

EXPLANATORY MEMORANDUM TO
THE EUROPEAN COMMUNITIES (DESIGNATION) (No 2) ORDER 2009

2009 No. 707

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

This Order designates the Secretary of State and the Welsh Ministers so that they may exercise the powers conferred by section 2(2) of the European Communities Act 1972 (“section 2(2)”) in relation to charges (including tolls) on vehicles.

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

None.

4. Legislative Context

4.1 Section 2(2) confers a power which may be exercised by a designated Minister or government department.

4.2 A designated Minister or government department can make provision by order, rules, regulations, or scheme for the purpose of enabling a Community right to be exercised or implementing a Community obligation (or to deal with matters arising out of or related to any such obligation) in relation to the subject matter of the designation.

4.3 Directive 1999/62/EC of the European Parliament and of the Council on the charging of heavy goods vehicles for the use of certain infrastructures (“the Eurovignette Directive”)¹ is intended to eliminate distortions of competition between transport undertakings in the Member States, by at least a partial harmonisation of the way that infrastructure costs are charged to hauliers.

4.4 The Eurovignette Directive has been significantly amended by Directive 2006/38/EC of the European Parliament and of the Council.²

4.5 Primary legislation relating to the administration of charges (including tolls) on vehicles is contained in, *inter alia*, The New Roads and Street Works Act 1991 (“the 1991 Act”).³

¹ OJ L 187, 20.7.1999 p.42. A copy of Directive 1999/62/EC can be accessed via the following link:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:187:0042:0050:EN:PDF>

² OJ L 157, 9.6.2006, p.8.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:157:0008:0023:EN:PDF>

³ 1991 c.22

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom (although territorial restrictions on designations of the Welsh Ministers appear in article 4 of the Order).

6. European Convention on Human Rights

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

7. Policy Background

7.1 The Secretary of State proposes to make legislation under section 2(2) in the near future to implement amendments to the Eurovignette Directive made by Directive 2006/38/EC. Accordingly, this Order designates the Secretary of State and the Welsh Ministers in relation to charges (including tolls) on vehicles.

7.2 In order for the Eurovignette Directive to be implemented, it is necessary for primary legislation controlling the administration of charges on vehicles, including provisions of the 1991 Act, to be amended.

8. Consultation outcome

As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no consultation was carried out.

9. Guidance

As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no guidance has been prepared in relation to it.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it is an enabling instrument and in itself has no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

11. Regulating small business

The Order does not apply to small business.

12. Monitoring & review

12.1 The designations in this and similar Orders are intended to identify clearly the subject areas in relation to which a Minister or government department is designated.

12.2 The designations contained in this Order will be subject to review before any further designations are made in relation to related subject areas, with this end in mind.

13. Contact

Les Saunders at Cabinet Office European Secretariat, Tel: 020 7276 0190 or email Les.Saunders@cabinet-office.x.gsi.gov.uk, can answer any queries regarding the instrument.

Cabinet Office
European and Global Issues Secretariat
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