



Department
for Transport

Secondary Legislation relating to the HGV Road User Levy Act 2013

Consultation Document

26 September 2013

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Foreword

The Government passed the HGV Road User Levy Act on 28 February 2013. This introduces a specific time based charge for the use of the United Kingdom road network by Heavy Goods Vehicles (HGVs) weighing 12 tonnes and over, and fulfils a commitment made in the Coalition Programme for Government.

The key objective of the new law is to ensure a fairer arrangement for UK hauliers. Currently, foreign-registered HGVs do not pay to use the road network in the United Kingdom, whereas UK-registered HGVs pay charges or tolls in most other European countries.

The Department for Transport is planning to introduce new secondary legislation relating to the HGV Road User Levy Act 2013, and as part of this process we are holding a consultation on our plans in two subject areas, each of which is dealt with separately in this document:

- Financial Deposits and Penalties
- Vehicle Construction and Use (changes to weight bands)

The orders that we are consulting on have been judged to be mechanical, so we have not undertaken an impact assessment in relation to this consultation.

Who should read this Document?

The following amongst others may have an interest in this document, which relates to secondary legislation covering the whole of the UK:

- Road Haulage Association, Freight Transport Association and other organisations representing the road freight sector
- UK road freight operators
- Enforcement agencies including the Police, Vehicle and Operator Services Agency (VOSA), Driver and Vehicle Agency (DVA), Driver and Vehicle Licensing Agency (DVLA)
- The Society of Motor Manufacturers and Traders (SMMT) and HGV manufacturers
- Road freight businesses based outside of the UK whose HGVs undertake journeys within the UK
- The Society of Operational Engineers (SOE)
- Other motoring organisations
- Those who responded to the consultation on the HGV Levy proposals, conducted in January 2012.

1. Executive Summary

- 1.1** This consultation is designed to gather views about secondary legislation which relates to the HGV Road User Levy Act 2013 (The Act). This legislation is required to bring many of the provisions of the Act into force, enabling VOSA as the primary enforcement agency in Great Britain, and the Police to enforce the charge, and penalties where the appropriate Levy is not paid.
- 1.2** The Act introduces a time-based charge to be paid by all HGVs weighing 12 tonnes (12,000 kg) or more using the UK road network.
- 1.3** The HGV Road User Levy scheme is due to start in April 2014.
- 1.4** The charge will be paid by both UK, and foreign registered Heavy Goods Vehicles for the use of the UK's roads.
- 1.5** This consultation follows an earlier consultation, 'Charging Heavy Goods Vehicles' which commenced in January 2012. The response to this consultation was published in October 2012, prior to the introduction of the HGV Road User Levy Bill and is available online on the gov.uk website.¹
- 1.6** Further information and documents relating to the primary legislation (The Act) can be found on the gov.uk² website and the legislation.gov.uk website.³
- 1.7** The secondary legislation we are consulting on relates only to Great Britain. The Northern Ireland Assembly will be considering equivalent legislation for Northern Ireland.
- 1.8** The first section of the consultation deals with financial deposits and penalties, and is about the powers to require payment when a vehicle is found to be using roads in the UK without having paid the appropriate levy.
- 1.9** The second section deals with amendments to vehicle weights rules to bring them into line with European law. We expect this to have no practical impact on road freight operators.

¹ <https://www.gov.uk/government/consultations/charging-heavy-goods-vehicles-consultation>

² <https://www.gov.uk/government/organisations/department-for-transport/series/hgv-road-user-levy>

³ <http://www.legislation.gov.uk/ukpga/2013/7>

- 1.10** The views and comments received in response to this document will be analysed in order to understand the perspective of those who may be affected by this secondary legislation.
- 1.11** Section 4, How to Respond, contains the details of how to respond, and where to send your response.

2. Financial Deposit & Penalties

Introduction

- 2.1** This section covers the following orders:
- 2.2** The Fixed Penalty (Amendment) (No.2) Order 2013;
- 2.3** The Road Safety (Financial Penalty Deposit) (Amendment) (No.2) Order 2013; and
- 2.4** The Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) (No.2) Order 2013.
- 2.5** These Orders set the amount of the Fixed Penalties and make provision for the issue of Financial Penalty Deposits and the amount of such deposits for failure to pay the appropriate HGV Road User Levy.

Background

The Act requires any person using or keeping an HGV of 12 tonnes or over on a UK road to pay the appropriate HGV Road User Levy for that vehicle. The amount of levy for a particular vehicle is determined by its weight and the number of axles, which is designed to reflect the wear caused by HGVs to the road network.

- 2.6** The amounts of the levy correspond with amounts specified in the Eurovignette Directive⁴, which sets out a framework of rules for tolls and charges, including limits on daily, weekly, monthly and annual rates.
- 2.7** The rates of HGV Road User Levy, showing the charges by vehicle type and weight band have been published in Schedule 1 of the HGV Road User Levy Act, and are reproduced for reference purposes in this document at Annex A - Rates of the HGV Road User Levy.

⁴ Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures (OJ L 187, 20.7.1999, p42) as amended by Directive 2006/3/EC (OJ L 157, 9.6.2006, p8), Council Directive 2006/103/EC (OJ L 363, 20.12.2006, p344) and Directive 2011/76/EU (OJ L 269, 14.10.2011, p1). A consolidated version is available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1999L0062:20111015:EN:PDF>.

- 2.8** Using a vehicle on a UK road without paying the appropriate HGV Road User Levy is an offence under section 11 of the Act with a maximum penalty on summary conviction of a fine of level 5 on the standard scale.

Fixed Penalties

- 2.9** Section 13 of the Act inserts the offence in section 11 of the Act into Schedule 3 to the Road Traffic Offenders Act 1988, which lists the offences for which fixed penalties can be imposed. This enables enforcement officers to give a fixed penalty notice (“FPN”) to an offender. A FPN allows an offender to pay a fixed sum within a specified period to avoid prosecution for the offence. Fixed penalties are currently used for offences committed in respect of vehicle roadworthiness, overloading, and drivers’ hours.
- 2.10** The Fixed Penalty (Amendment) (No.2) Order 2013 will amend the Fixed Penalty Order 2000 by adding an amount of £300 for the fixed sum required for a FPN given to someone who has failed to pay the appropriate levy amount for their vehicle.
- 2.11** The level of the sum in the FPN has been chosen so that it is in line with offences of a similar nature, for example breaking the rules relating to drivers' hours, failing to ensure that the vehicle is in a roadworthy condition, or operating a vehicle that exceeds permitted individual axle weights or its permitted gross / combination weight.

Financial Penalty Deposits

- 2.12** The Road Safety (Financial Penalty Deposit) Order 2009 enables enforcement officers to require a Financial Penalty Deposit, when an FPN is issued, from any person who has committed an offence listed in the order and who does not have a satisfactory UK address.
- 2.13** The amount of the deposit for each offence is set out in the Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009. The deposit is held for a specified period of time in which the recipient of the FPN may request a hearing, in which case the matter will proceed to trial. If the recipient is successful at the hearing, the deposit will be returned; if the recipient is unsuccessful, the deposit will be put towards payment of the fine imposed by the court, which may be up to level 5 on the standard scale. If the recipient does not request a hearing, the deposit is put towards payment of the fixed penalty. This is a vital enforcement tool when dealing with drivers and vehicles based outside the jurisdiction of the UK because it is often difficult to secure payment of fixed penalties in such circumstances. It is also a useful tool for an enforcement officer who is suspicious that a driver is giving a false address.

- 2.14** The orders make amendments to the orders mentioned in paragraph 2.14, so that the offence of failing to pay the levy in section 11 of the Act becomes an offence for which a Financial Penalty Deposit may be required and sets the amount of that deposit at £300.

Consultation Questions:

- a. What do you think of the proposed fixed penalty amount?
- b. What do you think of the proposed penalty deposit amount?
- c. Do you have any concerns or other comments about the application of penalties or penalty deposits in relation to the HGV Road User Levy?

3. Vehicle Construction & Use

Introduction

- 3.1** The Department for Transport (DfT) is consulting on proposed amendments to the Road Vehicles (Construction and Use) Regulations 1986 in order to make changes to UK vehicle weight bands. These amendments would bring the way that UK vehicles are plated in UK law in line with European bands.
- 3.2** In practice we believe that our proposed changes will make very little material difference.

Changing HGV Weight Limits

- 3.3** We plan to make a small, technical amendment to regulation 80 of the Road Vehicles (Construction and Use) Regulations 1986⁵ in order to bring into line the weight bands used to specify Vehicle Excise Duty (“VED”) with the weight bands setting minimum rates of VED by Directive 1999/62/EC.
- 3.4** The Directive sets minimum amounts of VED for vehicles according to their weight in bands. However there is a fundamental and historical difference in the way that the band limits for VED are set in the Directive, when compared with the way they are set in the UK currently. This creates a technical difficulty where vehicles are at the top of the weight range for a VED band but at the bottom of the weight range for a band in the Directive.
- 3.5** The change will mean that a vehicle with a particular plated weight will in future be able to be loaded up to but not including that weight, whereas at the moment it can be loaded up to and including that weight. For example, a vehicle plated at 21,000kg can currently be loaded to exactly 21,000kg. In the future, it can be loaded to less than that amount, that is, around 20,999.99kg.

What are the differences to the Directive?

- 3.6** The band limits in Annex I of the Directive start at “not less than” a specified weight and end at “less than” a greater specified weight, as

⁵ <http://www.legislation.gov.uk/uksi/1986/1078/regulation/80/made>

opposed to band limits in the UK, which start at “not over” a specified weight and end at “not over” a greater specified weight.

- 3.7** As a result of the way bands are set in the UK, vehicles tend to be plated voluntarily at the top of their respective bands. For example, a three-axle vehicle plated at exactly 21,000kg will fall into VED band B* in the UK, where the top of the VED weight range is "not over 21,000kg". The amount of VED paid is currently £200 per year⁶. Under the Directive the same vehicle will fall within the band spanning "not less than 21,000kg" to "less than 23,000kg", which sets a minimum VED rate of €222 (using an illustrative exchange rate of £1=€1.16 this is £192).

Why is this change required?

- 3.8** To accommodate and offset the cost of the new HGV Levy for most UK vehicles a decision was made to reduce VED to in some cases to its minimum in accordance with Annex I of the Directive. The amendments made by this Directive in conjunction with amendments made to the Vehicle Excise and Registration Act 1994 (“VERA 1994”)⁷ will mean that UK vehicles whose plated weight is on a band limit as described above will fall into a lower band in the Directive, enabling VED to be reduced by a greater amount.

- 3.9** Using the example above, in future the three-axle vehicle plated at exactly 21,000kg will not be able to be used on a road legally if it equals that weight and is taxed at VED band B. Instead, as far as the Directive is concerned, it will be within the band from "not less than 19,000kg" to "less than 21,000kg". The Directive specifies a lower minimum rate for this band of €144 (around £125) and enabling us to lower VED further.

What will be the impact on UK hauliers?

- 3.10** There is likely to be no impact in practice. The difference between a vehicle weight of exactly 21,000kg and just less than 21,000kg is infinitesimally small. When it comes to enforcement of the weight limit, detecting a difference of a fraction of gram is significantly below the margin of tolerance for devices that weigh HGVs, meaning that there should be no practical impact.

Are there any other options available?

- 3.11** Prior to producing this consultation, we have considered whether other options exist to achieving the objective of bringing vehicle bands into line

⁶V149 Rates of Taxes, DVLA: -

http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/@motor/documents/digitalasset/dg_067081.pdf

⁷<http://www.legislation.gov.uk/ukpga/1994/22>

or making individual vehicles fit into the new bands. Options such as down-plating vehicles would be administratively burdensome for operators and would impose an unnecessary financial cost on industry.

- 3.12** Down-plating is in any case not a real solution to the fundamental problem of having a mismatch between UK and European weight bands and their definitions. It would also require additional VED bands relating only to vehicles at the current VED band boundaries to comply with EU law. Assuming all vehicles at the current VED band boundaries were down-plated by one kilogram, these new VED bands would not apply to any vehicles.
- 3.13** This is a long-standing issue that has, for the most part, not previously mattered, since HGV VED rates were sufficiently above the minimum rates specified in the Directive. However, as a result of UK HGV VED rates having been frozen over many years, some "exception rates" have been introduced for vehicles at the band boundaries to ensure VED rates comply with the Directive. This complicates the tax system and only partially fixed the problem.
- 3.14** An alternative option would have been to limit the scope of the VED reductions when the HGV Levy was introduced. This would have resulted in additional costs of UK hauliers and was not considered acceptable.

Consultation Questions:

- d. Are you aware of any operational issues that could occur as a result of our proposed changes to vehicle weight bands for the purposes of VED?
- e. Do you have any other comments or concerns about these changes?

4. How to Respond

- 4.1** The Consultation period starts on **26 September 2013** and runs for a total of 6 weeks until **7 November 2013**. Please ensure that your response to this consultation reaches us by the closing date.
- 4.2** We have decided to have a shorter consultation period, as we believe that the orders are fairly uncontroversial, and the audience for this is fairly limited. We will be contacting key stakeholders to notify them of the consultation start date to ensure that interested parties are able to participate.
- 4.3** Further copies of this consultation document, can be found at <https://www.gov.uk/government/organisations/department-for-transport/series/hgv-road-user-levy>,
or you can contact the address below.
- 4.4** Please email, or post your comments to:
- 4.5** Morag Gillan
HGV Road User Levy Secondary Legislation Consultation
Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR
Email: HGVCharging@dft.gsi.gov.uk
- If emailing, please use *Response to the HGV Levy Consultation*, in the subject line of your message so that it can be dealt with correctly.
- 4.6** When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation please make it clear whom the organisation represents, and where applicable, how the views of members were assembled.
- 4.7** An indicative list of those consulted was stated in the foreword. If you have any suggestions of others who may wish to be involved in this process please contact us using the details above.

Consultation criteria

- 4.8** The consultation is being conducted in line with the Government's key consultation principles which are available at Annex B.
- 4.9** If you consider that this consultation does not comply with the criteria or have comments about the consultation process please contact:

Consultation Co-ordinator
Department for Transport Zone
1/14 Great Minster House
London SW1P 4DR
consultation@dft.gsi.gov.uk

Freedom of Information (Fol)

- 4.10** Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.
- 4.11** If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
- 4.12** In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 4.13** The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Annex A - Rates of the HGV Road User Levy

A.1 This Annex sets out the rates of each of the HGV Road User Levy Bands as shown in Schedule 1 of the HGV Road User Levy Act 2013.

- 1 Table 1 shows the rates of Levy for each of the Bands given by Tables 2 to 5 and by paragraph 4.
- 2
 - (1) Table 2 applies to a rigid goods vehicle (whether or not used for drawing a trailer) other than one to which Table 3 applies.
 - (2) Table 3 applies to a rigid goods vehicle within paragraph 10 of Schedule 1 to the 1994 Act (rigid goods vehicles used for drawing trailers of more than 4,000 kilograms).
 - (3) The appropriate Band for a vehicle to which Table 2 or 3 applies depends on.
 - (a) The revenue weight of the vehicle, and
 - (b) the number of axles on the vehicle, ignoring any trailer.
- 3
 - (1) Table 4 applies to a tractive unit on which there are 2 axles.
 - (2) Table 5 applies to a tractive unit on which there are 3 or more axles.
 - (3) The appropriate Band for a vehicle to which Table 4 or 5 applies depends on.
 - (a) The revenue weight of the tractive unit, and
 - (b) The number of axles on the semi-trailers that are to be drawn by the tractive unit.
- 4 The appropriate Band for any heavy goods vehicle with a revenue weight of more than 44,000 kilograms is Band G.
- 5 In this Schedule.
 - (a) 'axle', "rigid goods vehicle" and "tractive unit" each has the same meaning as in the 1994 Act (see section 62(1) of that Act);
 - (b) a reference to a revenue weight of more than 11,999 kilograms is to be read as a reference to a revenue weight of 12,000 kilograms or more.

Table 1: Rates for Each Band

<i>Band</i>	<i>Daily Rate</i>	<i>Weekly Rate</i>	<i>Monthly Rate</i>	<i>Half-yearly rate</i>	<i>Yearly Rate</i>
A	£1.70	£4.25	£8.50	£51.00	£85.00
B	£2.10	£5.25	£10.50	£63.00	£105.00
C	£4.80	£12.00	£24.00	£144.00	£240.00
D	£7.00	£17.50	£35.00	£210.00	£350.00
E	£10.00	£32.00	£64.00	£384.00	£640.00
F	£10.00	£40.50	£81.00	£486.00	£810.00
G	£10.00	£50.00	£100.00	£600.00	£1,000.00
B(T)	£2.70	£6.75	£13.50	£81.00	£135.00
C(T)	£6.20	£15.50	£31.00	£186.00	£310.00
D(T)	£9.00	£22.50	£45.00	£270.00	£450.00
E(T)	£10.00	£41.50	£83.00	£498.00	£830.00

Table 2: Rigid Goods Vehicle

<i>Revenue Weight of Vehicle</i>		<i>2 axle vehicle</i>	<i>3 axle vehicle</i>	<i>4 or more axle vehicle</i>
<i>More than</i>	<i>Not more than</i>			
kgs	kgs	Band	Band	Band
11,999	15,000	B	B	B
15,000	21,000	D	B	B
21,000	23,000	-	C	B
23,000	25,000	-	D	C
25,000	27,000	-	D	D
27,000	44,000	-	-	E

Table 3: Rigid Goods Vehicle with Trailer Over 4,000 kg

<i>Revenue Weight of Vehicle</i>		<i>2 axle vehicle</i>	<i>3 axle vehicle</i>	<i>4 or more axle vehicle</i>
<i>More than</i>	<i>Not more than</i>			
kgs	kgs	Band	Band	Band
11,999	15,000	B(T)	B(T)	B(T)
15,000	21,000	D(T)	B(T)	B(T)
21,000	23,000	-	C(T)	B(T)
23,000	25,000	-	D(T)	C(T)
25,000	27,000	-	D(T)	D(T)
27,000	44,000	-	-	E(T)

Table 4: Tractive Unit with 2 Axles

<i>Revenue Weight of Vehicle</i>		<i>Any no. of semi-trailer axles</i>	<i>2 or more semi-trailer axles</i>	<i>3 or more semi-trailer axles</i>
<i>More than</i>	<i>Not more than</i>			
kgs	kgs	Band	Band	Band
11,999	25,000	A	A	A
25,000	28,000	C	A	A
28,000	31,000	-	D	A
31,000	34,000	-	E	C
34,000	38,000	-	F	E
38,000	44,000	-	-	G

Table 5: Tractive Unit with 3 or More Axles

<i>Revenue Weight of Vehicle</i>		<i>Any no. of semi-trailer axles</i>	<i>2 or more semi-trailer axles</i>	<i>3 or more semi-trailer axles</i>
<i>More than</i>	<i>Not more than</i>			
kgs	kgs	Band	Band	Band
11,999	28,000	A	A	A
28,000	31,000	C	A	A
31,000	33,000	E	C	A
33,000	34,000	E	D	A
34,000	36,000	E	D	C
36,000	38,000	-	E	D
38,000	44,000	-	G	E

Annex B - Consultation Principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below.

Further information is available on the Government website at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-coordinator
Department for Transport
Zone 1/14 Great Minster House
London SW1P 4DR
Email: consultation@dft.gsi.gov.uk

Consultation Principles

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
- departments will need to give more thought to how they engage with and consult with those who are affected;
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- The principles of the Compact between government and the voluntary and community sector will continue to be respected.