

EXPLANATORY MEMORANDUM TO
THE ROAD TOLLING (INTEROPERABILITY OF ELECTRONIC ROAD
USER CHARGING AND ROAD TOLLING SYSTEMS) REGULATIONS 2007

2007 No. 58

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 These Regulations implement the requirements of articles 1(1) and (2) and 2(1) of the *European Community Directive 2004/52/EC of the European Parliament and Council Directive of 29 April on the interoperability of electronic road toll systems in the Community*.
 - 2.2 The Directive seeks to achieve interoperability of electronic road toll systems. This is so that if they choose to, the owners or drivers of vehicles, will require only one on-board unit (black box), one account and potentially one bill to be able to use all electronic road toll and charging systems across the European Community. These Regulations implement only some of the requirements of the Directive.
 - 2.3 The Directive is largely concerned with the framework within which the Commission is required to define a "European electronic toll service" (EETS). Through the establishment of the EETS, it should be possible for a vehicle owner or driver to enter into a single contract with an EETS Provider. This will allow the vehicle owner or driver to pay charges to the EETS Provider for access to any electronic toll road or road charging system throughout the European Community.
 - 2.4 The Regulations implement the remaining provisions of the Directive by requiring that all new toll charging or road pricing schemes which are brought into effect from 12 February 2007, and which use electronic means to calculate or collect their charge, must use at least one of three compliant technologies (satellite positioning technology, mobile communication technology using GSM-GPRS (Global System Mobile Communication - General Packet Radio Service), or 5.8 GHz microwave technology).
 - 2.5 The Regulations also contain provision for exemptions and enforcement by the national authorities (i.e. Secretary of State in England and the devolved administrations in Scotland, Wales and Northern Ireland).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None

4. Legislative Background

- 4.1 There is at present no legislative provision for the design and operation of electronic road tolling systems. Moreover, there is no single legal or administrative model for toll undertakings. There are essentially three types of undertaking that are likely to be affected by the Directive.
 - 4.1.1 Congestion charging schemes under the Transport Act 2000, the Transport (Scotland) Act 2000 and the Greater London Act 2000;
 - 4.1.2 New tolled infrastructure approved under the New Roads and Streetworks Act 1991 and the Transport and Works Act 1992;
 - 4.1.3 Existing statutory tolled undertaking such as the Dartford Crossing and Severn Bridge.
- 4.2 The right of such undertakings to levy tolls is contained in a wide range of provisions in primary legislation, some of them very old, and undertakings are operated under a variety of different arrangements. By relying on the powers of section 2(2) of the European Communities Act 1972 the Secretary of State can make general overarching provision for these and other operations allowing them to operate with the various legislative and administrative structures applying to toll systems caught by the Directive. The alternative would be to amend each piece of existing legislation in relation to current requirements and to make special provision in all future toll charging and road pricing legislation.
- 4.3 The Explanatory Memorandum for Directive 2004/52/EC was submitted to the European Scrutiny Committees of the House of Commons and the House of Lords on 12 June 2003. The legislation was the subject of Council document 8893/03, COM (03)132.
- 4.4 The House of Common European Scrutiny Committee reported on the proposal on three occasions in Reports 29, 02/03, 01, 03/04 and 09, 03/04. The proposal was recommended for debate and debate was held in European Standing Committee A on 2 February 2004. The proposal was considered by Sub-Committee B of the House of Lords European Union Committee where it was cleared by the Committee following correspondence with Ministers on 23 July 2004.
- 4.5 A Transposition Note for this statutory instrument is attached to this Explanatory Memorandum in Annex B.

5. Territorial Application and Extent

- 5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Policy

- 7.1 The aim of the Directive is to ensure the conditions are in place for the long term interoperability of electronic road toll systems in the European Community.
- 7.2 The Directive requires Member States to ensure that the EETS will be available to owners or drivers of vehicles that wish to use electronic tolling systems within their authority:
 - 7.2.1 three years after EETS is defined for vehicles exceeding 3.5 tonnes or for vehicles which can carry more than nine passengers; and
 - 7.2.2 five years after EETS is defined for all other vehicles.
- 7.3 It is the Government's intention fully to comply with the requirements of the Directive, once EETS has been defined, and to bring forward whatever measures are necessary, including legislation to implement the EETS, once it is in a position to do so.

Consultation

- 7.4 The recent public consultation, carried out by the Department for Transport suggested that the Directive is likely to benefit UK based freight companies that travel across other Member States of the European Community. However, while the consultation highlighted that there were no significant difficulties with the statutory instrument, there were questions over whether the EETS is currently required in the UK, given the small amount of international traffic that is seen in the UK. For this reason, the second requirement of EETS could become a burden for toll and road charging operations. With the future introduction of local authority pathfinder road charging schemes in the UK, interoperability is an issue that will need to be resolved and so the EETS will be required to be introduced in the UK.
- 7.5 The Department for Transport held a public consultation between 18 July 2006 and 17 October 2006. The responses received highlighted that the main interest in this statutory instrument is amongst the groups that will be directly affected. These are the existing tolling operators in the UK, freight operators, and local authorities that may introduce road charging schemes.
- 7.6 There were thirteen responses to the consultation; four from existing tolled roads and crossings, the Welsh Assembly Government, Transport for London, and pressure groups including the Freight Transport Association, the Road Haulage Association, the Federation of British Historic Vehicles Club, Intellect UK, SPARKS, Bird and Bird Solicitors and the Federation of Small Businesses. As part of the consultation exercise DfT also held seminars for the local authorities involved in the first round of the Transport Innovation Fund; and for the existing tolled roads and crossing in the UK. Meetings were also held with the FTA and SPARKS at their request.

7.7 The findings of the consultation were that the Regulations will not impose an increased burden to the operators of electronic tolling schemes or vehicle operators. The consultation also provided useful information on how national authorities should implement and apply the Regulations, which will be used by the Department for Transport to produce the guidance on how the regulations should be applied in practice. Many of the responses also highlighted that the introduction of the EETS could prove costly for tolled operators and so negotiations over its requirements and its implementations need to be managed effectively. Further information on the consultation can be found on the DfT website¹ and in the Regulatory Impact Assessment attached in Annex A.

Guidance

7.8 The Secretary of State for Transport, together with the Ministers for Transport in Scotland, Wales and Northern Ireland will publish guidance early in 2007 on how they will be applying the Regulations in the statutory instrument.

7.9 The guidance will confirm how the national authorities will determine whether a scheme is classified as electronic, when and where electronic schemes do not have to be compliant with the statutory instrument, and how this assessment will take place.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum in Annex A.

8.2 The Regulations will have an impact on the public sector, as the national authorities will have to administer the Regulations through certification and enforcement. However, the costs of this new requirement are not expected to be significant.

9. Contact

Richard Weider at the Department for Transport can answer any queries regarding the instrument.

Tel: 020 7944 3927

e-mail: Richard.weider@dft.gsi.gov.uk

¹http://www.dft.gov.uk/stellent/groups/dft_control/documents/contentservertemplate/dft_index.hcst?n=6368&l=1

Annex A

Final Regulatory Impact Assessment

1. Title of proposal

Transposition of Directive 2004/52/EC of the European parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community'.

2. Purpose and intended effect

- **Objective:** The objective of this document is to analyse the likely impacts of transposing the European Directive 2004/52/EC into UK legislation and the range of options available for doing so.
- **Background:** The Directive lays down the conditions necessary to ensure the long term interoperability of electronic road toll systems in the European Community. The Directive states that a European Electronic Toll Service (EETS) shall be created which is complementary to national electronic toll services of the Member States. It shall ensure interoperability for EETS subscribers that use electronic systems caught by the Directive throughout the European Community.

Vehicle operators or keepers will not be required to subscribe to an EETS; it will be voluntary for vehicle operators or keepers to sign up. Vehicle operators or keepers that choose not to sign up to an EETS will be able to pay the operator of the toll or road pricing scheme directly, as at present.

The Directive aims to achieve interoperability in two ways:

l) Mandating technologies used for tolling and charging

The Directive requires that all new electronic toll systems brought into service on or after the 1st January 2007 shall use one or more of the following technologies:

- Satellite positioning.
- Mobile communications using the GSM-GPRS standard.
- 5.8 GHz. microwave technology.

It is these provisions which the Road Tolling (Interoperability of Electronic Road User Charging and Road Tolling Systems) Regulations 2007 transpose.

II) European Electronic Tolling Service

The Directive also establishes the principle of a European Electronic Tolling Service (EETS). The Directive's objective is that it should only be necessary for a vehicle operator or keeper to enter into a single contract with a charging authority or EETS provider in order to pay charges for access to any charging scheme. It mandated the Commission – supported by a comitology committee – to bring forward practical proposals for the tolling service by July 2006. That deadline was not met and the Commission is required by the Directive to propose a new date for definition. Commission officials have outlined a draft timetable for agreeing practical proposals for the tolling service by the end of 2007.

Membership of the EETS will be entirely voluntary for road users, although any electronic charging scheme that falls within the scope of the Directive will be required to support the EETS.

Member States in which electronic toll collection schemes exist are required by the Directive to implement the EETS within three years of its definition for vehicles exceeding 3.5 tonnes and for vehicles which can carry more than nine passengers, and within five years for all other vehicles.

It is the Government's intention fully to comply with the requirements of the Directive, once EETS has been defined, and to bring forward whatever measures are necessary, including legislation to implement the EETS, once it is in a position to do so.

- **Rationale for Government Intervention:** It is a requirement of Community law that EC legislation should be implemented into Member States' national law. The Government's policy is to transpose so as to achieve the objectives of the European measure, on time and in accordance with other UK policy goals, including minimising the burdens on business. The main risk of not transposing the Directive is that the UK would be at risk of infraction proceedings by the European Commission.

3. **Consultation**

Public Consultation

The Department for Transport held a 12 week public consultation between 18 July 2006 and 17 October 2006 on a draft Statutory Instrument² which will implement the requirements of Article 2(1) of the Directive. The aim of the consultation exercise was to gain an understanding from the key stakeholders on whether the regulations contained in the statutory instrument are required, and if so how they

² http://www.dft.gov.uk/stellent/groups/dft_roads/documents/divisionhomepage/612107.hcsp

could be improved. The consultation also asked for responses to nine questions, in order to help DfT implement and apply the regulations contained in the statutory instrument, as well as to feed into the European negotiations on the requirements of EETS, which make up the second part of the Directive.

The consultation was sent to a number of key stakeholders including representatives of the haulage industry, existing tolled roads and crossings in the UK, and those local authorities who either currently operate or are potentially planning to operate road pricing schemes. Thirteen responses were received; four from existing tolled roads and crossings, the Welsh Assembly Government, Transport for London, and pressure groups including the Freight Transport Association, the Road Haulage Association, the Federation of British Historic Vehicles Club, Intellect UK, SPARKS, Bird and Bird Solicitor and the Federation of Small Businesses. As part of the consultation exercise DfT also held seminars for the local authorities involved in the first round of the Transport Innovation Fund; and for the existing tolled roads and crossings in the UK. Meetings were also held with the FTA and SPARKS at their request.

The findings of the consultation were that the regulations contained in the statutory instrument will not impose an increased burden, with only minor changes to the draft Statutory Instrument required. There was some useful information provided on how to implement and apply the regulations. The responses also highlighted that the introduction of an EETS could prove costly for tolled operators and so negotiations over its requirements and then its implementation need to be managed effectively. A summary of the consultation responses is available on the DfT website³.

4. Options

In considering the way forward in meeting its obligations under the Directive, the Government has considered a range of options for the way forward, as summarised below:

- **Option 1: Do nothing** - This is not an option since the proposed regulations derive from an obligation in European Law. It is a requirement of European Community law that EC legislation should be implemented into Member States' national law. The main risk of not transposing the Directive is that the UK would be at risk of infraction proceedings by the European Commission. The public consultation also showed that there would be no value in not bringing forward the regulations as they will not be a burden on the market.

³http://www.dft.gov.uk/stellent/groups/dft_control/documents/contentservertemplate/dft_index.hcst?n=6368&l=1

- **Option 2: Do not transpose the Directive but ensure that UK does not act in breach of it** - There is no option in relation to the list of technologies in Article 2(1) of the Directive, as this represents a straightforward legal requirement. The Government has considered the option of using powers under the Transport Act 2000, the Greater London Act and the Transport (Scotland) Act 2001 to use scheme orders to ensure compliance with the Directive, but recognises that this would not provide any means to ensure that the Directive is implemented across the generality of tolled undertakings. In practice, the Government has worked closely with tolled undertakings who are looking to introduce electronic tolling to ensure that their proposals are both compliant with the Directive and with emerging UK requirements for interoperability. However, it does not currently have any powers to require tolled undertakings to use specified technologies, and to therefore meet its obligations under European law to assure compliance with the Directive.

In relation to the EETS, the extent to which it will be possible to proceed through administrative rather than legislative means will not be clear until the EETS is defined. However, as the proposals for the EETS become clearer, the UK will continue to explore how far it may be possible to achieve the objectives of the EETS without prescriptive legislation, while ensuring that it is compliant with the Directive.

- **Option 3: Transpose the Directive using European Communities Act** - This is the UK's preferred option in relation to the requirements of Article 2(1) of the Directive, mandating the appropriate technologies for electronic charging schemes. It appears likely that further regulation will be required once the EETS is defined, but the extent to which this may be necessary is not yet clear. The public consultation highlighted that there remains a risk that under the regulations contained in the Statutory Instrument that is being used to transpose Directive Article 2(1), it will not always be completely possible for the Government to ensure that all electronic road tolling schemes comply with the regulations. Even when required to by the national authorities, tolling operators may not comply. Therefore, there could still be a risk that the UK is viewed as not being compliant with the Directive. In applying the regulations it will also be important to determine which undertakings are deemed to be exempt from having to comply with the regulations contained in the Statutory Instrument.
- **Option 4: Transpose by amending all existing legislation** - The Directive applies to all tolled roads, bridges, tunnels and ferries where tolls or charges are collected electronically. In the UK, these undertakings are governed by a wide range of legislative provisions and it would not be practical to amend each one, in particular since it is not clear whether all or any of the relevant undertakings would be looking to move to electronic tolling in the longer term. It would also require the Government to take a view now on which undertakings might be exempt.

5. Costs and benefits

- **Sectors and groups affected** - The principal effects will be on the providers and users of tolled road undertakings, including charging schemes and tolled bridges and tunnels. The effect of the statutory instrument will be, in the immediate term, to constrain the range of technologies available to operators of tolled roads, crossings and charging schemes. There will also be some implications for the national authorities of applying these new regulations. In the longer term, the EETS is likely to have some constraining effect on the back-office systems available to charge operators, depending on how it is defined. This EC Directive and the regulations contained in the statutory instrument are not expected to have any race equality implications.
- **Benefits** - The potential benefits of the Directive - if interoperability is introduced successfully - will be lower costs for toll collection, benefiting both the users of charging schemes and tolled undertakings. It will also allow vehicle operators to use a range of tolled or charged roads without the need to register with separate toll or charge undertakings, or to pay manually, thus allowing them to operate more efficiently. As the number of charging schemes in the UK increases, those benefits are likely to spread to a larger number and range of users.

The public consultation illustrated that the regulation requiring compliance with the three technologies has not been a design or cost constraint for tolling undertakings in the UK, as the 5.8 GHz DSRC technology is becoming the market standard. The 5.8 GHz technology will also meet the requirements of tolling undertakings to improve throughput, while being no more expensive than other non-compliant electronic microwave technology. Interoperability should also allow economies of scale in the industry with it encouraging increased co-operation with other operators on administrative, technical, operational and procurement issues. The requirement of compliance with the three technologies has also ensured a more homogeneous supply has been created, which assuming a reasonably competitive marketplace, would seem likely to stabilise the long term supply of infrastructure, which could reduce system life cost.

A European wide system for road tolling should allow for the sharing of vehicle keeper data across national borders in the EU and so it could provide a legal basis for enforcing the non-payment of road tolls especially by vehicles registered outside the country of the tolled service they are using. This could help to cover the cost of enforcement.

These potential cost savings for road charging and tolling operators, brought about by the regulations to require the interoperability of road charging technologies, should in turn benefit their consumers. Interoperability will make it easier for users, particularly international hauliers, to travel across Member States and to use a number of road tolling schemes without needing to register with the promoter of each

scheme, or without having to stop at a barrier to make a payment. This will bring most benefit to vehicle operators where the future EETS accounts will replace cash payments for the use of tolls, and so reduce the cost of carrying cash; increase journey-time savings; and only require registration with a single tolling account. The EETS will also provide a benefit in reduced administration costs of dealing with multiple charging authorities. However, it is difficult to calculate how much of these savings vehicle operators will actually realise, with savings in manpower in accounts departments likely to be lumpy, as checking the correct charge for each vehicle will still have to be carried out.

- **Costs** - In the immediate term the costs of compliance with the list of technologies in Article 2(1) of the Directive is likely to be limited. The Directive will only bite on those undertakings that introduce new electronic charging systems or significantly upgrade an existing system. The state of the market for electronic equipment is such that it is unlikely that other technologies will offer a cost-effective option (it is important to note that camera-based systems using number-plate readers are not caught by the Directive).

There are likely to be much more significant cost issues arising from the implementation of the EETS. In essence the EETS will require operators of electronic tolling systems to have arrangements in place to ensure that their customers can sign up to EETS membership either directly with them or via a separate EETS Provider; and to recognise all legitimate EETS on-board equipment and to bill and recover charges from the relevant EETS provider if the users are not 'their own'. The nature of the contractual arrangements are likely, at least at a high level, to form part of the EETS decision, along with requirements relating to on-board equipment, vehicle classification and certification. Although the formal deadline for the definition of the EETS passed on 1 July 2006, the elements of the EETS are still at a relatively early stage of definition. In negotiating the EETS provisions with the Commission, the Government has set out its clear view that the EETS must be cost-effective and proportionate, based on a proper business case and that its specifications should be output rather than solution based. It will continue to press this approach as negotiations continue.

The public consultation highlighted that very few vehicles in the UK will demand the EETS on-board unit and contract. Therefore there is a concern that the EETS service will not increase traffic to anything approaching a level to fund the additional costs for tolling undertakings of having to have arrangements in place to allow their customers to sign up for the EETS contracts. As the price for many of the existing tolling undertakings in the UK is fixed by existing legislation, this will result in lower profits for those tolled undertakings or higher prices for the customers of these schemes.

A number of the responses to the public consultation therefore expressed the view that there is no business case for EETS, despite the concept being appealing in principle. The system of interoperability appears more advantageous to operators and users in mainland Europe, where there is more cross-border traffic. It also seems unreasonable to impose costs of EETS facilities on operators and local users for whom interoperability is not an issue and where the benefit is not significant.

Limiting the compliant technologies to the three listed in the Directive, is seen by some as too restrictive and thereby limiting innovation and choice by individual local tolling undertakings. The consultation provided views which suggested that the principle of interoperability should allow for electronic road user charging systems to be sufficiently flexible to allow individual charging authorities to implement solutions appropriate to their local needs.

The national authorities of the UK will also face added costs in applying the regulations contained in the statutory instrument, such as certification and enforcement of tolling operators. However, this is not expected to be significant. The cost of the EETS may also be too much for some vehicle operators, where the on board units could be too expensive, and so deter vehicle operators from signing up to the EETS. This cost may be mitigated by the on board units offering other benefits in addition to interoperability. Any forced requirement for vehicles to carry electronic on board units would cause difficulties for historic vehicles which have no electrical power source.

The Department for Transport (DfT) intends to continue to consult with tolled undertakings, local charge schemes and vehicle operators as work on defining the EETS continues.

6. Small Firms Impact Test

Small tolled undertakings whose impact is purely local, and for whom the costs of compliance with the Directive would be disproportionate, are explicitly exempted from the Directive. This exemption is reflected in the Statutory Instrument implementing Article 2(1). In any event, the Directive will only bite where a tolled undertaking is seeking to implement electronic tolling. Consultation with small firms which are tolled undertakings highlighted that the statutory instrument would not be burdensome, although the future EETS may impose extra costs.

Membership of the EETS will be purely voluntary for road users and is only likely to be of interest to a limited number of operators of commercial vehicles who frequently cross national borders and come into contact with a number of different road toll and charge systems. This view was supported by the Federation of Small Business, who explained that small businesses - which out of a businesses need would be required to sign up for an EETS account - would face an unaffordable

cost. Therefore, the cost of their on board unit should be subsidised so as not to deter the use of the EETS.

7. Competition assessment

The impact of the Directive on competition is likely to be limited. The list of technologies mandated in Article 2(1) is unlikely to give rise to any competition issues. The technology that is most likely to be adopted - microwave DSRC at 5.8GHz - conforms to international standards for charging equipment and is available from a range of suppliers.

8. Enforcement, sanctions and monitoring

In drawing up a regime to ensure the enforcement of the technical requirements of Article 2(1) of the Directive the Government has adopted as light a touch as it believes is compatible with its obligations to enforce the Directive. The compliance regime included in the statutory instrument is based around two tests - whether an undertaking is exempt from the Directive and whether an undertaking that is caught by the Directive is compliant with it.

- **Exemption from the Directive** - Where an undertaking is seeking to implement an electronic charging system but believes that it is exempt from the Directive, the undertaking will be required to apply to the competent national authority (in England the Secretary of State and the devolved administration in Scotland, Wales or Northern Ireland) for an exemption certificate.
- **Non-compliance with the Directive** - Where the competent national authority believes that a toll or charge undertaking is non-compliant, the Government proposes that the relevant authority should have powers to serve a notice describing the non-compliance and specifying a timescale for remedial measures. Where an undertaking fails to comply with this notice, the authority would have powers to issue a stop notice, requiring the undertaking to stop collecting tolls electronically.

In both these cases the Government believes that the process is proportionate and is designed to ensure that the relevant authority uses as light a regulatory touch as is consistent with the Directive.

The Government has not yet taken a view of what enforcement and sanctions may be required in relation to the EETS. It envisages that the EETS will essentially comprise a contractual arrangement between the EETS user, the provider of the EETS service and the toll or charge operator, whose terms will be enforceable on a normal commercial basis. The only area where it may be necessary for a formal regime of sanctions to exist may arise where a tolled undertaking does not allow access to the EETS for its users, or where an undertaking does not

recognise vehicles using EETS-compliant equipment. Should it be necessary to introduce sanctions in those circumstances, the Government intends to adopt as light a regulatory approach as is consistent with meeting its obligations under the Directive.

9. Implementation and Delivery Plan

Implementation will be carried out through transposition of the Directive 2004/52/EC by the Road Tolling (Interoperability of Electronic Road User Charging and Road Tolling Systems) Regulations 2007 made under section 2(2) of the European Communities Act 1972.

The Department has consulted industry and other stakeholders on the implementation of the Directive. No concerns of substance have been raised on the introduction of the regulations. The industry was aware of the content of the Directive and has been making the necessary preparations in order to comply with the new regulations.

The relevant national authorities will be responsible for applying and enforcing the new regulations. The Secretary of State for Transport through agreement with the national authorities will produce guidance for how the new regulations should be applied and enforced.

10. Post-Implementation Review

It is intended that a review of the regulations requiring the use of one of three compliant technologies (satellite positioning, GSM-GPRS mobile communications, 5.8 GHz microwave) for electronic tolling system, will be carried out by the Secretary of State for Transport in January 2010. The review will assess whether the requirements are being met, the level of compliance and whether there have been any unforeseen positive or negative consequences.

11. Summary and Recommendation

The table below summarises the options outlined in section 4 of this RIA.

Option	Benefits	Costs
1	<p>The system is working fine at present and so no reason to require specific technologies to be used on new electronic tolling systems.</p> <p>No regulatory or implementation costs resulting from the regulations.</p>	<p>Risk of Infraction proceedings by the European Commission.</p> <p>Retaliatory action from other Member States.</p> <p>There will be a lack of interoperability in the UK between electronic toll and road pricing schemes.</p>

<p>2</p>	<p>Regulations would not be introduced to cover all tolling undertakings only specific undertakings.</p>	<p>There would be no means of ensuring that all electronic tolled undertakings implement the requirements in the Directive and so there would be the same costs as with option 1.</p> <p>Risk of Infraction proceedings by the European Commission.</p> <p>Retaliatory action from other Member States.</p> <p>There will be a lack of interoperability in the UK between electronic toll and road pricing schemes.</p>
<p>3</p>	<p>The national authorities will be given specific powers to ensure that tolling undertakings comply with these regulations required by the European Directive.</p> <p>It would help to ensure interoperability in the sector.</p> <p>Meets the European Commissions requirements.</p>	<p>Will not always be completely possible for the Government to ensure that all electronic road tolling schemes comply with the regulations.</p> <p>Regulatory and implementation costs resulting from the regulations</p>
<p>4</p>	<p>It would help to ensure interoperability in the sector.</p> <p>Meets the European Commissions requirements.</p>	<p>It would not be practical to amend the legislation of each tolled undertaking in the UK.</p> <p>Will not always be completely possible for the Government to ensure that all electronic road tolling schemes comply with the regulations.</p> <p>Regulatory and implementation costs resulting from the regulations</p> <p>The Government would require the Government to take a view on which schemes would be exempt before all the evidence is available.</p>

The Secretary of State for Transport has agreed to option 3, as this will meet with the requirements of the Directive to help deliver interoperability while not being burdensome for the industry.

12. Declaration and Publication

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs

Signed S.J. Ladyman

Date 13th January 2007

**Dr Stephen Ladyman
Minister of State for Transport
Department for Transport**

13. Contact point for enquiries and comments: name, address, telephone number and email address.

Richard Weider
Zone 3/01, Great Minster House, 76 Marsham Street, London, SW1P
4DR
Phone Number: 020 7944 3927
Fax Number: 020 7944 2195
Email: richard.weider@dft.gsi.gov.uk

Annex B

Transposition Note

DIRECTIVE 2004/52/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 29 April 2004 on the interoperability of electronic road toll systems in the Community

These regulations do what is necessary to implement the Directive, including making consequential changes to domestic legislation to ensure its coherence in the area to which they apply.

Article	Objective	Implementation	Responsibility
1.1	States that the Directive lays down the conditions to ensure interoperability of electronic road toll systems in the European Community on all types of roads and various structures such as tunnels bridges and ferries.	Implemented in part by regulation 2 of Road Tolling (Interoperability of Electronic Road User Charging and Road Tolling Systems) Regulations 2007 (Statutory Instrument 2007 No. xx) ("the 2007 Regulations"). This regulation defines electronic toll systems and certain terms used in that definition (ie motor vehicles, road and ferry).	Secretary of State
1.2	Sets out exemptions from the requirements of the Directive.	This provision is implemented by regulations 5 and 6 of the 2007 Regulations. The appropriate national authority (defined in regulation 2 of the 2007 Regulations) may issue an exemption certificate. The circumstances in which a certificate may be issued are set out in regulation 5(2).	Secretary of State. Responsibility for granting the exemptions will be that of the Secretary of State, Scottish Ministers, the National Assembly for Wales and the Department for Regional Development in Northern Ireland.
1.3, 2.2, 2.3, 2.6, 2.7, 3, 4 and 5	Requires the Commission to create a European electronic toll service to encompass all road	The Commission has yet to create a European electronic toll service. It is the Government's intention	n/a

	<p>networks in the Community on which tolls or road-usage fees are collected electronically. Other articles referred to here contain detailed provisions as to the setting up of a service (which, among other things, requires a set of contractual rules, a set of technical standards and requirements and a single subscription contract).</p>	<p>to fully comply with the requirements relating to this, and to bring forward the measures that are necessary, once the service has been defined by the Commission.</p>	
2.1	<p>All <i>new</i> electronic toll systems brought into service on or after 01 January 2007 must use one or more of the specified permitted technologies (referred to in this Transposition Note as “standard technologies”). These are:</p> <ul style="list-style-type: none"> - satellite positioning - mobile communications using the GSM-GPRS standard - 5,8GHz microwave technology. 	<p>Regulations 3, 4, 7 and 8 of the 2007 Regulations implement Article 2.1 of the Directive (albeit that the 2007 Regulations apply to systems brought into service on or after 12th February 2007).</p> <p>Regulation 3 specifies the date after which new systems must use one or more of the standard technologies. It also contains provision as to the circumstances in which a new electronic toll system is to be regarded as having been brought into service.</p> <p>Regulation 4 requires that one or more of the three standard technologies are used by an electronic toll system for its communication interface.</p>	<p>Secretary of State. The taking of enforcement measures will be the responsibility of the Secretary of State, Scottish Ministers, the National Assembly for Wales and the Department for Regional Development in Northern Ireland.</p>

		Regulations 7 and 8 provide enforcement measures to ensure that electronic toll systems will comply with the Directive as to the use of the standard technologies.	
2.4	Permits on-board equipment to use standard technologies together with other technologies.	No implementing provisions required.	—
2.5	Requires Member States which have toll systems to encourage the increased use of electronic road toll systems.	No implementing provisions required.	—
6	Requires Member States to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 20 November 2005.	See regulation 1(2) of the 2007 Regulations. The Government is introducing the regulations included in the 2007 Regulations, so that they are in force by 12th February 2007.	Secretary of State
7 & 8	Formal provisions	No implementing provisions required.	—