EXPLANATORY MEMORANDUM TO

THE HIGHWAY LITTER CLEARANCE AND CLEANING (TRANSFER OF RESPONSIBILITY) (ENGLAND) (AMENDMENT) ORDER 2010

2010 No. 2401

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 Order amends the Highway Litter Clearance and Cleaning (Transfer of Responsibility) (England) Order 2009 (SI 2009/2677) ("the 2009 Order"), to correct drafting errors which the JCSI brought to the Department's attention in its First Report of Session 2009-10.

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

3.1 None

4. Legislative Context

4.1 The 2009 Order transfers responsibility to the Secretary of State for Transport for keeping parts of certain highways clean and clear of litter and refuse. These are parts of the trunk roads listed in the Schedule to the 2009 Order, for which the local authorities listed in the Schedule would otherwise be responsible under section 89 of the Environmental Protection Act 1990. The 2009 Order came into force on 30th October 2009.

4.2 The Schedule to the 2009 Order sets out the names of the relevant local authorities, and the descriptions of parts of the highways for which responsibility for the clearance and cleaning duties is transferred from each local authority to the Secretary of State for Transport. This amendment Order is required to correct drafting errors in the descriptions of parts of the highways for four entries in the Schedule.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

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

7. Policy background

- ***What is being done and why***

7.1 This Order is made to correct drafting errors in the 2009 Order. The errors relate to descriptions of parts of the highways in the Schedule to the Order for which responsibility for the discharge of the cleaning duties is transferred. This Order adds clarity to those descriptions, but does not alter the actual parts of the highway to be included. The Department undertook a full consultation on the proposed parts of the highways that would be included in the Order in 2009. Those parts of the highway were accurately identified in this consultation and are the same parts of the highway as are described in the 2009 Order and this Order.

- ***Consolidation***

7.2 Since the 30th October 2009 Highways Agency contractors on behalf of the Secretary of State for Transport have undertaken the responsibility of ensuring the land and highways as specified in the order are so far as is practicable kept clean. There will be no practical impact on litter collection duties as a result of this amendment Order.

8. Consultation outcome

8.1 A full consultation on the policy underlying the 2009 Order was held in 2009 and the Explanatory Memorandum to the 2009 Order contains details on that consultation. This Order does not change the policy underlying the 2009 Order and so no further consultation has been held.

9. Guidance

9.1 As this Order is made to correct drafting errors no guidance is to be issued by the Department.

10. Impact

10.1 The impact on business, charities or voluntary bodies is none.

10.2 The impact on the public sector is none.

10.3 An impact assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 As this Order is made to correct drafting errors, no separate monitoring or review is considered necessary. The monitoring of cleanliness will be conducted by the Highways Agency as set out in the Explanatory Memorandum to the 2009 Order.

13. Contact

Clive Cooper at the Highways Agency Telephone: 01306 878410 or email: clive.cooper@highways.gsi.gov.uk can answer any queries regarding the instrument.