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Convener of Net Zero, Energy and Transport
Committee
Scottish Parliament
Edinburgh
EH99 1SP

Copied to UKSIs@parliament.scot

18 October 2023

Dear Convener,

The Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) (Revocation and Consequential Amendments) Regulations 2023
EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the final SI and they are not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

Revocation of the HGV Regulations would not negatively impact Scotland's alignment with the EU on outcomes. If Ministers wish to consider the introduction of a devolved road user charging scheme in future, they could look at the possibility of applying EU requirements on road charges similar to those in the HGV Regulations, if need be.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.
I look forward to hearing from you by 24 November 2023.

Yours sincerely

FIONA HYSLOP

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NOTIFICATION TO THE SCOTTISH PARLIAMENT

Name of the SI(s) (if known) or a title describing the policy area

The Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) (Revocation and Consequential Amendments) Regulations 2023.

Is the notification Type 1 or Type 2

Type 1

A brief overview of the SI (including reserved provision)

The Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) (Revocation and Consequential Amendments) Regulations 2023 (“the Regulations”) are included in the UK SI programme which forms part of the UK Government’s implementation of the Retained EU Law (Revocation and Reform) Act 2023 (“REUL Act”).

The Regulations will:

- revoke the Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) Regulations 2009 (“the HGV Regulations”),
- revoke the Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) (Amendment) Regulations 2014,
- make minor amendments to a number of other instruments in consequence of those revocations.

The HGV Regulations implemented a Directive 1999/62/EC relating to tolls and charges for lorries using parts of the Trans-European Road network in the UK. The HGV Regulations do not require the levy of tolls or road charging for HGVs, but when charging is implemented, the Regulations place requirements on the calculation of tolls and user charges, the levying and collection of them, and limits on the maximum charges. The HGV Regulations applied only to roads forming part of the trans-European road network, which mainly comprised of motorways and a small number of strategic local roads. Following EU exit, the UK is no longer part of the trans-European road network.

The Regulations in principle relate to both reserved and devolved matters. So far as they apply to devolved road charging and tolling schemes (including local road user charging schemes, so far as local roads formed part of the trans-European road network) they are devolved, but they also make provision in relation to reserved levies, including the HGV levy.

The Scottish Ministers are of the view that revocation of the HGV Regulations would not negatively impact Scotland’s alignment with the EU on outcomes. If the Scottish Ministers were to consider the introduction of a devolved road user charging scheme in future, this would be the point at which alignment with the EU approach would be pertinent and would need to be considered.

The Regulations are proposed to be made under sections 14(1) and 20(1)(b) of the Retained EU Law (Revocation and Reform) Act 2023.

The Regulations are planned to be laid in mid-December 2023.

Details of the provisions that Scottish Ministers are being asked to consent to.

The Scottish Ministers are being asked to consent to revocation of the HGV Regulations in so far as they apply to devolved road charging and tolling schemes and to associated minor consequential amendments.

It is more practical and efficient for the Regulations to be made on a UK wide basis as the instruments being revoked and amended contain a mix of reserved and devolved provisions.

Does the SI relate to a common framework or other scheme?

No

Summary of stakeholder engagement/consultation

The UK Government has consulted with all devolved administrations and has continued to engage with TS over the SI.

A note of other impact assessments, (if available)

The UK Government has not undertaken a full impact assessment on the basis that no significant impact is foreseen on the private, voluntary or public sector.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The Regulations will have no immediate practical impact given that there are no devolved tolls or charges currently in place in Scotland. Following EU exit, the UK is no longer part of the trans-European road network. The Regulations in principle relate to both reserved and devolved matters.

Scottish Ministers consider that consenting to the Regulations is the most effective way for the revocations and amendments to be implemented, as well as a proportionate and sensible use of parliamentary time.

In the event tolls or charging scheme were to be introduced in Scotland, at the Scottish Ministers may consider the application of EU requirements on road charges similar to those in the HGV Regulations if required.

Intended laying date (if known) of instruments likely to arise

UK Government intends to lay the SI in mid-December 2023.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

N/A

Information about any time dependency associated with the proposal

N/A

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

No

Any significant financial implications?

There are no significant financial implications.

SI NOTIFICATION: SUMMARY

Title of Instrument
The Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) (Revocation and Consequential Amendments) Regulations 2023
Proposed laying date at Westminster
Mid-December 2023
Date by which Committee has been asked to respond
24 November 2023
Power(s) under which SI is to be made
The 2023 Regulations are made under sections 14(1) and 20(1)(b) of the Retained EU Law (Revocation and Reform) Act 2023.
Categorisation under SI Protocol
Type 1
Purpose
<p>The HGV Regulations implemented Directive 1999/62/EC relating to tolls and charges for lorries using parts of the Trans-European Road network in the UK. Following EU exit, the UK is no longer part of the trans-European road network. This instrument therefore revokes the HGV Regulations. It also contains consequential amendments to The Treaty of Lisbon (Changes in Terminology or Numbering) Order 2012, to The Public Procurement (Amendments, Repeals and Revocations) Regulations 2016 and to The Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) (Amendment) (EU Exit) Regulations 2018.</p> <p>There are no immediate practical impacts of revocation given that there are no devolved tolls or charges currently in place in Scotland. This change has been considered from the perspective of the Scottish Ministers' policy to maintain EU alignment where possible and in our interest. In the event tolls or charging scheme were to be introduced in Scotland, could the Scottish Ministers may consider the application of EU requirements on road charges similar to those in the 2009 HGV Regulations if required.</p>
Other information
N/A
SG Policy contact:
Oi Hang Chu