissioners by credit card and authorised by telephone.

2.2 Regulations 2(1) sets the fee which must be paid in respect of a credit card payment authorised by telephone, as 1.5% of the payment (it was 1.25% under S.I. 2009/3073).

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

3.1 None.

4. Legislative Context

4.1 These Regulations are made in exercise of the powers conferred by section 136 of the Finance Act 2008.

4.2 Section 136(1) of the Act permits the Commissioners for HM Revenue and Customs to make Regulations that provide that, where a person makes a payment to the Commissioners (or a person authorised by the Commissioners) using a specified method of payment, the person must also pay a fee.

4.3 Section 136(2) requires that before exercising the power, the Commissioners must expect that they (or the person authorised by them) will be required to pay a fee or charge in connection with payments made using the specified method of payment.

4.4 This instrument makes provision only in respect of credit card payments made by telephone.

5. Territorial Extent and Application

5.1 This instrument applies to all of 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

7.1 Legislation was introduced in section 136 of the Finance Act 2008 to allow HM Revenue and Customs to accept payment by credit card beyond the limited circumstances where HM Revenue and Customs had previously done so (i.e. ports, airports and roadside fuel testing units).

7.2 From 14 December 2009 HM Revenue and Customs have accepted credit card payments by telephone and charged the payer at a rate of 1.25%.

7.3 The 1.25% rate has been reviewed in the light of the volume and value of transactions, the type of credit cards used and the rate applied since December 2009. This review concluded that the rate charged to the payer should be amended to 1.5%.

7.4 The fee change is an increase of 0.25%, from 1.25% to 1.5%, which does not go above the current rate of inflation as measured by the Consumer Prices Index (which is 3.6% as at January 2012).

7.5 The fee increase ensures that HM Revenue and Customs recovers the cost of processing credit card payments made by telephone and it reflects an increase in costs faced by HM Revenue and Customs for such payments. To maintain this position, the fee rate will be reviewed annually by the Commissioners for HM Revenue and Customs and it is possible that further such increases will happen next year.

8. Consultation Outcome

8.1 A Consultation Impact Assessment for section 136 was published on 10 January 2008 and a final Impact Assessment was published alongside the Finance Bill on 27 March 2008. Both Impact Assessments can be found on the HM Revenue and Customs website at:
http://www.hmrc.gov.uk/consultations/index.htm

9. Guidance

9.1 Customers choosing to make a payment by credit card over the telephone are informed of the fee rate and the amount payable before HMRC accepts a payment by credit card.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 A final Impact Assessment was published alongside the Finance Bill on 27 March 2008 as referred to at paragraph 8.1.

11. Regulating Small Business

11.1 The legislation applies to small business if they make payments using credit cards via telephone to HMRC.

12. Monitoring and Review

12.1 The intended outcome of the change to the fee for making a payment by credit card by telephone to the Commissioners for HM Revenue and Customs contained in this instrument is that HMRC will achieve full cost recovery of the process of administering this method of payment.

12.2 The outcome will be subject to an annual internal review and the legislation may be amended accordingly.

13. Contact

Angela Roach at HM Revenue and Customs
Telephone: 020 7147 0002
Email: angela.roach@hmrc.gsi.gov.uk