EXPLANATORY MEMORANDUM TO

THE ROAD SAFETY (FINANCIAL PENALTY DEPOSIT) (APPROPRIATE AMOUNT) (AMENDMENT) (No. 2) ORDER 2014

2014 No. 2766

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This Order amends the Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009 (S.I. 2009/492, "the Principal Order") so that financial penalty deposits for parking offences outside Greater London revert to their pre-August 2013 levels. It also brings financial penalty deposits for such offences when committed within Greater London into line with the fixed penalties for those offences.

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

3.1 This Order corrects an error made in the Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Order 2013 (S.I. 2013/2025), which came into force on 16th August 2013, by amending the Principal Order so as to ensure that the amounts of financial penalty deposits for fixed penalty parking offences outside Greater London revert to their pre-August 2013 levels.

4. Legislative Context

4.1 The Principal Order was recently amended by the Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Order 2013 to increase the amounts of financial penalty deposits for certain offences. This Order amends the Principal Order to reverse the increases to financial penalty deposits for fixed penalty parking offences outside Greater London made by the 2013 Order.

5. Territorial Extent and Application

5.1 This Order applies to Great Britain.

6. European Convention on Human Rights

6.1 Robert Goodwill MP, Parliamentary Under Secretary of State for Transport, has made the following statement regarding Human Rights:

> "In my view, the provisions of the Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) (No. 2) Order 2014 are compatible with the Convention rights."

7. Policy background

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

7.1 This Order amends the Principal Order to ensure that financial penalty deposits for fixed penalty parking offences revert to pre-August 2013 levels. The Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Order 2013 increased the amounts of financial penalty deposits for certain offences. The increases included some fixed penalty parking offences. This was not the Government's intention; parking offences were to be excluded from the penalty increases. This was an accidental oversight due to the complexity of identifying and defining parking offences. When the Department realised the error, officials wrote to the Association of Chief Police Officers ("ACPO") notifying them and explaining that the Government's express intention was that parking offences should not go up. ACPO communicated this information to all forces and asked them to handle parking offences incurred by overseas registered vehicles through a summons rather than through the issue of a financial deposit. ACPO confirmed to the Department that this is the process that is being used and asked the Department to correct the error as quickly as possible.

7.2 As a further measure, the fixed penalty system was set up not to accept the increased level parking fine. To the best of ACPO's knowledge, they are not aware of any cases when the increased amount for a parking fine has in fact been levied. ACPO asked all forces to notify them of any such incidents and no such notifications have been received.

7.3 The effect of this Order is that the financial penalty deposit amounts for those parking offences committed outside London specified in the Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Order 2013 will instead revert to £30.

7.4 This Order also brings deposits for fixed penalty parking offences committed within Greater London, both on red routes and elsewhere, into line with the fixed penalty amounts for those same offences which are set out in the Fixed Penalty Order 2000 (S.I. 2000/2792).

- ***Consolidation***

7.5 The Department has no current plans to consolidate the instrument amended by this Order as this Order principally corrects an error in a previous Order.

8. Consultation outcome

8.1 The Department held a public consultation on raising most of the penalty levels for motoring offences, but expressly excluding those for parking offences, from June to September 2012. The Department does not consider that a further consultation is merited in respect of this instrument seeing that its principal purpose is to ensure that fixed penalty parking offences are not included in the increases made in the Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Order 2013 which is consistent with the terms of, and the government's response to, the earlier consultation.

9. Guidance

9.1 The Department does not consider that any guidance is necessary in respect of the changes made by this Order as this Order ensures that the financial penalty deposits relating to fixed penalty parking offences outside Greater London revert to pre-August 2013 levels. ACPO has been kept closely involved and informed to enable effective dissemination of messages to frontline staff.

10. Impact

10.1 A full impact assessment of the effect of the changes that it was intended to make by the Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Order 2013 is available on the GOV.UK website. There are no additional impacts associated with this Order as it principally corrects a drafting error.

11. Regulating small business

11.1 This Order applies to all users of motor vehicles, irrespective of whether they are private individuals, large businesses or small businesses. However, the legislation will only affect road traffic offenders who are not compliant with relevant legal requirements relating to the use of motor vehicles.

12. Monitoring and review

12.1 The Department for Transport will continue to keep the subject of fixed penalty and financial penalty deposit levels under review in conjunction with colleagues in the Home Office and the Ministry of Justice who have a wider responsibility for the determination of penalty levels generally.

13. Contact

13.1 Elizabeth Shovelton at the Department for Transport Tel: 020 7944 3211 or e-mail: Elizabeth.shovelton@dft.gsi.gov.uk can answer any queries regarding this instrument.