

EXPLANATORY MEMORANDUM TO

THE VAN BENEFIT AND CAR AND VAN FUEL BENEFIT ORDER 2022

2022 No. 1288

1. Introduction

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

2. Purpose of the instrument

- 2.1 Where an employer either provides fuel which is used for private mileage in a company car or van or provides a van which is used for private mileage, such benefits are taxable. The amount on which tax is charged is updated by legislation each year, and the purpose of this instrument is to make certain changes as outlined in section 6 below which will have effect from 6 April 2023.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is United Kingdom.

5. European Convention on Human Rights

- 5.1 James Cartlidge MP, Exchequer Secretary to the Treasury has made the following statement regarding Human Rights:

“In my view the provisions of the Van Benefit and Car and Van Fuel Benefit Order 2022 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 This instrument is made by His Majesty's Treasury under the order making power provided in section 170(1A) (c), (2), (5) and (6) of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA).

Van benefit charge

- 6.2 Where an employee is provided with a van by reason of their employment and the employee uses the van for private use, there is a chargeable benefit in kind generally known as the van benefit charge. The charge does not apply if, for practical purposes, the van is used substantially for ordinary commuting and business travel, provided that any other private use is insignificant.

- 6.3 The cash equivalent of the benefit is a flat-rate figure to which the individual's marginal rate of tax is applied. The cash equivalent for a Zero-emission van is, and will remain, nil.
- 6.4 The current system for valuing the benefit to employers for a van made available for private use was introduced by section 80 of, and paragraphs 1 and 5 of Schedule 14 to, the Finance Act 2004.
- 6.5 This instrument provides for an annual uprating of the van benefit charge by amending section 155(1B)(b) of ITEPA with effect from 6 April 2023. The flat-rate figure which represents the cash equivalent of the benefit of a van provided to an employee will increase from £3,600 to £3,960.

Car and van fuel benefit charge

- 6.6 Where an employee, to whom the car or van benefit charge applies, receives fuel from their employer or otherwise by reason of their employment, there is a taxable benefit in kind generally known as the fuel benefit charge. If the whole of the cost of fuel used for the employee's private use is made good in full in the relevant tax year, the fuel benefit charge is reduced to nil.
- 6.7 For cars, the cash equivalent of the fuel benefit charge is calculated by applying the appropriate percentage (normally based on the car's CO₂ emissions) to a notional annual value (the multiplier) for the fuel made available for private use. This calculation was introduced by section 34 of the Finance Act 2002 and replaced previous fuel scale charges.
- 6.8 For vans, the cash equivalent of the fuel benefit charge is a flat-rate figure. The provision of a fixed sum for valuing the benefit of fuel provided by an employer for private use in a van subject to the van benefit charge was introduced by section 80 of, and paragraphs 1 and 5 of Schedule 14 to, the Finance Act 2004.
- 6.9 This instrument provides for an annual uprating of the fuel benefit charges in line with inflation by amending sections 150(1) and 161(b) of ITEPA with effect from 6 April 2023. The notional annual value (multiplier), which is used in combination with the appropriate percentage to calculate the cash equivalent of the benefit of car fuel for private use provided to an employee with a company car, will increase from £25,300 to £27,800. The flat-rate figure which represents the cash equivalent of the benefit of fuel provided for private use in a van will increase from £688 to £757.

7. Policy background

What is being done and why?

- 7.1 The government announced at Autumn Statement 2022 that the van benefit charge and car and van fuel benefit charges would be increased in line with inflation based on the consumer prices index for September 2022. The Statutory Instrument that accompanies this Explanatory Memorandum implements that commitment.

Van benefit charge

- 7.2 The charges are consistent with the government's broader environmental objective of encouraging a transition to lower-carbon transport, by incentivising the use of zero emission vans. The charges are also consistent with the government's broader objective of ensuring that those who use company vans for private use purposes make a fair contribution to the public finances.

- 7.3 Increasing the van benefit charge will maintain the current policy of uprating in line with inflation.

Car and van fuel benefit charges

- 7.4 Employees who do not wish to pay this charge can opt out of receiving free fuel for private use and instead buy their own fuel, or make good in full the cost of fuel provided by the employer for private use. There are also existing provisions for reclaiming the cost of business travel in company cars. The changes are consistent with the government's broader environmental objective of encouraging a transition to lower-carbon transport, by using tax changes to incentivise the use of lower-carbon emitting company cars and vans. The changes are also consistent with the government's broader objective of ensuring that those who use company cars and vans for private purposes make a fair contribution to the public finances.
- 7.5 Approximately 150,000 individuals are likely to be affected by the increase in the car and van fuel benefit charge in line with inflation. Approximately 100,000 individuals are likely to be affected by the increase in the van benefit charge in line with inflation.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 No consolidation is being done.

10. Consultation outcome

- 10.1 Consultation was not appropriate as this is an uprating measure. Changes were expected and the government does not consult on the amount of tax increases.

11. Guidance

- 11.1 The changes were announced at Autumn Statement 2022 and the relevant HMRC guidance will be amended in line with this order. Guidance can be found at: www.gov.uk/government/collections/expenses-and-benefits-for-directors-and-employees-a-tax-guide-480.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise the impact of the requirements on small businesses (employing up to 50 people).
- 13.3 The basis for the final decision on what action to take to assist small businesses is that there are not expected to be any on-going costs. Businesses will need to update their

systems to reflect the new figures for calculating the van benefit charge and the car and van fuel benefit charges. However, this measure is expected to have a negligible impact on businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is to review as appropriate within the context of the wider tax framework.
- 14.2 The regulation does not include a statutory review clause because of a tax exemption in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 J Chaplin at HMRC Email: policyemploymentbenefitsexpenses@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Jackie McGeehan, Deputy Director for Income Tax Policy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 James Cartlidge MP, Exchequer Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.