

EXPLANATORY MEMORANDUM TO
THE DRIVER AND VEHICLE LICENSING AGENCY TRADING FUND
(REVOCATION) ORDER 2011

2011 No. 630

1. This explanatory memorandum has been prepared by the Department for Transport (“DfT”) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

- 2. Purpose of the instrument**

- 2.1. This instrument revokes The Driver and Vehicle Licensing Agency Trading Fund Order 2004 (S.I. 2004 No. 1037) (“the 2004 Order”) which established a trading fund under the Government Trading Funds Act 1973 (“the 1973 Act”), for the operations of the Driver and Vehicle Licensing Agency (“DVLA”) or (“the Agency”). It also revokes the Driver and Vehicle Licensing Agency Trading Fund (Variation) Order 2005 (S.I. 2005 No. 1672) which amended amounts in the 2004 Order.

- 3. Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1. None

- 4. Legislative Context**

- 4.1. The 2004 Order established a trading fund for the operations of DVLA on 1st April 2004 under the Government Trading Funds Act 1973, to be so managed that the revenue would consist principally of receipts in respect of goods or services provided through the Agency’s operations.
- 4.2. The 2004 Order provided that the operations of the DVLA would be financed by means of the fund and designated the Secretary of State for Transport as the source of issues to the fund by way of loan. It further provided that the Crown assets and liabilities set out in the schedule to the Order were appropriated as assets and liabilities of the fund.
- 4.3. A trading fund is a means of financing revenue-generating operations of a government department which takes them outside the Estimates process. Income from charges made for the provision of goods and services is retained and used to meet the fund’s expenditure. Trading funds are not separate legal entities and the bodies whose operations they cover remain part of their department (or can be departments in their own right). Trading funds do however have their own capital base, are able to retain operating surpluses and pay dividends back to their sponsor Department. They are normally classified by the Office of National Statistics (ONS) as public corporations.

5. Territorial Extent and Application

5.1 This instrument applies to 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 The DVLA is currently unique in government, as it is classified by Office for National Statistics (ONS) as a central government body in the national accounts, but also has trading fund status. All other trading funds are classified as public corporations (in the public sector, but outside the central government sector).

7.2 DVLA's unusual status has had to be reconsidered as a result of preparations for full implementation of the Alignment (Clear Line of Sight) proposals in April 2011. The Alignment Project provides clearer accountability for public spending by aligning budgets, Estimates and accounts. To achieve this, Estimates and accounts will be prepared on a consolidated basis, using the budgeting boundary – i.e. incorporating all bodies classified by the Office of National Statistics (ONS) to central government. The alignment proposals have received strong support, not only from Parliament but also from the wide range of public and professional bodies that were consulted, including government departments, the National Audit Office, accountancy bodies and international organisations. The measures were effected in the Constitutional Reform and Governance Act 2010, which received Royal Assent on 8th April 2010.

7.3 DVLA's classification as a central government body implies that it should be brought on vote as part of Alignment. This is inconsistent with its trading fund status. Trading fund status is a legal designation leading to a particular Estimates treatment (i.e. outside the Parliamentary supply process).

7.4 In order to resolve the inconsistency between DVLA's trading fund status and the need to bring its expenditure on Vote as part of the Alignment project, it has been agreed that DVLA's trading fund status should be revoked. The Government Trading Funds Act 1973 (as inserted by the Government Trading Act 1990) makes provision by section 4A for the treatment of fund assets and liabilities in that case. Revocation of the trading fund enables DVLA to be funded through the supply process. There is no substantive difference to the way DVLA is treated in terms of budgets, Estimates and accounts. The same central government budgeting rules will apply regardless of whether DVLA is a trading fund or not.

7.5 There are no substantial changes to the relationship between DfT and DVLA as a result of this change in status. DVLA's efficiency and effectiveness are unaffected by the removal of trading fund status. Operationally DVLA will be unaffected by this change.

7.6 From 1st April 2011 when the trading fund status is revoked, DVLA will remain classified to the central government sector. DVLA will continue to be scored against DfT budgets, and its expenditure will be voted in DfT's Estimate. DVLA accounts will be consolidated into DfT's accounts. DVLA will remain an Executive Agency.

8. Consultation outcome

8.1 The key stakeholders: DVLA, the Department for Transport and HM Treasury have all agreed jointly to bring the trading fund to an end. No other consultation has taken place regarding the revocation of the DVLA trading fund.

9. Guidance

9.1 The Department for Transport will give notice of the revocation and the Accounts will be available.

10. Impact

10.1 An impact assessment has not been prepared for this Instrument as it has no regulatory measures, and imposes no burden on business, charities, voluntary bodies or citizens. The effect of the Instrument is a change in Government accounting function to enhance the clarity of financial information provided by Government Departments.

10.2 The impact on the public sector is limited to the cost of implementing this order which is minimal. There is no other impact.

11. Regulating small business

11.1 The legislation does not affect small businesses.

12. Monitoring & review

12.1 The revocation of DVLA's trading fund status will be subject to monitoring and review by the Department for Transport and the Treasury.

13. Contact

Leslie Gilbert, Business Partner: Domestic, International & Corporate, Department for Transport, Zone 2/16 Great Minster House, 76 Marsham Street, London SW1P 4DR. Tel. 020 7944 2050. E-mail: Leslie.Gilbert@dft.gsi.gov.uk