

**EXPLANATORY MEMORANDUM TO**  
**THE AIRCRAFT OPERATORS (ACCOUNTS AND RECORDS) (AMENDMENT)**  
**REGULATIONS 2012**

**2012 No. 3020**

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty

**2. Purpose of the instrument**

2.1 This instrument amends the Aircraft Operators (Accounts and Records) Regulations 1994 (S.I. 1994/1737) (“the principal Regulations”).

2.2 The Finance Act 2012 introduced provisions to devolve to the Northern Ireland Assembly (“NIA”) rate setting powers for direct long haul flights (destinations more than 2000 miles from London) taking off from Northern Ireland. It also introduced a new higher rate of duty to be applied to certain aircraft considered to provide an enhanced service and level of comfort to their passengers. This instrument amends the particulars specified in the principal Regulations that an aircraft operator has to keep in relation to the number of passengers carried at each duty rate.

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

3.1 None.

**4. Legislative Context**

4.1 Air passenger duty (“APD”) was introduced by the Finance Act 1994 and, for the purposes of determining the rate of duty charged, there are currently four destination bands.

4.2 Under the Finance Act 2012 APD is being reformed. With effect from the relevant day, the power to set rates for direct long haul flights departing from Northern Ireland will be devolved to the NIA. Additionally the Act provides for the introduction of a new higher rate to be applied to flights made by certain aircraft from 1 April 2013. These aircraft are defined as being of an authorised take off weight of 20 tonnes or more, equipped to carry less than 19 passengers.

4.3 Regulation 4 and Schedule 1 to the principal Regulations require aircraft operators to keep an APD account containing particulars of the number of passengers carried and the chargeable rates applicable. This instrument amends the details required to be kept in the APD account to take into account the new higher rate and any new rates set by the NIA.

**5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom.

## **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 The liability to pay APD lies with aircraft operators. APD is a self assessed tax, and registered operators are required to calculate, declare and account for the tax due on a monthly basis, on the APD return.

7.2 As part of their record keeping obligations and in order to provide assurance that the tax has been calculated and declared correctly, aircraft operators are required to maintain an APD account. This APD account contains the particulars of the number of passengers carried at each chargeable rate, and forms part of the audit trail supporting the declarations on the APD return.

7.3 APD currently has eight chargeable rates (four destination bands with two classes of travel in each). Legislation introducing the new higher rate and devolving the powers to set rates for direct long haul flights departing from airports in Northern Ireland contained in the Finance Act 2012 increases the number of chargeable rates that can be applied to passengers.

7.4 This instrument amends the record keeping requirements of APD registered operators, to bring them in line with the new rate structure.

- *Consolidation*

7.5 There are currently no plans to consolidate the principal Regulations.

## **8. Consultation outcome**

This is a consequential amendment as a result of changes in primary legislation. No consultation on this consequential change was conducted.

## **9. Guidance**

Guidance on the changes being made to the APD account will be included in the HMRC Public Notice 550, Air passenger duty.

## **10. Impact**

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

10.2 The impact on the public sector is negligible.

10.3 Tax Information and Impact Notes were published on 6 December and 21 February alongside draft clauses of the Finance Bill 2012 and is available on the HMRC website at <http://www.hmrc.gov.uk/tiin/tiin708.pdf> and <http://www.hmrc.gov.uk/tiin/apd-ni-devolution.pdf>. They remain accurate summaries of the impacts that apply to this instrument.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to make only the minimum changes required by the amendments to primary legislation.

11.3 The basis for the final decision on what action to take to assist small business was that no additional regulatory requirement other than that which is necessary is to be introduced.

11.4 APD makes allowances for small businesses, with a de minimis exemption for flights made in aircraft of less than 5.7 tonnes. HMRC do not expect small businesses that do pay APD to be disadvantaged by the changes relative to larger airlines, as in general they are less likely to operate the direct long haul flights affected by the changes.

## **12. Monitoring & review**

HMRC will work with both the industry and the Northern Ireland Executive to ensure effective monitoring of the wider impact of the policy to devolve direct long haul rates and it would be appropriate to review this instrument as part of this process.

## **13. Contact**

Wing Edmundson at the Transport Taxes Team, HMRC Tel: 0207 147 0410 or email: [wing.edmundson@hmrc.gsi.gov.uk](mailto:wing.edmundson@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.