EXPLANATORY MEMORANDUM TO THE

ROAD TRAFFIC (PERMITTED PARKING AREA AND SPECIAL PARKING AREA) (CITY OF KINGSTON UPON HULL) ORDER 2006

No. 1515

AND

THE BUS LANE CONTRAVENTIONS (APPROVED LOCAL AUTHORITIES) (ENGLAND) (AMENDMENT) (NO. 3) ORDER 2006

No. 1516

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Road Traffic (Permitted Parking Area and Special Parking Area) (City of Kingston upon Hull) Order 2006 ("the Designation Order") enables Hull City Council to enforce parking contraventions throughout the city of Hull through a civil law regime, as opposed to enforcement by police or traffic wardens in a criminal law context.

The Bus Lane Contraventions (Approved Local Authorities) (England) (Amendment) (No.3) Order 2006 ("the Approved Authorities Order") amends the Bus Lane Contraventions (Approved Local Authorities) (England) Order 2005 (S.I. 2005/2755) so as to add Hull City Council to those authorities which are "approved local authorities" for the purposes of section 144 of the Transport Act 2000. An approved local authority has the power to enforce bus lanes by the imposition of civil penalty charges in accordance with the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005 (S.I. 2005/2757).

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

3.1 None

4. Legislative Background

4.1 The Designation Order is made under powers conferred by paragraphs 1(1), 2(1) and 3(3) of Schedule 3 to the Road Traffic Act 1991, following consultation with the appropriate chief officer of police and the Council on Tribunals.

4.2 Part II of that Act creates a regime for the civil enforcement of parking contraventions which applies to London only. Schedule 3 enables the Secretary of State by order to provide for the introduction of such a regime to areas outside London and to make consequential modifications to the 1991 Act, and other legislation, as appropriate.

4.3 The Approved Authorities Order is made under powers conferred by section 144(3) of the Transport Act 2000. Under that section the Secretary of State and the Lord Chancellor have made the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005 which provide for the introduction in England outside London of a regime for the civil enforcement of bus lane orders by "approved authorities". An authority is an "approved local authority" if an order under Schedule 3 to the Road Traffic Act 1991 has been made giving it parking enforcement powers in all or part of its area and it is specified as an approved authority for bus lane enforcement by means of an order made by the Secretary of State. The Approved Authorities Order specifies Hull City Council for these purposes.

5. Extent

5.1 Both these instruments apply to England.

6. European Convention on Human Rights

The Minister, Gillian Merron, has made the following statement regarding human rights:

> "In my view the provisions of the Road Traffic (Permitted Parking Area and Special Parking Area) (City of Kingston upon Hull) Order 2006 and The Bus Lane Contraventions (Approved Local Authorities) (England) (Amendment) (No. 3) Order 2006 are compatible with the Convention rights".

7. Policy background

7.1 Effective traffic regulation requires effective enforcement of traffic restriction and prohibition orders, otherwise they may be abused or ignored. This has been addressed in relation to parking by the Road Traffic Act 1991. That Act enables the creation outside Greater London of "permitted parking areas" and "special parking areas" in which responsibility for enforcing parking restrictions is transferred from the police and police traffic wardens to parking attendants employed by local authorities. Examples of such contraventions are (in a permitted parking area) overstaying the time paid for in a parking bay, and (in a special parking area) unlawful parking on yellow lines.

7.2 The Designation Order designates the whole of the city of Hull as both a permitted parking and a special parking area. It is Government policy to encourage local authorities to take on these powers. Many have applied for them and many others have indicated that they will be applying for them in the future. An authority is then able to target enforcement effort to support their local traffic management policies. An increased level of enforcement helps reduce parking problems and congestion and improve safety.

7.3 Schedule 1 to the Designation Order sets out in detail the modifications to the 1991 Act, where such modifications are required. The effect of section 66 of the 1991 Act (as modified by paragraph 1 of Schedule 1 to this Order) is to set out when and how a penalty charge notice may be issued within the designated area, what it must state, and to make it an offence to remove the notice without proper authority. The procedures to be followed when a penalty charge notice has been issued, and the subsequent procedures for enforcing the charge or making representations against the charge, are set out in Schedule 6 to the 1991 Act as modified by paragraph 8 of Schedule 1 to this Order.

7.4 Paragraphs 2 and 3 of Schedule 1 to the Designation Order modify the provisions of the 1991 Act setting out the processes for immobilising (wheel- clamping) an unlawfully parked vehicle and for making representations against such immobilisation (or any vehicle removal). Paragraph 4 modifies section 73 of the 1991 Act, which provides for a Joint Committee to appoint independent parking adjudicators to hear appeals against penalty charges. Hull City Council will become a member of this Committee - the National Parking Adjudication Service Joint Committee. Paragraph 5 provides for the modification of the application of section 74 of the 1991 Act, such that the levels of penalty charges in the area designated under the Order will be set locally but in accordance with national guidance.

7.5 Schedule 2 to the Designation Order modifies the operation of the relevant sections of the Road Traffic Regulation Act 1984. This includes modification to section 55, which will require Hull City Council to keep an account of the income and expenditure in respect of designated on-street parking places and the income from penalty charges, charges incurred for the removal, storage or disposal of vehicles and charges for the release of vehicles from wheel-clamps.

7.6 It is also Government Policy to encourage local authorities to undertake the enforcement of bus lanes by civil means and the effect of the Approved Authorities Order is to enable Hull City Council to exercise the powers to undertake such enforcement conferred on “approved authorities” by the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005. Offences against bus lane restrictions are not decriminalised by these Regulations and, in the area of an approved authority, the contravention of a bus lane order will remain a criminal offence. It

will accordingly be possible in such areas for such contraventions to be dealt with either as a criminal offence by the police or by civil enforcement by the approved authority.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for either of these instruments as they have no impact on business, charities or voluntary bodies.

8.2 Hull City Council (the enforcement authority) may use the income from the additional parking charges and from their enforcement of bus lanes to finance their enforcement operations. Hull City Council estimate decriminalised parking enforcement in the city of Hull will make a surplus, taking into account off-street as well as on-street parking provision.

9. Contact

Ian Boddington at the Department for Transport Tel: 020 7944 6483 or e-mail: ian.boddington@dft.gsi.gov.uk can answer any queries regarding the instrument.