



# **HGV Road User Levy Bill: Committee Stage Report**

**Bill 77 of 2012-13**

**RESEARCH PAPER 13/02** 11 January 2013

This Bill would provide for the introduction of an HGV road user levy from April 2014.

The levy would apply to both foreign- and UK-registered hauliers with vehicles weighing more than 12 tonnes. The maximum daily charge would be the equivalent of €11 (subject to change) and would be set in accordance with Vehicle Excise Duty bands. UK hauliers would receive an offset in their VED so that they would be, by and large, no better or worse off from the implementation of the levy. It would be an offence not to pay the levy, for which the maximum fine would be £5,000. The levy is expected to raise in the region of £80 million in total between 2013/14 and 2017/18. All monies raised would go into the Consolidated Fund.

It passed unamended through Commons Committee stage.

Louise Butcher

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## Research Paper 13/02

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## Summary

This is a report on the Public Bill Committee Stage of the *HGV Road User Levy Bill*. It is designed to complement research paper [RP12/62](#), which covers in more detail the background to the Bill.

The provisions that were subject to most debate during Second Reading and Committee stage were: enforcement (in particular UK hauliers being confident that foreign hauliers are paying the levy when there is no visible evidence of having done so on their vehicles – e.g with the display of a disc); hypothecating the proceeds of the levy for road transport (and specifically road haulage) purposes; the operation of the scheme along the Northern Ireland-Republic of Ireland border; and the operation of the rebates for UK hauliers via the Vehicle Excise Duty (VED) system, which will not be introduced in this Bill but in the *Finance Bill 2014*.

No amendments were made.

## 1 Introduction

The UK road haulage sector is facing many pressures – from high fuel prices to competition from European hauliers. It is in this context that successive governments have looked at levelling the playing field for UK hauliers whose competitors can refuel across the Channel (where in general the level of fuel duties paid is lower than in the UK) and who do not pay UK road taxes, which go towards the maintenance and improvement of the road network.

One of the solutions most often put forward by the industry is some sort of road user charge or levy whereby foreign hauliers would be required to pay a charge for the use of UK roads. While UK hauliers would be required to pay the same charge, this would be balanced by a reduction in domestic taxes such as Vehicle Excise Duty (VED). Any scheme would have to comply with the complex rules set out at a European level in the Eurovignette Directive, as amended.

The last Conservative Government looked at this and the previous Labour Government even put some framework legislation on the statute book, but neither of them introduced a scheme.

The Coalition Government consulted on the introduction of a scheme in January 2012. This Bill takes forward the proposals in that consultation. It would provide for the introduction of an HGV road user levy from April 2014, the details of which would be as follows:

- the levy would apply to both foreign and UK-registered hauliers with vehicles weighing more than 12 tonnes;
- the maximum daily charge would be the equivalent of €11 (subject to change) and would be set in accordance with Vehicle Excise Duty bands;
- UK hauliers would receive an offset in their VED so that they would be, by and large, no better or worse off from the implementation of the levy;
- it would be an offence not to pay the levy, for which the maximum fine would be £5,000.

The levy is expected to raise in the region of £80 million in total between 2013/14 and 2017/18. All monies raised would go into the Consolidated Fund.

The scheme would extend to the whole of the UK.

**Clauses 1-4** are broadly administrative measures: they introduce the requirement for all HGVs that are kept or used on a UK road to pay a levy (**clause 1**); define an HGV, or 'heavy goods vehicle' as one which weighs more than 12 tonnes or is a 'heavy motor car' as defined in legislation (**clause 2**); provide that the levy will apply to all public roads in the UK, with a power for the Minister to vary exemptions by Order (**clause 3**); and provide for those who are liable to pay the levy (**clause 4**). The Government estimates that the overwhelming majority of UK hauliers will see no negative impact from the charge. A relatively small number may see their costs rise slightly.

**Clauses 5 and 6** and **Schedule 1** set out the amount of levy to be paid and the way in which it must be paid. The amount to be paid varies by type and weight of vehicle. There are 11 bands, for which the daily rate varies between £1.70 and £10, and the annual rate varies between £85 and £1,000. Based on a start date of April 2014, the Government estimates that the levy would raise net revenue of between £69.8 million and £90.3 million over the period 2013/14 to 2017/18. The central estimate is £80 million. This includes a loss in the first year

of operation. Set up costs are estimated at between £3 million and £6.7 million, with annual administration and enforcement costs of between £3 million and £4.8 million.

**Clause 7** provides that a rebate may be given after the levy has been paid for more than one month, in cases where a vehicle has been stolen, destroyed or is no longer used in the UK. The calculation for providing the amount of rebate is given in **clauses 7(3) and 7(4)**.

**Clause 8** exempts from the levy rigid goods vehicles charged to VED at the basic goods vehicle rate and vehicles under trade licences (i.e. vehicles temporarily owned by motor traders in the course of their business).

**Clause 9** would provide the powers necessary to collect the levy; they are the same as the collection powers given to HM Revenue & Customs (HMRC) for other purposes.

**Clauses 10-13** provide for an enforcement regime for the levy. Clause 10 would give 'stopping officers' the power to stop vehicles that appear to be HGVs in order to enforce the levy; **clause 11** would create a new offence of using or keeping an HGV for which the levy has not been paid; **clause 12** and **Schedule 2** set out the legal proceedings following the committal of an offence under clause 11; and **clause 13** provides for the offence under clause 11 to be a fixed penalty offence. Under these clauses the offence of using or keeping a relevant vehicle for which the levy has not been paid would be subject to a maximum fine of £5,000 (level 5 on the standard scale), if found guilty on summary conviction.

**Clause 14** provides for the setting up of a register of levy payments, detailing the registration of all vehicles that have paid the levy and the length of time for which the levy has been paid. This would be publically available on a website.

**Clause 15** would allow the Secretary of State to refuse to issue a VED licence (tax disc) for any vehicle for which the levy has not been paid.

**Clause 16** would allow highway authorities to install equipment for the detection of non-payment of the levy.

**Clause 17** would give the Secretary of State a general power to make regulations for the purposes of implementing the provisions of the Bill. Any regulations made under this clause would be subject to the negative resolution procedure.

**Clauses 18-22** are general administrative provisions.

## 2 Second Reading debate

The Commons Second Reading debate on the *HGV Road User Levy Bill* took place on 20 November 2012. As the Bill is subject to a Ways and Means resolution there had been a substantial debate on its main points on 23 October. Many of the points raised in the Ways and means debate were returned to at Second Reading.<sup>1</sup>

The Secretary of State for Transport, Patrick McLoughlin, introduced the Bill as a means of helping to redress the balance between UK and foreign hauliers. He recounted the unfairness for UK hauliers who have to pay road tolls and charges when they visit many countries in Europe. The levy provided for in the Bill would 'correct the imbalance' existing at present.<sup>2</sup> Mr McLoughlin was asked about other disadvantages faced by UK hauliers such as the cheaper fuel available on the continent. He said that "Under this Bill, we will at least

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<sup>1</sup> information on the Ways and Means resolution and the subsequent debate can be found in section 2.1 of HC Library research paper [RP12/62](#)

<sup>2</sup> [HC Deb 20 November 2012, c478](#)

charge [foreign hauliers] something to use British roads—at the moment, they pay absolutely nothing. Although I am not saying that this is the entire answer, we are moving in the right direction”.<sup>3</sup>

The Shadow Transport Minister, Jim Fitzpatrick, made only a few comments as he had made a substantial contribution to the Ways and Means debate the previous month. He welcomed the Bill and indicated it would have broad bipartisan support.<sup>4</sup> The Chairman of the Transport Select Committee, Louise Ellman, also welcomed the Bill. She asked for clarification on how the impact of the legislation and the cost for UK hauliers would be monitored; whether the agencies charged with implementing and enforcing the scheme (DVLA and VOSA) would have sufficient resources to do their job properly; and whether the debts of overseas hauliers could be collected in view of the Government’s decision not to sign an EU cross-border agreement on enforcing debt.<sup>5</sup>

On the final point about enforcement and the consequences of not signing the EU cross-border enforcement directive, the Minister for Transport, Stephen Hammond, said: “Let me make it clear that the cross-border enforcement directive is only about data exchange ... there is therefore no question of enforcement being hindered by our not being involved in the directive. Outstanding fines and penalties can be pursued even if they are not in the directive”.<sup>6</sup>

### 3 Public Bill Committee stage

The Members sitting on the Committee are listed on the [Parliament website](#). They included the Minister, Stephen Hammond, and the Shadow Minister, Jim Fitzpatrick.

The Committee received three written memoranda and took oral evidence from 16 witnesses representing the freight industry and road transport associations; the Minister, Stephen Hammond, and officials from the Department for Transport and VOSA.<sup>7</sup>

The examination of witnesses by the Committee reflected those concerns which arose during earlier scrutiny of the Bill. In particular, witnesses were questioned extensively about:

- enforcement (in particular UK hauliers being confident that foreign hauliers are paying the levy when there is no visible evidence of having done so on their vehicles – e.g with the display of a disc);
- hypothecating the proceeds of the levy for road transport (and specifically road haulage) purposes; and
- the operation of the rebates for UK hauliers via the Vehicle Excise Duty (VED) system, which will not be introduced in this Bill but in the *Finance Bill 2014*.<sup>8</sup>

The Opposition tabled seven amendments, none of which were pressed to the vote. There were no amendments made to the Bill in Committee. Mr Fitzpatrick’s amendments and the Minister’s responses to them are set out below.

Amendment 1 to Clause 3 was intended to probe the meaning of subsection 2, i.e. **the power of the Minister to either disapply the scheme to certain roads (a specific**

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<sup>3</sup> *ibid.*, c478

<sup>4</sup> *ibid.*, c483

<sup>5</sup> *ibid.*, c484

<sup>6</sup> *ibid.*, c496

<sup>7</sup> memoranda available to view on the [Parliament website](#) [accessed 2 January 2013]

<sup>8</sup> [PBC Deb 4 December 2012, cc1-62](#) (1<sup>st</sup> and 2<sup>nd</sup> sittings)



**exemption) or to apply it to specific roads only (a general exemption).** Mr Fitzpatrick asked why the wording was necessary. Mr Hammond replied that the phrasing was designed to allow flexibility in the event that other legislation arose in the future, for example:

... having the clause written in such a way ensures that we can overcome any issues that there may be with all the devolved Administrations. Under the terms of the Eurovignette, HGVs cannot be charged twice for using the same road, with exemptions for tunnels, estuarial crossings and congestion-charging schemes. The Welsh Government in particular were concerned that a HGV road user levy might prevent them from introducing any other road user charges for HGVs over 12 tonnes. I have given Welsh Ministers the reassurance that the Bill does not seek to encroach on their powers and that, should they wish to introduce any tolls or road charges in future, we would use the powers in subsection (2) to assist them. That might also be needed if there were powers to put tolls on new road capacity in England, such as a significantly enhanced A14. It might therefore become important and necessary to use the powers here to exempt people from double charging. That is the legislation's purpose.<sup>9</sup>

Amendment 2 to clause 4 was intended to clarify **who would be ultimately liable for the payment of the levy.** The Committee struggled to establish the difference between the person by whom a vehicle is kept and the registered keeper of a vehicle – both of whom are liable to pay the levy under clause 4. The Minister clarified the position:

the registered owner and the registered operator of the vehicle can be liable to pay the levy, and, as the hon. Lady rightly said, the driver can be liable to pay the levy. So there are three people, and they could be three distinct people, but they might not necessarily be ... where two or more people are liable to pay the levy—in other words, where three different categories are involved—they are jointly and severally liable.<sup>10</sup>

Amendment 3 to clause 4 was intended to probe the question of the fairness of someone **having to pay the levy for a vehicle that is unroadworthy** through no fault of their own (e.g. stolen and returned in a state of disrepair). The Minister indicated that there was unlikely to be unfairness as clause 4(4) would not apply to UK-registered vehicles (whose owners could apply for a statutory off road notice and then a rebate). For foreign-registered vehicles, those recovered in the UK in an unroadworthy condition would have to be kept off the road so no levy would apply. For example, a foreign vehicle is in a garage for two days undergoing repairs, the keeper would pay the levy and then apply for a rebate on the grounds that their vehicle had been off road. They would have to provide evidence to be permitted the rebate.<sup>11</sup>

Amendment 4 to clause 7 was intended to probe the meaning of subsection 5 which states that “The Secretary of State may specify **conditions with which a person must comply before making an application for a rebate.**” Mr Fitzpatrick asked why the clause says ‘may’, rather than ‘shall’, bearing in mind the detail contained in the Bill and therefore the “expectation that conditions would be laid down for the application of a rebate”.<sup>12</sup> The Minister explained:

It is important to retain subsection (5) for administrative purposes. It means that the Secretary of State—or, in this or some other cases, the Driver and Vehicle Licensing Agency, the supplier of the system for foreign operators—will be able to set conditions around making applications for rebates—for example, timing and how to submit claims.

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<sup>9</sup> [PBC Deb 6 December 2012, cc70-71](#)

<sup>10</sup> *ibid.*, c79

<sup>11</sup> *ibid.*, c81

<sup>12</sup> [PBC Deb 6 December 2012, c94](#)

Without that power, it is possible that those sorts of operation may be adversely affected [...] This subsection is about the administration of the rebate and it is not intended to give the Secretary of State significant powers over what qualifies for a rebate. In particular, the formula setting out the amount of the rebate, which is the most important thing for the operator, is in the Bill.<sup>13</sup>

Amendment 5 to clause 9 and amendment 7 to clause 11 were designed to introduce an element of **hypothecation for the use of the monies raised via the levy and fines for non-payment**. My Fitzpatrick argued that while some of the monies raised should go into the Consolidated Fund, as set out in the Bill, a portion should also be allocated to promoting road safety, cycling and enforcement. Monies raised from fines should, he argued, go towards an 'enforcement fund' (controlled by VOSA). He cited support from the industry and local authorities for some form of hypothecation.<sup>14</sup> Michael Connarty, also for Labour, pointed to the wording in the relevant EU Directive which, while it gives Member States discretion over how to use money from road charges, does also state that it 'should' be spent on transport objectives.<sup>15</sup> The Minister went through what he considered to be the philosophical arguments against hypothecation (tokenism, emotion-based policy making, revenue uncertainty). He said that the Government was already spending significant amounts on the areas that the Opposition had cited in their amendment and that the token amount provided for from the levy would be inconsequential.<sup>16</sup>

Amendment 6 to clause 10 was designed to probe why the Bill includes a **power for stopping officers to stop 'vehicles appearing to be HGVs'**. Mr Fitzpatrick presumed that this power should already exist and queried, if it did not, why it was necessary to use the wording in the Bill, which appeared to be redundant. The Minister explained:

The Bill seeks to add a stopping power to those relating to drivers' hours or roadworthiness, and so will allow a stopping officer to stop any vehicle that he or she believes is an HGV—one weighing more than 12,000 kg. The inclusion of the provision removes any doubt about the power of the stopping officer. Hypothetically, if the officer stopped a vehicle that was beneath the 12,000 kg limit, although there would not be a problem with payment of the levy, the officer might have exceeded his powers. If the powers were not in the Bill, such a stop could be illegal, thus raising issues about prosecution.<sup>17</sup>

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<sup>13</sup> *ibid.*, c94

<sup>14</sup> [PBC Deb 11 December 2012, cc101-3](#)

<sup>15</sup> *ibid.*, c110

<sup>16</sup> *ibid.*, cc109-11

<sup>17</sup> *ibid.*, c116