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STATUTORY INSTRUMENTS

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**2014 No. 2437**

**The Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) (Amendment) Regulations 2014**

**Amendments to the Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) Regulations 2009**

2.—(1) The Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) Regulations 2009<sup>(1)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) omit “the 1999 Directive” and insert—

“the 1999 Directive” means Directive No. [1999/62/EC](#) of the European Parliament and of the Council of 17th June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures<sup>(2)</sup>;”;

(b) after the definition of “EURO O”, “EURO I”, “EURO II”, “EURO III”, “EURO IV”, “EURO V”, or “EEV” insert—

““EURO VI” means, in relation to a category of HGV, the category of HGV which complies with the emission limits referred to in Annex I of Regulation [\(EC\) No 595/2009](#) of the European Parliament and of the Council of 18th June 2009 on type approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information<sup>(3)</sup>;

“EURO emission standard” means the emission standards for HGVs referred to as “EURO O”, “EURO I”, “EURO II”, “EURO III”, “EURO IV”, “EEV” “EURO V”, and “EURO VI”;

“external-cost charge” means a charge levied for the purpose of recovering the costs incurred in the United Kingdom related to traffic-based air pollution, traffic-based noise pollution or both;”;

(c) in the definition of “HGV” omit “exclusively”;

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(1) [S.I. 2009/1914](#). Regulation 14(2)(a)(ii) was amended by [S.I. 2012/1809](#), article 3(10) and Schedule 2, Part 2.

(2) The Directive has been amended by Council Directive 2013/22/EU of 13th May 2013 (O.J. L 158 10.6.2013, p.33) Directive 2011/76/EU of the European Parliament and of the Council of 27th September 2011 (O.J. L 269, 14.10.2011, p.1.), [Directive 2006/38/EC](#) of the European Parliament and of the Council of 17<sup>th</sup> May 2006 (O.J. L 157, 9.6.2006, p.8.), Council [Directive 2006/103/EC](#) of 20th November 2006 (O.J. L 363, 20.12.2006, p.344), and by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (O.J. L 236, 23.9.2003, p.33). The 1999 Directive was incorporated into Annex XIII (Transport) to the EEA Agreement by the Decision of the EEA Joint Committee No 5/2002 of 1st February 2002 (O.J. L 88, 4.4.2002, p.9 and EEA Supplement No 18, 4.4.2002, p.6). Some of the amendments to the 1999 Directive have also been incorporated: the amendments made by Council [Directive 2006/103/EC](#) were incorporated by Decision No 132/2007 (O.J. L 100, 10.4.2008, p.1 and EEA Supplement No 19, 10.4.2008, p.1); and the amendments made by the Act concerning the conditions of accession were incorporated by the 2004 Enlargement Agreement (O.J. L 130, 29.4.2004, p.3 and the EEA Supplement No 23, 29.4.2004, p.1).

(3) O.J. L 188 18.7.2009, p.1. This Regulation amends Regulation [\(EC\) No 715/2007](#) and [Directive 2007/46/EC](#) and repeals Directives [80/1269/EEC](#) /[2005/55/EC](#) and [2005/78/EC](#).

- (d) after the definition of “HGV” insert—
- ““infrastructure charge” means a charge levied for the purpose of recovering the construction, the maintenance, the operation and the development costs related to infrastructure incurred in the United Kingdom;
- “motorway” means a road specifically designed and built for motor traffic, which does not serve properties bordering on it, and which—
- (a) is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other either by a dividing strip not intended for traffic or, exceptionally, by other means;
  - (b) does not cross at grade with any road, railway or tramway track, bicycle path or footpath; and
  - (c) is specifically designated as a motorway”;
- (e) after the definition of “Severn Bridges” insert—
- ““the TEN-T” means the trans-European network for transport, which includes the road network defined in Article 2 and Annex I to Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11th December 2013 on Union guidelines for the development of the trans-European transport network as illustrated by maps;(4)
- (f) for the definition of “the TERN” substitute—
- ““the TERN” means the roads included in the TEN-T(5)
- (g) after the definition of “type of HGV” omit “and”;
- (h) for the definition of “toll” substitute—
- ““toll” means a specified amount payable for an HGV based on the distance travelled on a given infrastructure and on the type of HGV comprising an infrastructure charge, an external cost-charge or both an infrastructure charge and an external-cost charge.”;
- (i) after the definition of “user charge” insert—
- ““weighted average external-cost charge” means the total revenue of an external-cost charge over a given period divided by the number of HGV kilometres travelled on the road sections subject to the charge during that period; and
- “weighted average infrastructure charge” means the total revenue of an infrastructure charge over a given period divided by the number of HGV kilometres travelled on the road sections subject to the charge during that period.”.
- (3) For regulation 2(2)(a) substitute—
- “(a) a reference to-
- (i) Annex II or IIIb is a reference to the Annex in the 1999 Directive which is so numbered, as amended from time to time, and
  - (ii) Annex III or IIIa is a reference to the Annex to the 1999 Directive which is so numbered.”.
- (4) In regulation 2(2)(b) omit “weighted average toll”.

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(4) O.J L 348, 20.12. 2013, p.1. This Regulation repeals Decision 661/2010/EU of the European Parliament and the Council of 7th July 2010 on Union guidelines for the development of the trans-European transport network (O.J L 2045.8.2010, p.1.) This decision in turn repealed Decision No 1692/96/EC of the European Parliament and of the Council of 23rd July 1996 on Community guidelines for the development of the trans-European transport network (O.J L 228, 9.9.1996, p.1).

(5) The map at 2.4 of Annex I to Regulation (EU) No 1315/2013 includes the roads (along with ports, airports and rail road terminals) in the United Kingdom which are on the TEN-T.

(5) In regulation 3 (application)–

(a) for paragraph (1) substitute—

“3.—(1) Subject to paragraph (2), these Regulations apply in relation to any toll or user charge which is authorised under an enactment to be levied in respect of the use by an HGV of the TERN, or certain sections of the TERN, or on any section of a motorway which is not part of the TERN.”;

(b) in regulation 3(2)(b) after “(including poor air quality)” insert –“, or”

(c) after regulation 3(2)(b) insert—

“(c) applied to roads that are neither motorways nor on the TERN, provided such tolls or user charges do not result in the distortion of competition between persons operating HGVs.”.

(6) In regulation 4 (calculation of weighted average tolls)–

(a) for the heading and paragraphs (1) and (2) substitute—

**“Calculation of weighted average infrastructure charges**

4.—(1) Subject to the following paragraphs, in relation to calculating the weighted average infrastructure charge the responsible person must take into account the following—

- (a) the construction costs of the section of the infrastructure, or network, or part of the network on which the infrastructure charge is to be levied, and
- (b) the cost of operating, maintaining and developing that section of the infrastructure, or network or part of the network on which the infrastructure charge is to be levied.

(2) When calculating the weighted average infrastructure charge, the responsible person may also take into account a return on capital or a profit margin based on market conditions.”;

(b) in paragraph (3) for “paragraph (1)” substitute “paragraphs (1) and (2)”.

(c) in paragraph (4) for sub-paragraph (b) to the end of the paragraph substitute–

“(b) comes into effect after 6th October 2014, or came into effect on or before that date and is being substantially modified after that date, the responsible person must calculate the costs referred to in paragraphs (1) and (2) using a methodology based on the core calculation principles set out in Annex III.”.

(d) in paragraph (5) for paragraph (b) substitute–

“(b) comes into effect after 6th October 2014, or came into effect on or before that date and is being substantially modified after that date.”.

(e) in paragraph (6)(b) for “weighted average toll” substitute “weighted average infrastructure charge”.

(f) in paragraph (6)(c) for “toll which is equivalent to, or less than that weighted average toll” substitute “infrastructure charge which is equivalent to, or less than, that weighted average infrastructure charge”.

(7) After regulation 4 (calculation of weighted average tolls) insert—

**“Variation of rates of infrastructure charges**

**4A.**—(1) Subject to paragraphs (2), (3) and (5) to (7) the responsible person must vary the infrastructure charge according to the EURO emission standard applicable to an HGV so that no infrastructure charge is more than 100% above the same charge for equivalent HGVs meeting the strictest emission standard.

(2) Paragraph (1) does not apply to a concession contract in existence on or before 15th October 2011 until it is renewed.

(3) Paragraph (1) does not apply to an infrastructure charge if the responsible person is satisfied that—

- (a) this would seriously undermine the coherence of tolling systems in the United Kingdom,
- (b) it would not be technically practicable to introduce such differentiation in the tolling system concerned,
- (c) this would lead to diversion of the most polluting HGVs with negative impacts on road safety and public health, or
- (d) the toll includes an external-cost charge.

(4) Where paragraphs (2) or (3) apply the responsible person must notify the European Commission.

(5) Subject to paragraph (7), the responsible person may also vary the rates of the infrastructure charges for any of the purposes referred to in paragraph (6).

(6) The purposes are—

- (a) reducing congestion,
- (b) minimising infrastructure damage and optimising the use of the infrastructure concerned, or
- (c) promoting road safety.

(7) Any variation of the rates of infrastructure charge made in accordance with paragraph (5) must—

- (a) be transparent and made public and available to all users on equal terms,
- (b) be applied according to the time of day, type of day, or the season,
- (c) not result in a charge more than 175% above the maximum level of the weighted average infrastructure charge,
- (d) not be designed to generate additional revenue from tolls,
- (e) ensure that peak periods during which higher infrastructure charges are applied for the purpose of reducing congestion do not exceed five hours per day, and
- (f) be devised and applied in a transparent and revenue neutral way on a road section affected by congestion by offering reduced toll rates for hauliers who travel during off-peak periods and increased rates for hauliers who travel during peak hours on the same road section.

(8) Where the responsible person introduces a variation of the infrastructure charge or changes an existing one, the responsible person must—

- (a) notify the European Commission, and
- (b) provide the European Commission with sufficient information to show that the appropriate provisions in paragraphs (6) and (7) have been complied with.

(9) For the purposes of this regulation if a variation or change of the rates of an infrastructure charge results in additional toll revenue, the responsible person must counterbalance this by

varying the rates of an infrastructure charge within two years of the end of the accounting year in which the additional revenue is generated.”.

(8) For regulation 5 (variation of rates of tolls for combating environmental damage and tackling congestion etc) substitute—

**“Variation of the external-cost charge for the purposes of air and traffic based pollution**

5.—(1) Where a road or part of a road crosses areas where persons are exposed to road traffic-based noise pollution then the responsible person may include the cost of such pollution in the external-cost charge.

(2) For the purposes of this regulation the responsible person must vary and set the external-cost charge—

- (a) in accordance with the minimum requirements and the methods specified in Annex IIIa, and
- (b) must not exceed the maximum values set out in Annex IIIb.

(3) Subject to paragraph (4) costs taken into consideration for the purposes of paragraphs (1) and (2) must relate to the part of the TERN or part of the network on which external-cost charges are to be levied and to the HGVs that are subject to it.

(4) For the purposes of paragraph (3) the responsible person may choose to recover only a percentage of those costs.

(5) The external-cost charge related to traffic-based air pollution does not apply to HGVs which comply with the EURO VI emission standard on or before 1st January 2018.

(6) The amount of the external-cost charge must be set by the appropriate national authority or a person designated by the appropriate national authority for setting an external-cost charge.

(7) Where the appropriate national authority designates a person for the purpose of setting an external-cost charge then that person must be legally and financially independent from the person or body with responsibility for the management or collection of part or all of the charge.”.

(9) Omit regulations 6 (obligation to vary rates of tolls according to emission standards of HGVs) and 7 (derogation from obligation to vary rates of tolls).

(10) In regulation 8 (power to vary rates of tolls for projects of high European interest)—

- (a) in paragraph (2) for “(3) to (7) of regulation 5 ” substitute “(7)(b), (7)(d) and (9) of regulation 4A”;
- (b) in regulation (2)(c) for “openly published” substitute “made public”.

(11) In regulation 9 (rates of user charges) for paragraphs (2) to (4) substitute—

“(2) The responsible person must ensure that—

- (a) the user charge is proportionate to the duration of the use made of the infrastructure;
- (b) the user charge does not exceed (including administrative costs) the maximum values stipulated in Annex II.

(3) Subject to paragraph (4) a user charge must be valid for either a year, month, week or day and—

- (a) the monthly rate must be no more than 10% of the annual rate,
- (b) the weekly rate must be no more than 5% of the annual rate, and
- (c) the daily rate must be no more than 2% of the annual rate.

(4) The responsible person may determine an annual rate which is the only rate applicable in relation to an HGV registered in the United Kingdom.”

(12) For regulation 10 (levying a toll or user charge in relation to all HGVs) substitute—

**“Levying tolls and user charges in relation to HGVs of 12 tonnes and over**

**10.**—(1) The appropriate national authority or operator who is not an appropriate national authority may apply tolls or user charges only to such HGVs as have a maximum permissible laden weight of not less than 12 tonnes if it considers that to levy a toll or user charge to HGVs with a maximum permissible laden weight of less than 12 tonnes would—

(a) have significant adverse effects, including but not limited to—

- (i) the free flow of traffic,
- (ii) the environment,
- (iii) noise levels,
- (iv) congestion,
- (v) health, or
- (vi) road safety due to traffic diversion,

(b) involve administrative costs of more than 30% of the additional revenue which would have been generated if the toll or user charge had been levied on such HGVs as have a maximum permissible laden weight of less than 12 tonnes.

(2) Where the appropriate national authority or operator who is not an appropriate national authority levies tolls or user charges only on such HGVs as have a maximum permissible laden weight of not less than 12 tonnes it must inform the European Commission of that decision and the reasons for it.”

(13) In regulation 12(2) for “Race Relations Act 1976” Substitute “Part 3 of the Equality Act 2010(6)”.

(14) After regulation 12 insert—

**“Prohibition of discounts or reductions for external-cost charges**

**12A.** An appropriate national authority, or an operator who is not an appropriate national authority must not provide for discounts or reductions for HGVs in relation to the external-cost charge element of a toll.”

(15) In regulation 13 (reductions and exemptions)—

- (a) in paragraph (1) for “paragraphs (3) and (4)” substitute “paragraph (3)”;
- (b) omit paragraph (4).

(16) In regulation 14 (discounts and reductions for frequent users)—

- (a) in the title for “frequent users” substitute “infrastructure charges”;
- (b) in paragraph (1)—
  - (i) for “If an operator” substitute “Subject to regulation 8, if an operator”;
  - (ii) for “a toll” substitute “an infrastructure charge”;
  - (iii) omit “used by a frequent user”;
- (c) in paragraph (2)(a)(i) for “5(3)” substitute “4A(7)”;

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(6) 2010 C.15. Part 3 deals with Services and public functions. Section 29 deals with the provision of services. The Race Relations Act 1976 was repealed by the Equality Act 2010.

- (d) in paragraph (2)(a)(iii) omit “and”;
  - (e) in paragraph (2)(a)(iv) for “toll” substitute “infrastructure charge” and omit “, and”;
  - (f) after paragraph (2)(a)(iv) insert—
    - “(v) must be associated with actual savings in administrative costs.”;
  - (g) in paragraph (2)(b)—
    - (i) omit “linear,” and
    - (ii) after “equal terms” insert “, is made public”.
- (17) In regulation 15 (arrangements for the collection of tolls and user charges)—
- (a) in paragraph (2) for “the major sales outlets, using all common means of payment” substitute “major sales outlets, using common means of payment”;
  - (b) for paragraph (5) substitute—
    - “(5) Without prejudice to the generality of paragraph (4), where an operator collects tolls or user charges exclusively by means of a vehicle on-board unit, the operator must make units that comply with the requirements of the Interoperability Directive available, under reasonable administrative and economic arrangements, to all users of the section of the infrastructure in relation to which the toll or user charge is levied.”.
  - (c) after paragraph (5) insert—
    - “(6) Where an operator levies a toll the operator must indicate in a receipt provided to the user, by electronic means wherever possible, the following details—
      - (a) the total amount of the toll, and
      - (b) the amounts, if levied, of the infrastructure charge and the amount of the external-cost charge that make up the toll.
    - (7) Where economically feasible, an operator must levy and collect the external-cost charge by means of an electronic system which complies with the requirements of Article 2(1) of the Interoperability Directive.
    - (8) In this regulation the Interoperability Directive means [Directive 2004/52/EC](#) of the European Parliament and of the Council of 29th April 2004 on the interoperability of electronic road toll systems in the Community (7).”.
- (18) For regulation 16 (levying tolls where vehicle documents unavailable) substitute—
- “**16.** Where the driver or, if appropriate, the haulier of an HGV is unable to produce the vehicle documents necessary to ascertain the EURO emission standard of the HGV in the event of a check, the operator may levy a toll at the highest rate that the operator has authority to levy.”.
- (19) In regulation 17 (information requirements where a concession toll is not involved)—
- (a) in paragraph (1) for “a tolling arrangement” substitute “an infrastructure charge tolling arrangement”;
  - (b) in paragraph 1(a) for “the date these Regulations come into force” substitute “6th October 2014”;
  - (c) in paragraphs (3), (4) and (7) insert “infrastructure charge” before “tolling arrangement”;
  - (d) in paragraph (2)(a) insert “infrastructure” after “various”;
  - (e) in paragraph (3) for “five” substitute “seven”;
  - (f) in paragraphs (4) and (7) for “four” substitute “six.”;

- (g) omit paragraphs (5) and (8);
- (h) in paragraph (6) for “a tolling arrangement” substitute “an infrastructure charge tolling arrangement”.
- (20) In regulation 18 (information requirements where a concession toll is involved)—
  - (a) in paragraphs (1) and (4) for “the tolling arrangement” substitute “an infrastructure charge tolling arrangement”;
  - (b) in paragraph (5) for “four” substitute “six”;
  - (c) omit paragraph (6).
- (21) Omit regulation 19 (tolls on parallel roads).
- (22) For regulation 20 (communication of discount and reduction schemes to the European Commission) substitute—

**“Information requirements involving an external cost-charge tolling arrangement**

**20.**—(1) Paragraphs (2) to (4) apply where the responsible person in relation to an external cost-charge tolling arrangement is not an appropriate national authority.

(2) Where this paragraph applies, the responsible person must send to the appropriate national authority the following—

- (a) precise information locating the road sections where the external cost-charge is to be levied and describing the class of vehicles, type of roads and the exact time periods according to which that charge will vary,
- (b) the envisaged weighted average external cost-charge and the envisaged total revenue,
- (c) if appropriate, the name of the responsible person designated in accordance with regulation 5(6) to set the amount of the charge, and
- (d) the parameters, data and information necessary to demonstrate how the calculation method set out in Annex IIIa will be applied.

(3) The information referred to in paragraph (2) must be sent to the appropriate national authority before the external cost-charge tolling arrangement is implemented.

(4) Where the appropriate national authority has received the information in accordance with paragraph (3), it must send the information to the European Commission before the external cost-charge tolling arrangement is implemented.

(5) Paragraph (6) applies where the responsible person in relation to an external cost-charge tolling arrangement is an appropriate national authority.

(6) Where this paragraph applies, the responsible person must send to the European Commission the information referred to in paragraphs (2)(a), (b) and (d) before the external cost-charge tolling arrangement is implemented.

(7) The appropriate national authority must adapt any proposed external cost-charge so as to conform with a decision of the European Commission made in accordance with Article 7h(4) of the 1999 Directive.”.

- (23) After regulation 20 insert—

**“Report on tolls and tolling arrangements**

**20A.**—(1) Subject to paragraph (4) where an appropriate national authority or a responsible person levies—

- (a) an external-cost charge;



- (b) an infrastructure charge; or
- (c) both an external-cost charge and an infrastructure charge,

the appropriate national authority must prepare and forward to the European Commission a report on tolls (including concession tolls) levied in its territory.

(2) The first report under this regulation must be sent to the European Commission on or before 16th October 2014.

(3) Once a report has been sent in accordance with paragraph (2), reports under this regulation must be sent to the European Commission at intervals not exceeding four years.

(4) A report submitted under this regulation may exclude tolling arrangements that were already in place on 10th June 2008 and which do not include external-cost charges, provided—

- (a) those arrangements remain in force, and
- (b) that they have not been substantially amended.

(5) For the purposes of paragraph (1) a report must contain the following information about—

- (a) the weighted average external-cost charge and the specific amounts levied for each combination of class of HGV, type of road and period of time;
- (b) the variation of infrastructure charges according to the type of HGV and time;
- (c) the weighted average infrastructure cost charge and total revenue raised through the infrastructure charge;
- (d) the level of financial support to the TEN-T in the United Kingdom relative to the revenues generated from infrastructure charges, external-cost charges or both, and
- (e) the total revenue raised through external-cost charges.”.

(24) In regulation 21(common systems for user charges)—

- (a) in the heading after “user charges” insert “or tolls”;
- (b) in paragraphs (1)(a) to (c) insert “or tolls” after “user charges”;
- (c) in paragraph (2) after “paragraph (3)” insert “or as the case may be paragraph (3A)”;
- (d) in paragraph (3) for “The conditions referred to are” substitute “For the purposes of a common system for user charges the conditions referred to are—”;
- (e) after paragraph (3) insert—

“(3A) For the purposes of a common system for tolls the system must—

- (a) comply with these Regulations insofar as they apply to tolls, and
- (b) be open to EEA States, other than the United Kingdom, to join.”.