EXPLANATORY MEMORANDUM TO

THE BUS LANE CONTRAVENTIONS (APPROVED LOCAL AUTHORITIES) (ENGLAND) (AMENDMENT) ORDER 2010

2010 No. 99

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

2. Purpose of the instrument

2.1 The Bus Lane Contraventions (Approved Local Authorities) (England) (Amendment) Order 2010 ("the Order") amends the Bus Lane Contraventions (Approved Local Authorities) (England) Order 2005 (S.I. 2005/2755, "the 2005 Order") so as to specify the following authorities as approved local authorities for the purposes of section 144 of the Transport Act 2000 (civil penalties for bus lane contraventions) ("the 2000 Act"); those authorities are City of Bradford Metropolitan District Council, the Cheshire East Borough Council, the Cheshire West and Chester Borough Council, The Cornwall Council, The Derbyshire County Council, The Devon County Council, The Borough Council of Dudley, The County Council of Durham, the Council of the City of Newcastle Upon Tyne, The North Lincolnshire Borough Council, The Nottinghamshire County Council, The Rutland District Council, The St. Helens Borough Council and The Walsall Borough Council. This enables the authorities to enforce bus lane contraventions within their administrative area by means of civil penalty charges.

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

3.1 None

4. Legislative context

4.1 The Order is made using the power conferred by section 144(3)(b) of the 2000 Act. Under that section 144, the Secretary of State and Lord Chancellor have made the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005 (S.I. 2005/2757); those regulations provide for the introduction in England outside London of a regime for the civil enforcement of bus lane contraventions by "approved local authorities". By virtue of that section 144(3), as transitionally modified, an authority is an approved local authority if an order designating the whole or any part of its area as a civil enforcement area for parking contraventions has been made under paragraph 8(1) of Schedule 8 to the Traffic Management Act 2004 ("the 2004 Act") and the relevant national authority has made an order specifying it as an approved local authority for the purposes of section 144. By inserting the authorities mentioned at paragraph 2.1 above into the 2005 Order, the Order specifies those authorities for these purposes.

5. Territorial extent and application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure (section 160 of the 2000 Act) and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Effective traffic regulation requires a robust enforcement of traffic restriction and prohibition orders to promote safety and traffic flow, and to deal with abuses of the system. This has been addressed in relation to parking by the 2004 Act. That Act enables the creation of "civil enforcement areas" and "special enforcement areas" in which responsibility for enforcing parking restrictions is transferred from the police and police traffic wardens to civil enforcement officers employed by local authorities.

7.2 It is Government policy to encourage authorities who have civil enforcement powers under paragraph 8(1) of Schedule 8 to the 2004 Act to take on civil enforcement powers in relation to bus lane contraventions. The effect of the Order is to enable the authorities listed in the schedule which the Order inserts into the 2005 Order, to exercise the powers to undertake such enforcement conferred on “approved authorities” by the Bus Lane Contravention (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005. Offences regarding bus lane restrictions are not decriminalised by those regulations and, in the area of an approved local 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 local authority.

8. Consultation outcome

8.1 Only English local authorities outside London with civil parking enforcement (“CPE”) powers can apply for the powers to enforce bus lane contraventions. The Secretary of State consults the police before making an order conferring CPE powers. The relevant local authority consults the police, the Highways Agency, DVLA, the Traffic Enforcement Centre, the Adjudication Service and neighbouring authorities prior to obtaining CPE powers.

9. Guidance

9.1 The provisional Guidance on Bus Lane (including tramway) Enforcement in England (outside London) published in November 2005 sets out to (a) inform English local authorities outside London about the scope for them to set up and operate the civil enforcement of bus lanes under the provisions of the

2000 Act, (b) advise English local authorities outside London how to apply to the Secretary of State for the necessary powers and, (c) advise English local authorities outside London how to set up and operate an effective and efficient civil enforcement regime.

9.2 A prerequisite for a local authority wishing to introduce civil enforcement of bus lane contraventions is that the local authority should also have CPE powers under the 2004 Act (see section 144(3)(a) of the 2000 Act; note that Lexis does not reproduce the word "and" between paragraphs (a) and (b) of that subsection as transitionally modified). This is to ensure that authorities are taking a comprehensive approach to enforcement. The provisional guidance on bus lane enforcement should therefore be read in conjunction with the Statutory Guidance and Operational Guidance to Local Authorities on the Civil Enforcement of Parking (published in March 2008 under section 87 of the 2004 Act).

10. Impact

10.1 An impact assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 This legislation does not apply to small business.

12. Monitoring and review

12.1 It will be for the approved authorities to keep the civil enforcement of bus lanes in their area under review.

13. Contact

Renata Williams at the Department for Transport (telephone: 020 7944 6483 / email: Renata.Williams@dft.gsi.gov.uk) can answer any queries regarding the instrument.