

EXPLANATORY MEMORANDUM TO
THE FEES FOR PAYMENT OF TAXES, ETC. BY CREDIT CARD REGULATIONS
2016

2016 No. 333

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument, with effect from 1 April 2016, provides that a fee must be paid in respect of any payment made to the Commissioners for HMRC ("the Commissioners") by credit card. It also revokes the Taxes, etc. (Fees for Payment by Internet) Regulations 2011, the Taxes, etc. (Fees for Payment by Telephone) Regulations 2012 and the Taxes, etc. (Fees for Payment by Internet) (Amendment) Regulations 2015.

2.2 Regulation 2 sets the fee that must be paid in respect of specified types of credit card, listed in two tables in the Schedule.

3. Matters of special interest to the House of Commons

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

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 that Act permits the Commissioners to make Regulations to provide that, where a person makes a payment to the Commissioners (or their authorised person) using a specific method of payment, the person must also pay a fee.

4.3 Section 136(2) of that Act requires that before exercising that power, the Commissioners must expect that they 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 in respect of credit card payments.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is 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

What is being done and why

- 7.1 Legislation was introduced in section 136 of the Finance Act 2008 to allow HMRC to accept payment by credit card beyond the limited circumstances where HMRC had previously done so (ports, airports and roadside fuel testing units).
- 7.2 From December 2008, the Commissioners accepted credit card payments where authorisation is given by internet or telephone and charged the payer a fee of 1.25%. The fee rate was calculated on the basis of the commission rate charged by credit card issuers and ensures that the Commissioners recover the cost of processing credit card transactions, but no more than this. That fee increased to 1.5% on 2 November 2015.
- 7.3 HMRC has recently reviewed its rate changing policy and the need to ensure the Commissioners continue to recover the cost of processing credit card payments. That review took into account an EU Regulation introduced in December 2015 which capped to 0.3% an element (the “interchange” element) of the charge for personal credit cards. Corporate credit cards were unaffected.
- 7.4 As a result of the review of its rate charging policy, HMRC will no longer charge a single fee but will charge differing fees depending on whether the credit card is a personal or corporate credit card and the type of card used. HMRC will also introduce the capped rate. The costs recovered by HMRC for credit card use will not exceed the cost that it is charged.
- 7.5 The fee rates will be reviewed periodically by the Commissioners.

8. Consultation outcome

- 8.1 A consultation Impact Assessment for section 136 of FA 2008 was published on 10 January 2008 and a final Impact Assessment was published alongside the Finance Bill on 27 March 2008.

9. Guidance

- 9.1 Customers choosing to make a payment by credit by telephone or by using the internet payment service are advised of the fee charged before payment is made.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is negligible.
- 10.3 A Tax Information and Impact Note covering this instrument will be published on the government website at <http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 To minimise the impact of the requirements on small business (employing up to 50 people), the approach taken is that HMRC offers payment options other than by credit card.

12. Monitoring & review

12.1 The credit card fee charges will be kept under review subject to market changes.

13. Contact

13.1 Robert Horwill at HMRC, Telephone: 03000 586 454 or email: robert.horwill@hmrc.gsi.gov.uk, can answer any queries regarding the instrument.