

EXPLANATORY MEMORANDUM TO
THE ROAD VEHICLES (CONSTRUCTION AND USE) (AMENDMENT)
REGULATIONS 2014

2014 No. 264

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

2. Purpose of the instrument

2.1 This instrument amends the overriding weight restrictions in regulation 80 of the Road Vehicles (Construction and Use) Regulations 1986¹ (“C&U”) in order to bring the weight bands used to specify Vehicle Excise Duty (“VED”) in the UK into line with the weight bands setting minimum rates of VED across the EU.

2.2 The change 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 currently it can be loaded up to and including that weight. For example, a vehicle plated at 21,000kg can currently be loaded to exactly 21,000kg. In the future, it can be loaded to less than that amount, that is, approximately 20,999.99kg.

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

3.1 None.

4. Legislative Context

4.1 The HGV Road User Levy Act 2013 (“the 2013 Act”) introduces a levy for using or keeping a heavy goods vehicle (“HGV”) of 12 tonnes (12,000 kg) or more on public roads in the UK (“the levy”). The amount of the levy is set out in Schedule 1 of the 2013 Act and determined in accordance with the weight and number of axles of the vehicle. The levy applies equally to UK and non-UK registered vehicles.

4.2 Article 6 of Directive 1999/62/EC² (“the Directive”) prohibits Member States from charging VED at lower rates than set out in Annex I of the Directive, which provides the minimum amounts of VED for vehicles according to their weight in bands. The band limits in Annex I start at “not less than” a specified weight and end at “less than” a greater specified weight.

¹ S.I. 1986/1078; relevant amending instruments are S.I. 1997/1096 and 1994/329.

² Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures (OJ L187, 20.7.1999, p.42) as amended by Directives 2006/38/EC, 2006/103/EC, 2011/76/EU and 2013/22/EU.

4.3 The band limits for VED in the UK are set out in Schedule 1 to the Vehicle Excise and Registration Act 1994³ (“the 1994 Act”) and the band limits start at “exceeding” a specified weight and end at “not exceeding” a greater specified weight.

4.4 The amendment to regulation 80 of C&U means that an HGV will be committing an offence if it equals or exceeds its plated weight rather than if it exceeds its plated weight. This minor technical amendment will bring the EU and UK band limits into line with each other.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

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

- What is being done and why

7.1 It is a key part of the policy for the levy that, where possible, UK registered vehicles paying the levy and VED pay no more than they currently pay in VED alone. However, Article 6 of the Directive prohibits Member States from charging VED at lower rates than set out in Annex I of the Directive, which provides the minimum amounts of VED for vehicles according to their weight in bands. A difference in the way that the band limits for VED are set in the Directive, when compared with the way they are set in Schedule 1 to the 1994 Act, has created a technical difficulty for vehicles whose maximum gross plated weight is 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.

7.2 As a result of the way VED bands are set in the UK, vehicles tend to be plated voluntarily at the top of their respective bands as there is no incentive for them to do otherwise. For example, a three-axle vehicle plated at exactly 21,000kg will fall into VED band B* in the UK, where the top of the VED weight range is "not exceeding 21,000kg". The amount of VED paid is currently £200 per year⁴. Under the Directive the same vehicle will fall within the band spanning "not less than 21,000kg" to "less than 23,000kg", which sets a minimum VED rate of €222 (using an illustrative exchange rate (on 26th November 2013) of £1=€1.19 this is £187).

³ 1994 c.22 as amended by the Finance Acts of 1995, 1996, 1998, 2000, 2001, 2005 and 2011.

⁴V149 Rates of Taxes, DVLA:

http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/@motor/documents/digitalasset/dg_067081.pdf

7.3 To accommodate and offset the cost of the new HGV Levy for most UK vehicles VED needs to be reduced to, in some cases, its minimum as set out in Annex I of the Directive. The amendments made by these Regulations in conjunction with amendments made to the 1994 Act will mean that UK vehicles whose plated weight is on a band limit as described above will fall into a lower band in the Directive, enabling VED to be reduced by a greater amount.

7.4 Using the example above, in future the three-axle vehicle plated at exactly 21,000kg cannot be used on a road legally if it equals that weight. It will still be taxed at VED band B*, but as far as the Directive is concerned, it will be within the band from "not less than 19,000kg" to "less than 21,000kg". The Directive specifies a lower minimum rate for this band of €144 (approximately £121) and enabling VED to be lowered further.

7.5 There is likely to be no impact in practice. The difference between a vehicle weight of exactly 21,000kg and just less than 21,000kg is infinitesimally small. When it comes to enforcement of the weight limit, detecting a difference of a fraction of a gram is significantly below the margin of tolerance for the devices that weigh HGVs, meaning that there will be no practical impact.

7.6 The alternative option considered by officials was to reduce the maximum gross weight on the Ministry plate of each vehicle affected by the discrepancies between EU and UK band limits. This option was rejected because it would be administratively burdensome and costly for both the Department and industry.

- Consolidation

7.7 The Department has no current plans to consolidate the instrument amended by this Order, and does not consider it would be proportionate to do so now.

8. Consultation outcome

8.1 The Department for Transport conducted a 6-week consultation from the 26th September 2013 to 7th November 2013. The consultation sought the views of interested parties including individuals, trade associations, and other motoring and freight organisations on the instruments relating to the HGV Road User Levy Act 2013.

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

9. Guidance

9.1 None required.

10. Impact

10.1 An impact assessment has not been produced for this instrument. There will be no impact on businesses (including small businesses).

11. Regulating small business

11.1 The legislation applies to all vehicles fitted, or required to be fitted, with a plate or for which a plating certificate has been issued. However, as stated above, there will not be any practical impact on businesses, including small businesses.

12. Monitoring & review

12.1 The Department will continue to liaise with stakeholders from time to time to discuss the implementation of the overriding weight restrictions, and the impact (if any) that they are having on operators and owners.

13. Contact

13.1 Peter Steele at the Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR Tel: 020 7944 8177 or email: HGVCharging@dft.gsi.gov.uk can answer queries regarding this instrument or the policy area.