**EXPLANATORY MEMORANDUM TO**

# THE COURSES OFFERED AS AN ALTERNATIVE TO PROSECUTION (SPECIFIED FIXED PENALTY OFFENCES) (TRAFFIC) REGULATIONS 2025

**2025 No. 238**

## 1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

## 2. Declaration

2.1 Dame Diana Johnson, Minister of State for Policing, Fire and Crime Prevention at the Home Office, confirms that this Explanatory Memorandum meets the required standard.

2.2 Andy Johnson, Deputy Director for the Police Powers Unit at the Home Office, confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Tracy Catling at the Home Office Telephone: 07557 311770 or email: tracy.catling1@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

4.1 These regulations will specify and formalise the arrangements for educational courses offered as an alternative to prosecution for specified fixed penalty motoring offences under the powers enacted in the Police, Crime, Sentencing and Courts Act 2022 (PCSCA).

***Where does the legislation extend to, and apply?***

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales only.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales only.

## 5. Policy Context

***What is being done and why?***

5.1 Persons who commit certain low-level road traffic offences may, under existing powers, be offered educational courses under the National Driver Offender Retraining Scheme (NDORS).[1] Such courses are offered as an alternative to an offer of a fixed penalty notice, and therefore a driver or cycler who successfully completes a course is not required to pay a fixed penalty amount in relation to the offence, or to have points

[1] Dorset Police currently provide its own educational courses outside of the NDORS scheme.

endorsed on their driving or cycling record. Section 89 of the PCSCA inserted sections 90G to 90I into the Road Traffic Offenders Act 1988 (RTOA) providing a local policing body with the power to charge the motorist a fee to cover the course cost and use any surplus as a contribution to promote road safety.

5.2 Sections 90G to 90I of the RTOA put the existing charging regime for the educational courses offered as an alternative to prosecution on a specific statutory basis. They have not changed the way in which courses are offered or administered, although it will enable greater transparency over how the fees are calculated and used.

5.3 These regulations will formalise the current arrangements for the educational courses offered as an alternative to prosecution. The provisions at sections 90G to 90I in the RTOA provide the power to make regulations prescribing the fixed penalty offences for which a fee may be charged for enrolment on an approved course; a body to approve courses; the amount of a fee; how fees are calculated; the level of fees; the use of fee income and power to prevent courses being offered for repeat offences.

The body responsible for the approval of courses

5.4 These regulations will prescribe that the body responsible for the approval of NDORS courses will continue to be UK Roads Offender Education Ltd (UKROEd). UKROEd operates under the governance of its parent charity - the Road Safety Trust - which is owned by 43 police forces. UKROEd is responsible for the course design and specification, quality assurance, national coordination and for holding a database of motorists' and cyclists' details and all available NDORS courses across the UK. Local forces have agreements with local course providers (local authorities, police forces, not-for-profit organisations, and private companies) who are licensed and trained as part of NDORS.

5.5 The UKROEd model ensures national consistency and high standards, the courses are scientifically-based products whereby the contents of the courses are informed by evidence, and can be taken outside the force area where the offence occurred.

5.6 The regulations will allow chief officers to continue to use any existing courses which are outside of the NDORS for a further two years from the date which these Regulations come into force. This will allow Chief Officers time to transition to the NDORS courses approved under UKROEd.

Fixed Penalty Offences

5.7 The fixed penalty motoring and cycling offences for which a fee can be charged for enrolment on an approved course are those in Part III of the RTOA, which the NPCC in consultation with UKROEd have deemed suitable for educational course as an alternative to a fixed penalty.

Power to prevent courses being offered for repeat offences: England and Wales

5.8 These regulations will prohibit a chief officer from offering an approved course where that person has already undertaken a similar course within a three-year period. In this case the motorist or cyclist will receive an offer of a fixed penalty notice or otherwise face prosecution in court.

5.9 The courses are designed to reduce reoffending by re-educating the driver. If the course is not successful in preventing re-offending, it follows that the offender should face the penalty for the further driving or cycling offence and retaking courses should not be a means to continually evade penalties for road traffic offences.

5.10 The chief officer will have the power to determine what counts as a 'similar' course in consultation with the body who have been designated to approve the courses and giving due regard to any relevant guidance published by the National Police Chiefs' Council.

Fees

5.11 The regulations will not introduce standard fees, nor seek to legislate that the fee will not exceed the fixed penalty notice amount. Instead, we will allow the costs of course provision to vary depending on type of course and location. The cost of most courses is currently lower than or equal to the fixed penalty notice amount, which helps to encourage course acceptance.

5.12 The Regulations provide for the way in which the components of any revenue raised via the fee charged for a course are calculated and used;

(a) the policing body will retain 52%

(b) The course provider will be paid 42%

(c) UKROEd will retain a 6%.

5.13 This is set out in the regulations as percentages, so if the cost of the course rises, so too does the constituent charging aspects. The above percentages on the use of components of the fee are unchanged by these regulations.

5.14 The fees of the course can be set at a level which exceeds the cost of the course and related administrative costs. NDORS is non-profit generating and any surplus from the course fees must be used to promote road safety as defined in the RTOA as the prevention, detection or enforcement of offences relating to vehicles and pedal cycles. The surplus may be used with road safety partnerships and on funding of speed cameras.

***What was the previous policy, how is this different?***

5.15 This instrument sets out clearly the fixed penalty offences for which a fee may be charged, alongside other matters such as how that fee is calculated. It is made under sections 90G and 90H of the RTOA which puts the existing charging regime for the educational courses offered as an alternative to prosecution on a specific statutory basis.

5.16 The RTOA provides the following powers: -

(a) Set a charging power in primary legislation, under which a motorist may be charged a fee in relation to their attendance at a diversionary course, when the course is offered for a fixed penalty offence as an alternative to a fixed penalty or prosecution;

(b) Allow for the charging of fees which exceed costs for the courses and related administrative expenses, with any excess fee to be used for the purposes of promoting road safety;

(c) Provide a power to make secondary legislation to specify the fixed penalty road traffic offences for which an approved course may be offered as an alternative to prosecution, and to set how the fees, or components of fees, are to be calculated; the level of fees or components of fees; and the use of fee income.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 The provisions at section 89 of the PCSCA inserted powers into Part 3B of the RTOA and put the existing charging regime for the educational courses offered as an alternative to prosecution on a specific statutory basis. These regulations make provision for the purposes of Part 3B of the RTOA to deal with courses offered as an alternative to prosecution for specified fixed penalty traffic offences.

6.2 The provisions in the RTOA require regulations prescribing the fixed penalty offences for which a fee may be charged for enrolment on an approved course (s.90G(1) and 90G(6)(a)); a body to approve courses (s.90G(5) and 90G(6)(b)); the amount of a fee (s.90G(4)); how fees are calculated (s.90G(3(a)); the level of fees (s.90G(3(b)); the use of fee income (s.90G(3(c))) and power to prevent courses being offered for repeat offences (s.90H).

***Why was this approach taken to change the law?***

6.3 This is the only possible approach to make the necessary changes.

6.4 The provisions at sections 90G to 90I of the RTOA will ensure greater transparency in the existing charging regime and course provision for educational courses. The RTOA powers to make secondary legislation provide an opportunity to formalise the arrangements for the courses and ensure national consistency.

6.5 These regulations will prescribe the body responsible for the approval of courses, the road traffic offences for which an educational course for road traffic offenders may be offered, the level, calculation and use of the fee and prevent courses being offered to repeat offenders.

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 A formal consultation was not undertaken as the regulations will formalise rather than change the current arrangements for the educational courses for offenders. The NDORS courses are well-established with benefits which are widely known and accepted.

7.2 However, we did engage with stakeholders throughout the development of the regulations and their feedback is reflected in the final version of the regulations. This included engagement with NPCC, Association of Police and Crime Commissioners, UKROEd, Ministry of Justice and Department for Transport each of whom were supportive, including of our intention to require all police forces to use the NDORS courses in the interests of national consistency.

## 8. Applicable Guidance

8.1 This Order does not implement or require guidance.

# Part Two: Impact and the Better Regulation Framework

## 9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because this instrument relates to the maintenance of existing/established course provision and no

impact on business is foreseen. There are no impacts greater than ± £10 million Equivalent Annual Net Direct Cost to Business (EANDCB).

9.2 NDORS is non-profit generating with any surplus used to promote road safety as defined in the RTOA as the prevention, detection or enforcement of offences relating to vehicles. The surplus may be used with road safety partnerships and on funding for speed cameras. This measure is not expected to result in a change in the volume of courses held, and thus costs are negligible. Even if there were to be an increase in the volume of courses held, these courses charge a cost-recovery fee meaning Net Present Social Value (NPSV) would not be affected.

***Impact on businesses, charities and voluntary bodies***

9.3 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument relates to the maintenance of existing/established course provision and no significant impact on business is foreseen.

9.4 The legislation does not impact small or micro businesses.

9.5 There is no, or no significant, impact on the public sector because this instrument relates to the maintenance of existing/established course provision.

## 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 The Home Office will work closely with stakeholders including the NPCC, Association of Police and Crime Commissioners, UKROEd, Ministry of Justice and Department for Transport to monitor the implementation of this legislation and the continuing effectiveness of NDORS.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Dame Diana Johnson MP, Minister of State for Policing, Fire and Crime Prevention at the Home Office has made the following statement: The instrument does not include a statutory review clause because it will not introduce impacts of more than +/- £10 million (net annualised) on business. Therefore, a statutory review provision is not the appropriate way of keeping the regulations under review. This is in line with the principle that statutory review provisions should be focused on measures with significant impacts on business. The potential burdens of a Post-Implementation Review (PIR) are likely to outweigh the potential benefits.

# Part Three: Statements and Matters of Particular Interest to Parliament

## 11. Matters of special interest to Parliament

11.1 None.

## 12. European Convention on Human Rights

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

## 13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).