EXPLANATORY MEMORANDUM TO

THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS (DUDLEY) DESIGNATION ORDER 2008

2008 No. 1764

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 This instrument revokes and replaces The Civil Enforcement of Parking Contraventions (The Borough Council of Dudley) Designation Order 2008 (S.I. 2008/1518) solely to correct a drafting error in that instrument. It enables The Borough Council of Dudley to enforce parking contraventions within its administrative area through a civil law regime, as opposed to enforcement by police or traffic wardens in a criminal law context.

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

3.1 The Department regrets to inform the Joint Committee that this instrument breaches the convention that an instrument should be laid before Parliament for a minimum of 21 days before it comes into force (the 21 day rule).

3.2 This instrument revokes and replaces the Civil Enforcement of Parking Contraventions (The Borough Council of Dudley) Designation Order 2008 (S.I. 2008/1518) ("the revoked Order"). The revoked Order was made on 11th June 2008, laid before Parliament on 13th June 2008 and had a coming into force date of 7th July 2008.

3.3 On 2nd July 2008, the Joint Committee wrote to the Department requesting a memorandum on the following point: "Why does this instrument designate "The Borough Council of Dudley" (as opposed to the whole or a specified part of its area) as civil enforcement area and a special enforcement area?". On considering this point Departmental officials became aware that the revoked order was defectively drafted in that respect. The policy intention had been to designate the whole of the area of the metropolitan district of the Borough Council of Dudley for those purposes. This instrument is thus being made in order to remove any scope for doubt as to the validity of the Order arising out of that error. There is a pressing policy need for this replacement instrument to have the same coming into force date as the revoked Order as Dudley Borough Council are proposing to commence civil enforcement of parking offences on Monday 7th July and it is therefore necessary to breach the 21 day rule.

4. Legislative Background

4.1 This instrument is made under powers conferred by paragraph 8(1) of Schedule 8 and paragraph 3(1) of Schedule 10 to the Traffic Management Act 2004 (the "2004 Act"), following consultation with the appropriate chief officer of police.

4.2 The regime for civil enforcement of parking contraventions in England is set out in Part 6 of the 2004 Act together with regulations made under that Part of the Act (The Civil Enforcement of Parking Contraventions (England) General Regulations 2007, The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007, The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 and three other sets of Regulations). The 2004 Act regime has replaced the previous civil enforcement regime under the Road Traffic Act 1991.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Effective traffic regulation requires effective enforcement of traffic restriction and prohibition orders to promote safety and traffic flow, and 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. Examples of such contraventions are (in a civil enforcement area) overstaying the time paid for in a parking bay, and (in a special enforcement area) double parking or parking at dropped footways.

7.2 Pursuant to the Order, the whole of the area of the metropolitan district of the Borough Council of Dudley will be designated as both a civil enforcement and a special enforcement area. It is Government policy to encourage local authorities to take on these powers. Many have applied for them in the past under provisions in the Road Traffic Act 1991 which Part 6 of the 2004 Act replaces 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. Effective enforcement helps reduce parking problems and congestion and improve safety.

8. Impact

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

8.2 The Borough Council of Dudley (the enforcement authority) may use the income from the additional parking charges to finance their enforcement operations. They estimate that the CPE scheme will operate with a deficit of £223,835 in the first year of operation.

9. Contact

Mark Simmonds at the Department for Transport tel: 020 7944 8692 / e-mail:mark.simmonds@dft.gsi.gov.uk can answer any queries regarding the instrument.