EXPLANATORY MEMORANDUM TO

THE CAR FUEL BENEFIT ORDER 2011

2011 No. 895

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) on behalf of Her Majesty's Treasury and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 With effect from 6 April 2011, this instrument increases the multiplier, the figure in section 150(1) of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) used to calculate the cash equivalent of the benefit of car fuel received by an employee, from £18,000 to £18,800.

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

3.1 The instrument implements an uprating measure announced as part of the Budget. As a matter of policy uprating measures are not pre-announced before the Budget. The uprating measures, generally, are to take effect from 6 April 2011, the beginning of the next tax year after the Budget to ensure that the maximum number of businesses will benefit from the changes. This instrument must be made before the tax year for which it is to take effect and it therefore comes into force on 1 April, the start of the first month after the Budget. Consequently, it was not possible to lay this instrument before the House of Commons 21 days before commencement.

4. Legislative Context

4.1 This Order is made by Her Majesty's Treasury under section 170(5) and (6) ITEPA.

4.2 Where an employee to whom the car benefit charge applies receives fuel which is available for private use without charge from their employer or otherwise by reason of their employment, there is a chargeable benefit in kind generally known as the fuel benefit charge (see section 149 ITEPA for cars).

4.3 For cars, the cash equivalent of the benefit (needed to determine income tax assessable on the individual and the level of Class 1A National Insurance Contributions (NICs) payable by the employer) is calculated by applying the appropriate percentage (normally based on the car's CO_2 emissions) to a notional annual value (the multiplier) for the fuel.

4.4 This instrument increases the multiplier in respect of fuel for cars from £18,000 to £18,800 with effect from 6 April 2011.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Economic Secretary has made the following statement regarding Human Rights:

In my view the provisions of the Car Fuel Benefit Order 2011 are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 The changes are consistent with the broader environmental narrative of encouraging a transition to lower-carbon transport by incentivising through tax changes the uptake and use of lower-emitting company cars.

7.2 The current system for valuing the benefit for cars from free fuel, based on the multiplier and the appropriate percentage was introduced by section 34 of the Finance Act 2002. This replaced previous fuel scale charges. The multiplier was originally set at £14,000 for the years 2003-04 to 2007-08 and increased to £16,900 for the years 2008-09 to 2009-10, with a further increase to £18,000 for the 2010-11 tax year. The benefit charge reflects a notional value for the fuel received.

7.3 Budget 2008 announced that in future the car fuel benefit charge multiplier would increase at least in line with inflation each year and the Government has agreed to continue this policy approach. Increasing the car fuel benefit charge multiplier will strengthen the disincentive to unnecessary driving. Employees who do not wish to pay this charge can simply opt out of receiving free fuel and instead buy their own fuel. There are existing provisions for reclaiming the cost of business mileage in company cars.

7.4 The Government announced the changes for the 2011-12 tax year in the 2011 Budget Report. This Order gives effect to that announcement.

8. Consultation outcome

8.1 Consultation was not appropriate.

9. Guidance

9.1 The change was announced at Budget and the relevant HMRC guidance will be amended in line with this Order.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 No impact on the public sector is foreseen.

10.3 In line with government commitments, a Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy and relates to routine changes to rates to a predetermined indexation formula.

11. Regulating small business

11.1 The legislation applies to small business. However, we are satisfied that the regular contact we have with industry groups includes representatives of small business. There is no indication that they would have any difficulty in implementing the change, which will be implemented by a change of employee tax code notified to employers.

12. Monitoring and Review

12.1 This policy will be monitored and assessed alongside other measures in the Government's package of personal tax and benefits changes.

13. Contact

Mrs Su McLean-Tooke at HMRC Tel: 020 7147 2665 or email: susan.mclean-tooke@hmrc.gsi.gov.uk can answer any queries regarding this instrument.