EXPLANATORY MEMORANDUM TO

THE ROAD SAFETY (FINANCIAL PENALTY DEPOSIT) (APPROPRIATE AMOUNT) (AMENDMENT) ORDER 2018

2018 No. [XXXX]

1. Introduction

1.1 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 This instrument sets the monetary amount of the financial penalty deposit ("FPD") for specified offences relating to the use of goods vehicles and trailers without the appropriate authorisation or registration and to related matters.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument includes Scotland.

3.3 The powers under which this instrument is made cover Great Britain (see section 99 of the Road Traffic Offenders Act 1988) and the territorial application of this instrument is not limited either by the Act or by the instrument.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Great Britain.

4.2 The territorial application of this instrument is Great Britain.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State has made the following statement regarding Human Rights:

"In my view the provisions of the Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Order 2018 are compatible with the Convention rights."

6. Legislative Context

6.1 Part 3A of the Road Traffic Offenders Act 1988 allows a FPD to be taken immediately from a person without a UK address who is believed to have committed a specified offence.

6.2 FPD offences are specified in the Road Safety (Financial Penalty Deposit) Order 2009 and the monetary amount of the deposit is set in the Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009.

6.3 The Financial Penalty Deposit and Fixed Penalty Offences (Miscellaneous Provisions) Order 2018 will designate specified offences in the Haulage Permits and Trailer Registration Act 2018, the Trailer Registration Regulations 2018 and the Goods Vehicles (Community Licences) Regulations 2011 as offences for which a requirement to pay a FPD may be imposed.

7. Policy background

What is being done and why?

7.1 FPDs allow for the effective and rapid enforcement at the roadside of specified road traffic offences. A separate Order, the Financial Penalty Deposit and Fixed Penalty Offences (Miscellaneous Provisions) Order 2018, which is subject to the negative Parliamentary procedure, will be introduced by the Department later this year to (among other things) designate specified offences relating to haulage permits, trailer registration and community licences as FPD offences. This Order sets the amount of the FPD.

7.2 The specified offences under the Haulage Permits and Trailer Registration Act 2018 relate to failing to produce a permit when required to do so by an examiner, obstructing an examiner or breaching a prohibition on the use of a goods vehicle on an international journey.

7.3 The Trailer Registration Regulations 2018 created various offences relating to the trailer registration scheme, including using an unregistered trailer in specified circumstances and failing to display a registration mark.

7.4 Comparable offences, such as those under the Vehicle Excise and Registration Act 1994, are also designated as FPD offences.

7.5 A separate amendment relates to an offence under the Goods Vehicles (Community Licences) Regulations 2011. The legislation relating to FPDs was not amended at the time those Regulations were made to include this offence.

7.6 The monetary amount of a deposit that may be required for a particular offence, which varies between £100 and £300, is based on the amount for comparable offences for which FPDs are used.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 No consolidation is planned by the Department.

10. Consultation outcome

10.1 The Department consulted on the use of FPDs for the specified offences with relevant industry bodies and respondents to a separate public consultation on the haulage permits and trailer registration regimes. The responses were in favour of using FPDs.

10.2 A summary of the consultation responses and the original consultation document are available at: https://www.gov.uk/government/consultations/haulage-permits-and-trailer-registration.

11. Guidance

11.1 The Driver and Vehicle Standards Agency Enforcement Sanctions Policy will be updated to reflect the permitted enforcement practices. This is available at https://www.gov.uk/government/publications/enforcement-sanctions-policy.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A formal Impact Assessment is not required because these measures are low cost and will not have any significant impact on business. A De Minimis Assessment has been completed and the appropriate internal regulatory clearances have been received.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 The basis for the final decision on what action to take to assist small businesses is that none would be appropriate as these provisions must apply in relation to all drivers and vehicles to ensure effective enforcement.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that none is required as the use of FPDs will be needed for effective enforcement of the substantive provisions in other legislation for as long as those provisions are in force.

14.2 The regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Jesse Norman, Parliamentary Under Secretary of State, has made the following statement:

"Having had regard to the Statutory Review Guidance for Departments published under section 31(3) of the Small Business, Enterprise and Employment Act 2015, in my view, it is not appropriate to provide for a review of these provisions. The impact of this measure will not be significant as fines or penalties incurred for non-compliance with regulations are not considered within the cost to business."

15. Contact

15.1 Robert Leiper at the Department for Transport Telephone: 07773 073551 or email: Robert.Leiper@dft.gov.uk can be contacted regarding this instrument.

15.2 Paul O'Sullivan, Deputy Director for Roads EU Exit, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Jesse Norman, Parliamentary Under Secretary of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.