EXPLANATORY MEMORANDUM TO

THE LITTERING FROM VEHICLES OUTSIDE LONDON (KEEPERS: CIVIL PENALTIES) (AMENDMENT) REGULATIONS 2021

2021 No. 1357

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to amend the Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 ("the 2018 Regulations") to ensure that the process by which a litter authority can recover unpaid penalties is consistent with other traffic enforcement regimes.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The 2018 Regulations provide for a litter authority to give a penalty notice to the keeper of a vehicle from which a littering offence has been committed, and to recover any unpaid penalties as if payable under a county court order.

6.2 Procedures relating to the recovery of these unpaid penalties are set out in Part 75 of the Civil Procedure Rules ("CPR75") and Practice Direction 75. Practice Direction 75 is being amended separately to reflect the changes made by this instrument.

7. Policy background

What is being done and why?

7.1 The 2018 Regulations provide for unpaid fines to be recoverable as if payable under a county court order. This instrument amends the 2018 Regulations to ensure that the process is consistent with other regimes, as the Government had originally intended. In particular, it will ensure consistency with the equivalent process in the Road User

Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013 (the RUCS Regulations).

7.2 This instrument will introduce the step of an enforcement notice which is the notification of the increased penalty (which automatically doubles if not paid in time). The enforcement notice will better reflect the requirement in CPR75 for an authority to certify "that 14 days have elapsed since service of the notice of the amount due".

7.3 This instrument will also set out the respondent's right to challenge the court order on specified grounds through the service of a witness statement. It will set out the steps the court must take on receipt of a witness statement, including the circumstances in which the court order must be revoked. This process will operate in the same way as it currently does for the RUCS Regulations. This instrument will also make related amendments to the appeals processes in the 2018 Regulations to take account of the above changes.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 There are no plans to consolidate as this instrument represents the first set of changes to the 2018 Regulations.

10. Consultation outcome

10.1 No consultation was undertaken in relation to this instrument because it does not represent a change in policy. The 2018 Regulations were consulted on.

11. Guidance

11.1 No new guidance is being produced for this instrument because it does not represent a change in policy. Existing guidance for local authorities on effective enforcement against littering and related offences will be updated to reflect the amendments made by these Regulations, and we will ensure local authorities are aware of the processes they need to follow in order to recover unpaid penalties.

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 full Impact Assessment has not been prepared for this instrument because it does not place any new burdens on businesses.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There are no plans to monitor or review this instrument as it does not regulate business activity.

15. Contact

15.1 Joe Minns at the Department for Environment, Food and Rural Affairs, email: Joe.Minns@defra.gov.uk, can be contacted with any queries regarding the instrument.

15.2 Chris Preston, Deputy Director for Resources and Waste, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Jo Churchill MP, Parliamentary Under Secretary of State, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.