



Department  
for Transport

# Secondary Legislation relating to the HGV Road User Levy Act 2013

Consultation Response

December 2013

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Department for Transport  
Great Minster House  
33 Horseferry Road  
London SW1P 4DR  
Telephone 0300 330 3000  
Website [www.dft.gov.uk](http://www.dft.gov.uk)  
General email enquiries [FAX9643@dft.gsi.gov.uk](mailto:FAX9643@dft.gsi.gov.uk)

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# 1. Introduction

- 1.1 The Government passed the HGV Road User Levy Act ("the Act") on 28 February 2013. This introduces a specific time based charge for using or keeping a heavy goods vehicle ("HGV") weighing 12 tonnes or more on a public road in the UK ("the Levy"), and fulfils a commitment made in the Coalition Programme for Government.
- 1.2 The key objective of the Levy is to ensure a fairer arrangement for UK hauliers. Currently, foreign-registered HGVs do not pay to use the road network in the UK, whereas UK-registered HGVs pay charges or tolls in most other European countries.
- 1.3 The Department for Transport ("DfT") is planning to introduce new secondary legislation relating to the Act, and as part of this process we held a six week consultation from 26 September to 7 November 2013 to gather views in two key subject areas:
  - Fixed Penalties and Financial Penalty Deposits
  - Vehicle Construction and Use (changes to weight bands)
- 1.4 The secondary legislation we have consulted on in relation to fixed penalties and financial penalty deposits will enable constables and DVSA officers<sup>1</sup> to issue fixed penalty notices ("FPNs") and require financial penalty deposits ("deposits"), providing them with the additional enforcement powers needed to enforce the levy in a cost-effective and proportionate manner.
- 1.5 The secondary legislation we have consulted on in relation to the construction and use of heavy goods vehicles enables the weight bands for Vehicle Excise Duty ("VED") to be brought into line with the equivalent weight bands in EU law.
- 1.6 The consultation document was published on the DfT's website. We also sought to notify key stakeholders including trade associations when the consultation was initially published to ensure they had the opportunity to respond to our proposals.
- 1.7 This document forms the DfT's response to the consultation process, setting out the details of the views expressed, as well as its response and the conclusions reached.

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<sup>1</sup> The DVSA (The Driver and Vehicle Services Agency) has been formed following a merger between VOSA (Vehicle and Operator Services Agency) and the DSA (Driving Standards Agency).

## 2. Consultation Responses

- 2.1** The consultation was launched on 26 September 2013 and ran for 6 weeks until 7 November 2013. We publicised the consultation to organisations and individuals who we believed would have an interest. We received six responses to this consultation, reflecting the technical nature of the changes. Two of these were from the BVRLA (British Vehicle Renting and Leasing Association) and the FTA (Freight Transport Association), who represent the wider industry.
- 2.2** We also received a response from the RAC Foundation, a transport policy and research organisation.

### Summary Table of Respondents

<b>Category</b>	<b>Responses</b>
Private Individual	1
Trade Association	2
Research Organisation	1
Advisory Group	1
Owner/ Driver	1
<b>Total Responses</b>	<b>6</b>

# 3. Responses relating to Vehicle Construction & Use

- 3.1** The DfT consulted on proposals to make changes to the way UK vehicle weight bands are defined. These amendments making a small technical amendment to regulation 80 of the Road Vehicles (Construction and Use) Regulations 1986<sup>2</sup>, in order to bring into line the weight bands used to specify VED with the weight bands setting minimum rates of VED by Directive 1999/62/EC ("the Directive").
- 3.2** This change will correct 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 currently set in the UK. This difference 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. Making the change allows VED to be reduced to ensure that, for most vehicles, they pay no more than now than when the HGV road user levy is introduced.
- 3.3** The changes that we will be making following the consultation, 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. This change will only affect vehicles currently at the very top, and the very bottom of weight bands.
- 3.4** In order to ensure there is no additional administrative burden for UK operators, from April 2014 the payment of the levy will be taken at the same time as VED.

## Consultation Responses

- 3.5** Comments received on our proposed technical amendment to the vehicle weight bands was accepted by the two transport associations that responded, the BVRLA and the FTA, and the RAC foundation, who viewed the proposed arrangement as having “a negligible impact on operating practices”.

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<sup>2</sup> <http://www.legislation.gov.uk/ukxi/1986/1078/regulation/80/made>

## **Department's Response**

Prior to launching the consultation, the Department considered various options to deal with the mismatch in the way that UK and European weight bands are defined. We expect our proposal to have no practical impact on road freight operators, and we are pleased that those who responded are content with our proposed amendments. We will therefore proceed with the secondary legislation.

# 4. Responses relating to Fixed Penalties & Financial Penalty Deposits

## Description of the legislation we consulted on

- 4.1 We are undertaking a legislative package of three statutory instruments to enable constables and DVSA officers to issue FPNs to any person using or keeping an HGV on a public road in the UK without paying the appropriate; and to require deposits from alleged offenders without a satisfactory UK address.

## Fixed Penalties

- 4.2 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 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. The legislation on which we consulted sets the monetary amount of a FPN at £300.

## Financial Penalty Deposits

- 4.3 The Road Safety (Financial Penalty Deposit) Order 2009 lists the offences for which an enforcement officer may require a deposit from any person to whom a FPN has been issued and who cannot provide a satisfactory UK address. The legislation consulted on adds to that list the offence of using or keeping an HGV on a public road in the UK without paying the Levy in section 11 of the Act.
- 4.4 The Road Safety (Financial Penalty Deposit)(Appropriate Amount) Order 2009 sets the monetary amount of the deposit that may be required for the offences lists in the order referred to in paragraph 4.3 above. The legislation on which we consulted sets the monetary amount of the deposit that may be required by an enforcement officer for an offence under section 11 of the Act at £300.



## **Comments received**

- 4.5** We received comments that the monetary amount of the FPN was either about right, or should be higher to provide more of a deterrent.
- 4.6** One respondent disagreed with our plans to enforce the charge against the driver of the vehicle at the roadside rather than the operator.

## **Department's Response**

- 4.7** In response to the points made, we have decided not to increase the monetary amount of the fixed penalty beyond the level set in the consultation, in order to keep it in line with the amount for other offences.
- 4.8** In response to the comments received about our plans to enforce the charge against the driver at the roadside rather than operator, we note that financial penalty deposits for other vehicle-related offences are currently required from the drivers without a satisfactory UK address, and the use of such penalties is a key part of our enforcement strategy. However, the enforcement officers will also be able to take payment of the penalty deposit over the telephone from another party, for example, the vehicle owner or operator. We will therefore proceed with the secondary legislation.
- 4.9** Currently we undertake enforcement against the driver when a vehicle is stopped for other offences, including roadworthiness and overloading. This is an established, effective and proportionate enforcement regime, which we are extending to include the offence under section 11 of the Act.