EXPLANATORY MEMORANDUM TO

THE FIXED PENALTY OFFENCES ORDER 2009

2009 No. 483

THE FIXED PENALTY (AMENDMENT) ORDER 2009

2009 No. 488

THE ROAD SAFETY (FINANCIAL PENALTY DEPOSIT) ORDER 2009

2009 No. 491

THE ROAD SAFETY (FINANCIAL PENALTY DEPOSIT) (INTEREST) ORDER 2009

2009 No. 498

THE ROAD SAFETY (IMMOBILISATION, REMOVAL AND DISPOSAL OF VEHICLES) REGULATIONS 2009

2009 No. 493

THE FIXED PENALTY (PROCEDURE) (AMENDMENT) REGULATIONS 2009

2009 No. 494

THE FIXED PENALTY (PROCEDURE) (VEHICLE EXAMINERS) REGULATIONS 2009

2009 No. 495

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

2. **Purpose of the instrument**

2.1 The purpose of the seven Statutory Instruments (SIs) covered by this Memorandum all concern the implementation of the Graduated Fixed Penalty, Financial Penalty Deposit and Immobilisation Scheme ("GFP/DS"). The purpose of the scheme is to enable police officers and the Department for Transport's Vehicle and Operator Services Agency (VOSA) examiners to:

- issue fixed penalties to non-UK-resident offenders;
- request immediate financial deposits from non-UK-resident offenders and those without a credible address within the UK - either in respect of a fixed penalty or as a form of surety in respect of an offence which is subsequently to be prosecuted in court; and
- immobilise vehicles in any case where a driver or vehicle has been prohibited from continuing a journey or in any case where a driver declines to pay the requested deposit.

2.2 Taking each SI in turn:

- the Fixed Penalty Offences Order specifies certain road traffic offences to be fixed penalty offences;
- the Fixed Penalty (Amendment) Order specifies the level of fixed penalty for certain fixed penalty offences (including those created by the Fixed Penalty Offences Order); it

graduates the level of penalty in some cases to reflect the seriousness of the contravention, or to reflect the type of contravention;

- the Road Safety (Financial Penalty Deposit) Order prescribes the persons, offences and circumstances in which a financial penalty deposit payment can be imposed, the way in which a deposit payment is to be made, and the steps to be taken by the Secretary of State where making an appropriate refund of a deposit;
- the Road Safety (Financial Penalty Deposit) (Interest) Order, made by the Treasury, specifies the rate of interest to be applied to a deposit to be returned;
- the Road Safety (Immobilisation, Removal and Disposal of Vehicles) Regulations make provision for the immobilisation, removal and disposal of certain vehicles that have been prohibited from being driven, or in any case where a driver declines to pay a requested deposit immediately;
- the Fixed Penalty (Procedure) (Amendment) Regulations amend the Fixed Penalty (Procedure) Regulations 1986 so that they do not apply to fixed penalties issued by vehicle examiners, and to make certain consequential amendments arising out of the introduction of the "driving record" in section 8 of the Road Safety Act 2006; and
- the Fixed Penalty (Procedure) (Vehicle Examiner) Regulations prescribe certain steps to be taken, or certain information to be provided, where fixed penalties are issued on-the-spot by vehicle examiners.

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

3.1 None.

4. Legislative Background

4.1 The principal purpose of these SIs is to implement a major strand of the Road Safety Act 2006 to better enforce road traffic offences.

The Fixed Penalty Offences Order 2009

4.2 The purpose of the Fixed Penalty Offences Order is to prescribe certain road traffic offences to be new fixed penalties. For the purposes of the GFP/D scheme, the main new fixed penalty offences are in respect of commercial vehicle drivers' hours offences; using a commercial vehicle in breach of the relevant requirements relating to licensing and authorisation; and, failing to produce evidence of a certificate of professional competence.

The Fixed Penalty (Amendment) Order 2009

4.3 The purpose of the Fixed Penalty (Amendment) Order, which amends the Fixed Penalty Order 2000 (SI 2000/2792), is to specify the level of penalty for certain fixed penalties. For some of these offences, the new powers inserted into section 53(2) of the Road Traffic Offenders Act 1988 ("the RTOA") by section 3 of the Road Safety Act 2006 to graduate the level of penalty are used for the first time. For these offences (which include drivers' hours and overloading offences), the amount of penalty is graduated depending on the nature of the contravention or failure constituting the offence, and how serious it is. In respect of some other offences, the default level of £30 for non-endorseable offences and £60 for endorseable offences is altered. For example, the Order graduates the level of penalty for insufficient tyre tread depth to £120 in the case of a commercial vehicle, whereas it is £60 in the case of a non-commercial vehicle.

The Road Safety (Financial Penalty Deposit) Order 2009

4.4 The purpose of the Road Safety (Financial Penalty Deposit) Order is to prescribe the offences relating to a motor vehicle in respect of which both police constables and VOSA examiners will

be able to request the payment of a financial penalty "deposit" on-the-spot from an offender who fails to provide a satisfactory UK address. It also prescribes the persons and circumstances.

The Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009

4.5 The Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order is subject to affirmative resolution, and is subject to a separate Explanatory Memorandum (EM 2009/492). In summary, the purpose of the Order is to prescribe the financial penalty deposit sum that an offender will be requested to provide to the enforcement officer.

The Road Safety (Financial Penalty Deposit) (Interest) Order 2009

4.6 The purpose of the Road Safety (Financial Penalty Deposit)(Interest) Order is to prescribe the rate of interest to be applied to a deposit which is to be paid back to any person to whom a refund is due. The Order is made by the Treasury, in accordance with section 90C(12) RTOA.

4.7 Under section 90C(7) RTOA, appropriate steps to make a refund are required to be taken in any of the following circumstances:

- If an intended prosecution was not commenced within 12 months;
- if a person was prosecuted in court and acquitted;
- if a person was prosecuted in court but no fine imposed; and,
- if a person was prosecuted in court and the court imposed a lesser fine than the amount of the financial penalty deposit paid.

The rate of interest prescribed is the Bank of England base rate (as defined in the Order) at the beginning of the day that payment of the financial penalty deposit is made.

The Road Safety (Immobilisation, Removal and Disposal of Vehicles) Regulations 2009

4.8 The purpose of the Road Safety (Immobilisation, Removal and Disposal of Vehicles) Regulations is to enable enforcement officers to fit an immobilisation device to a vehicle that has been prohibited for any reason from further use. They also prescribe a release fee, and provide that the vehicle can be removed and disposed of in certain circumstances. The purpose of immobilisation is to prevent drivers from failing to comply with the requirements of a prohibition notice - for example by driving off before they have taken essential rest, or before they have attended to mechanical defects on a vehicle which make it dangerous to continue to use.

4.9 The Regulations also enable enforcement officers to immobilise a vehicle where the driver has declined to pay a requested financial deposit.

4.10 Section 5 of the Road Safety Act 2006 amends the RTOA to give VOSA examiners equivalent powers to those already vested in the police to issue fixed penalty notices and conditional offers. To date, VOSA have been able to prosecute commercial vehicle drivers and to issue prohibitions against the driving of vehicles but have been unable to issue fixed penalties and conditional offers. Section 8 of the Road Safety Act 2006 introduces the concept of the “driving record”, to enable the fixed penalties to be issued to those without a UK licence and counterpart licence.

The Fixed Penalty (Procedure) (Amendment) Regulations 2009

4.11 The purpose of the Fixed Penalty (Procedure)(Amendment) Regulations is to make an amendment to the Fixed Penalty (Procedure) Regulations 1986 to exclude from their scope fixed penalties issued by VOSA examiners and also to update the 1986 Regulations in respect of the driving record.

The Fixed Penalty (Procedure) (Vehicle Examiners) Regulations 2009

4.12 The purpose of the Fixed Penalty (Procedure)(Vehicle Examiners) Regulations is to create stand-alone procedures relating to fixed penalty notices given on-the-spot by vehicle examiners, which mirror certain procedural requirements in respect of fixed penalty notices issued by the police under the 1986 Regulations.

5. Territorial Extent and Application

5.1 These instruments apply to Great Britain.

5.2 Similar provisions are to be implemented in Northern Ireland in due course by the Department of the Environment (Northern Ireland).

6. European Convention on Human Rights

6.1 Jim Fitzpatrick, the Parliamentary under Secretary of State for Transport, has made the following statement regarding Human Rights: In my view the provisions of the Fixed Penalty Offences Order are compatible with Convention Rights.

6.2 As the other SIs addressed in this Memorandum are subject to negative resolution procedure and do not amend primary legislation, no statement is required in respect of them.

7. Policy background

What is being done and why?

7.1 The seven SIs and the related affirmative order implement provisions included in the Road Safety Act 2006 to fill a significant gap in the enforcement of road traffic law.

7.2 The problem being addressed is that, as things stand, the road traffic enforcement authorities have only limited sanctions available against offenders who are not resident in the UK, or who do not have a satisfactory address in the UK. In most road traffic cases (for instance, where the defendant has not been arrested or cannot be extradited to the UK), although it is possible for a court to deal with a case in the absence of the offender, it is very difficult for fines to be enforced successfully. In practice this means that such offences are not routinely pursued - though the authorities can prohibit drivers of unroadworthy vehicles from continuing their journey; and, in the case of commercial vehicles, they can prohibit drivers from continuing their journey where they are in breach of driver's hours rules.

7.3 The main effect of the relevant provisions in the Road Safety Act 2006 and the SIs is to correct this limitation. This is achieved - by enabling:

- Examiners from the Department's Vehicle and Operator Services Agency to issue fixed penalties to offenders;
- Police constables and VOSA examiners to issue fixed penalties to non-UK resident offenders - in respect of both non-endorsable and endorsable offences;
- Police constables and VOSA examiners to request immediate financial deposits from those without a satisfactory UK address; and,
- Police constables and VOSA examiners and their appointed agents to immobilise vehicles in any case where a driver or vehicle has been prohibited from continuing a journey, or in any case where a driver declines to pay a requested deposit.

7.4 There is a total of eight SIs which make up the package of measures to implement the GFP/D scheme. Seven of the SIs - namely the ones to which this EM relates - are subject to negative resolution and one is subject to an affirmative resolution.

Consolidation

7.6 There are only two of the SIs covered by this EM that amend earlier provisions: the Fixed Penalty Offences Order 2009 and the Fixed Penalty (Procedure) (Amendment) Regulations 2009. The Department for Transport does not have the lead responsibility for either of these SIs - they are matters for the Home Office - and so the Department does not propose to consolidate either of these Instruments.

8. Consultation Outcome

8.1 The GFP/D schemes were developed from the outset in close consultation with external stakeholders and Government stakeholders. Their views helped to shape the broad structure of the scheme - which largely seeks to follow existing practice for offering fixed penalties to UK resident offenders.

8.2 There was, subsequently (during summer 2007), a preliminary round of consultation on the broad shape of how the scheme would operate in practice. 40 responses were received to that consultation exercise. 22 of those submitted comments agreed with the proposed deposit levels. 8 did not fully agree with the proposed deposit levels; and 10 of those who responded did not offer any substantive comments. More detailed analysis of the preliminary consultation can be found in Annex E of the Department's July 2008 Consultation Document, available at www.dft.gov.uk under 'closed consultations'.

8.3 The main concern was that the levels of deposit may not be enough to deter offending. However, most of those who responded positively recognised that the proposals inevitably needed to be compatible with the existing fixed penalty system, and, that the main benefit of the deposit scheme will be ensuring that non-UK offenders do not continue to enjoy effective immunity from any form of financial penalty. Deposit levels were not changed following the preliminary round of consultation because they were found to be broadly comparable with the average level of court fines for the aggregate of all in-scope offences.

8.4 On the proposal of graduation of fixed penalties, 28 of the respondents specifically said that they supported the list of offences and stated that they felt the offences were appropriate for VOSA to deal with by way of fixed penalties. In response to the question posed about whether the proposed bandings of the offences were appropriate, 18 respondents said that they supported the proposed bandings - but 8 said that some offences were not in the appropriate band. Of these 8, 7 considered that certain offences should be moved into a higher band.

8.5 A further round of consultation ran between July and October 2008. The purpose of this consultation exercise was to seek comments on the draft SIs necessary to bring the schemes into force. The consultation document was circulated widely to stakeholders - the most prominent of whom were the vehicle operator trade associations - and also to EU counterparts (since the proposals will very largely affect non-UK offenders).

8.6 In total there were 24 responses to the consultation. Overall, there is broad support for the scheme as proposed. We have provided in the remaining text of this section of the Memorandum a brief summary of the main points raised in the consultation, including points raised in relation to the Impact Assessment. A detailed analysis of the summary of responses is given in the attached Annex – which can also be found on the DfT website at www.dft.gov.uk/consultations

8.7 Twelve of those who responded specifically agreed with the proposed deposit amount in the Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order – which is subject to a separate Explanatory Memorandum [**2009 No. 492**]. Two did not, and suggested that the maximum of £300 should be set at a higher level - one commenting that a more appropriate figure would be £1000. We recognise that some may consider the maximum deposit amount to be too low, but careful consideration was given to the amount we proposed, taking into account such

factors as the average level of court fines imposed for such offences. Bearing in mind also that the Order has to cover a wide range of cases we decided not to increase the level of the financial penalty deposit at this point in time, though we will be keeping fine levels and deposit amounts under review.

8.8 Twelve of the respondents agreed with method of calculating the interest on refunded deposit payments in the Road Safety (Financial Penalty Deposit) (Interest) Order. Eleven did not offer a view; and, whilst one did not agree, no alternative suggestion was offered. Therefore, given that the majority of respondents agreed with our suggested method of calculating interest, we do not propose to alter the method of calculation.

8.9 Eight of the respondents agreed with the immobilisation charges as proposed in the Road Safety (Immobilisation, Removal and Disposal of vehicles) Regulations. Eleven did not offer any comments; and, five did not agree – suggesting that they should be set at a higher level. One of the respondents who did not agree with the proposed level of immobilisation fees did not agree with enabling VOSA examiners to immobilise vehicles. After further consideration we have increased the prescribed charge for the storage of vehicle for each period of 24 hours or part thereof from £15 to £35. This brings the proposed charge into line with the prescribed charge for removal and storage of vehicles under other statutory enforcement schemes. We have not varied any of the other proposals since they are already in line with charges prescribed under equivalent schemes.

8.10 The merits of whether or not VOSA should have the power to immobilise vehicles was not subject to the 2008 consultation. The powers are already provided for under the Road Safety Act 2006 and were subject to previous consultation and consideration by Parliament.

8.11 Ten of the respondents agreed with the list of offences in the Road Safety (Financial Penalty Deposit) Order. Ten did not offer any comments; and four did not agree. Those who did not agree did so for the following reasons:

- The list of offences detailed in the Order is too broad and extends the powers of VOSA beyond offences relating to commercial and PSV vehicles;
- The offence of dangerous driving, contrary to Section 2 of the Road Traffic Act 1988 has not been included and suggested that the offence should be included.

8.12 The Financial Penalty Deposit Order lists all of the offences for which the police and VOSA may wish to collect a financial penalty deposit. VOSA will not, of course, be enforcing speeding offences or any other offences which are routinely enforced solely by the police.

8.13 We do not propose to include any offences which may be subject to trial on indictment because the existing fixed penalty scheme does not encompass such offences given that – due to their serious nature – such matters are generally considered more appropriate to be dealt with by the courts. The police would generally arrest alleged offenders with a view to pursuing a prosecution.

8.14 Ten of the respondents agreed with the levels of graduation proposed in the Fixed Penalty (Amendment) Order. Ten offered no comments and four did not agree. Those who did not agree with the proposed levels did so for the following reasons:

- Failing to use record sheets or driver card in accordance with article 15 (2) should be a higher penalty than the £120 proposed by the consultation document.
- All of the penalty levels are far too low and should be set at a much higher level to that of what is proposed.

8.15 Having taken into consideration the responses above we agree with the suggestion to increase the penalty level for ‘failure to use record sheets or driver card, in accordance with article 15 (2) of that Regulation’ from £120 as to £200 and have amended the draft Order accordingly. The Department however, does not propose at this time to make any further modification to the

proposed levels of graduation because the scheme necessarily has to cater for the majority of 'average cases' rather than the extremes. In proposing the levels of graduation we have taken account of the current Home Office Fixed penalty scheme with which GFP/DS has to be compatible and we have also taken into consideration average fine levels.

8.16 Twelve of the respondents offered no comments on the consultation Impact Assessment (IA); eight agreed with the cost/benefit analysis; and four did not.

8.17 The four respondents who did not agree with the IA specifically gave the following reasons:

- Costs associated with training implications for the police have not been included – nor have the additional costs associated with the administration processes of forwarding documentation and financial deposits to courts;
- There will be cost implications for the police service in the provision of any revised penalty ticket and in training of 'back office' staff; and,
- Costs associated with immobilisation as detailed in the consultation IA are underestimated – especially in relation to the cost of purchasing the immobilisation devices – and also if the services of an outsourced contractor were to be used.

8.18 The Department has given full consideration to these points and we have increased our assessment of the one-off costs associated with implementation. We have also increased the number of immobilisation devices that we expect the police to purchase nationally – in order to represent a more informed figure. Bearing in mind that no consultee suggested any figures, we have based our revised estimates for the number of immobilisation devices on figures from VOSA regarding current prohibition rates and also the criteria where applying an immobilisation device is likely to be deemed appropriate.

8.19 Our assessment of value for money remains largely unchanged – in that we still expect the scheme to deliver overall net benefits – which are primarily likely to be attributable to increasing compliance and helping to improve road safety.

8.20 As well as formal consultation, the Department has also undertaken informal consultation with key stakeholders throughout the period of development of the scheme- both to keep them advised of progress, and to seek their views and ideas.

9. Guidance

9.1 VOSA and the Police will produce, and update, operational guidance for constables and examiners on how to apply the powers in practice. This will very much follow the long-established and tried-and-tested mechanism for fixed penalties issued by the police under the Road Traffic Offenders Act 1988. It will also encompass the new deposits system.

9.2 The publicity strategy for implementation of the scheme will probably include:

- A press release to stimulate media interest when the SIs take effect;
- Articles in the main trade magazines - hopefully in the EU as well as in the UK;
- A poster and leaflet campaign - and advertising on the main international haulage routes at ports and truck stops; and,
- Leaflets in the main EU languages on the cross-channel routes.

10. Impact

10.1 An Impact Assessment is attached to this Memorandum.

10.2 The Impact Assessment covers the wider package of measures known as the graduated fixed penalties, financial penalty deposits and immobilisation scheme (GFP/DS). Although the Assessment considers four separate options, each of these is a separate aspect of the GFP/DS

scheme. Theoretically any one of these could be pursued independently from any other, but the objective is to deliver all aspects of the scheme and so the four options are really inter-dependent and need to be considered collectively as an overall package of separate measures.

10.3 There will not be any impact on businesses (including small businesses) which are compliant with the law.

10.4 Our assessment is that the scheme will deliver overall net benefits – which are primarily likely to be attributable to increasing compliance and helping to improve road safety.

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10.5 There will be some set-up costs incurred both by the police and by VOSA in developing and adapting systems for issuing and recording fixed penalties and deposit payments. The cost of purchasing immobilisation devices would also add to the set-up costs. We have estimated that the total set-up costs would be £3.54M.

10.6 We have evaluated the running costs and benefits of the scheme over a 10 year period – on the basis that this would provide a reasonable time period for the costs and benefits to be fully realised and stabilised. We also think that 10 years would provide a realistic period after which it would be reasonable to review the effectiveness of the scheme, and also the costs and benefits involved in continuing to see it operate.

10.7 There will be some cost associated with the issue of fixed penalties - especially to foreign offenders - and also in respect of collecting and processing financial penalty deposits. In overall terms we do not expect that costs will be particularly high bearing in mind that both the police and VOSA stop non-UK resident offenders currently anyway (and may either prohibit the driver from continuing a journey or at least warn them about more minor offences). Costs are also likely to be incurred by the court services in processing new offenders – but we think their costs are likely to be less than the savings that will arise due to the fact that many offenders will opt to pay fixed penalties or newly graduated fixed penalties. Court services costs have therefore been excluded from our calculations. We have estimated that the total annual running costs are likely to be of the order of £2.1M

10.8 We anticipate that there will be two main benefits. Firstly, reduced enforcement costs, both for the police and for VOSA; and, secondly, reduced road casualties due in particular to the deterrent effect of, for the first time, being able to bring non-UK drivers to account for more ‘routine’ road traffic offences.

10.9 The police will benefit because they will no longer have to prosecute commercial vehicle drivers’ hours and overloading offences in court – given that both offences are being made fixed penalty offences and also being graduated according to the level of offending. VOSA will similarly benefit from the fact that they will, in future, be able to issue fixed penalties instead of having to prosecute every offence in court. We are also predicting that the courts will also benefit from the fact that, overall, fewer cases will have to be taken to court, notwithstanding the fact that both the police and VOSA will far more easily be able to prosecute non-UK offenders because of the introduction of the deposit aspect of the GFP/DS scheme.

10.10 The other main expected benefit of the scheme is the likely deterrent effect of being able to take financial penalty deposits – we anticipate primarily from non-UK resident offenders. We believe that this will have a significant impact on encouraging better levels of compliance, especially amongst drivers and operators of commercial vehicles engaged in international transport to the UK. It is very difficult to put any figures on what the potential reduction in casualties may be worth in financial terms and we have therefore not made any attempt to do so in the Impact Assessment.

10 .11 In terms of quantifiable benefits, we are predicting annual benefits in the region of £20M (excluding any casualty and associated benefits). This means that the overall net benefit of

introducing the GFP/DS scheme is expected to be of the order of £18M annually (again excluding any casualty and associated benefits).

11. Regulating small business

11.1 The legislation does apply to small business.

11.2 There will not be any impact on businesses (including small businesses) which are compliant with the law.

12. Monitoring & Review

12.1 The success criteria is to see the rate of compliance with GB road traffic law increase especially in relation to foreign drivers.

12.2 The Department for Transport will carry out a post implementation review of the schemes one year after implementation of the schemes.

13. Contact

The official within the Department for Transport who can be contacted with queries on these instruments is Joanne Wake, in LRI Division, Department for Transport, Zone 2/09, 76 Marsham Street, Westminster, London, SW1P 4DR; e-mail joanne.wake@dft.gsi.gov.uk.

ANNEX **Summary: Intervention & Options**

Department /Agency:	**Title:**	
Department for Transport	**Impact Assessment of the Graduated Fixed Penalty and Deposit Schemes including Immobilsation.**	
Stage: Post-consultation	**Version: Final**	**Date: January 2009**
Related Publications:		

Available to view or download at:

http://www.dft.gsi.gov.uk

Contact for enquiries: Joanne Wake **Telephone:** 020 7944 6566

What is the problem under consideration? Why is government intervention necessary?

This intervention aims to improve enforcement of existing laws regarding safe use of vehicles

- Unlike police officers at present VOSA enforcement officers are unable to issue fixed penalties;

- Under current arrangements fixed penalties are not related to the severity of an offence;

- In practice it is currently very difficult to prosecute offenders who are non-UK residents; and,

- There were growing incidences of drivers driving off whilst under prohibition for roadworthiness and traffic offences.

What are the policy objectives and the intended effects?

To commence and implement the relevant provisions in the Road Safety Act 2006 (RSA) which are intended to address the current problems. The new provisions will enable:

- VOSA enforcement officers to issue fixed penalties (FPs);

- the graduation of FPs so that they can be made proportionate to the severity of offending;

- the police and VOSA to collect FP payments from offenders without a satisfactory UK address; and,

- the immobilisation of vehicles in certain cases.

Four options have been considered - all of which are being recommended as a package - enabling:-

1) VOSA examiners issuing fixed penalty notices - as provided for by section 5 and Schedule 1 of the RSA;

2) graduation of certain FPs - as provided for by section 3 RSA 2006;

3) financial penalty deposits - as provided for in section 11 of the RSA 2006; and,

4) immobilisation of prohibited vehicles - as provided for in section 12 and Schedule 4 of the RSA 2006.options have been considered? Please justify any preferred option.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? A post-implementation review of the schemes will take place one year after implementation.

Ministerial Sign-off For Post-consultation Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Jim Fitzpatrick

.....Date: 5th March 2009

Summary: Analysis & Evidence

Policy Option: 1	Description: Issuing of Fixed Penalties by VOSA Examiners

COSTS

ANNUAL COSTS

One-off (Transition)	Yrs
£ 2,600,000	

Average Annual Cost (excluding one-off)
£ 550,000

Description and scale of **key monetised costs** by 'main affected groups' There would be some set-up costs associated with new IT systems for recording the issue of FPs etc. There would be some additional administrative cost associated with the issuing of fixed penalties by VOSA examiners (estimated £550K - 50:50 staff/IT)

Total Cost (PV) **£ 4.981M**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS

One-off	Yrs
£ None	

Average Annual Benefit (excluding one-off)
£ 15,500,000

Description and scale of **key monetised benefits** by 'main affected groups' A reduction of court time - worth £15.5M annually - due to the reduced number of prosecutions taken by VOSA, based on an estimated 13,500 cases annually at an average cost of £1,150 per prosecution in court.

Total Benefit (PV) **£ 128.9M**

Other **key non-monetised benefits** by 'main affected groups' Additional deterrent benefits are likely to arise due to fact that offenders will realise that there may be an increased likelihood of receiving a fixed penalty from VOSA - which will improve road safety. Additionally, for the first time FPs can be issued to alleged offenders without a satisfactory UK address.

Key Assumptions/Sensitivities/Risks That most offenders will elect to pay a FP in preference to facing court proceedings - but this is strongly indicated by comparison with the percentage of offenders who choose to pay FPs currently issued by the police (88%).

Price Base Year 2007	Time Period Years 10	**Net Benefit Range** (NPV) **£ 123.9M**	**NET BENEFIT** (NPV Best estimate) **£ 123.9M**

What is the geographic coverage of the policy/option?			GB	
On what date will the policy be implemented?			Spring 2009	
Which organisation(s) will enforce the policy?			VOSA	
What is the total annual cost of enforcement for these organisations?			£0.5M	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ none	
What is the value of changes in greenhouse gas emissions?			£ none	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **N/A**	Small **N/A**	Medium **N/A**	Large **N/A**
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of £ negligible	Decrease of £ negligible	**Net Impact**	**£** none	

Key: **Annual costs and benefits:** **(Net) Present**

Summary: Analysis & Evidence

Policy Option: 2	Description: Graduation of Fixed Penalties

COSTS

ANNUAL COSTS

One-off (Transition) **Yrs**

£ 40K

Average Annual Cost (excluding one-off)

£ negligible

Description and scale of **key monetised costs** by 'main affected groups' There will also be a small one-off cost (around £40K) in making essential modifications to the current police computerised system for fixed penalties (the VP/FPO system) to enable it to take account of graduated fixed penalty offences in future.

Total Cost (PV) **£ negligible**

Other **key non-monetised costs** by 'main affected groups' There will be a small cost to the government - in determining which offences should be graduated and at what levels - and in arranging for the necessary enabling legislation.

BENEFITS

ANNUAL BENEFITS

One-off **Yrs**

£ nil

Average Annual Benefit (excluding one-off)

£ not quantifiable

Description and scale of **key monetised benefits** by 'main affected groups' None

Total Benefit (PV) **£ not quantifiable**

Other **key non-monetised benefits** by 'main affected groups' The change will apply to drivers' hours offences, overloading offences and some 'construction and use' offences. The main benefit will be in providing an additional deterrent to offending - so that the greater the severity of offending, the higher the level of FP that will be faced by the offender, benefitting road safety.

Key Assumptions/Sensitivities/Risks There will be no additional social costs or administrative burdens for those who comply with the law. The road haulage industry as a whole will benefit from a more effective deterrent against unfair competition from law-breakers.

Price Base Year 2007	Time Period Years 10	**Net Benefit Range** (NPV) **£ not quantifiable**	**NET BENEFIT** (NPV Best estimate) **£ not quantifiable**

What is the geographic coverage of the policy/option?			GB	
On what date will the policy be implemented?			Spring 2009	
Which organisation(s) will enforce the policy?			VOSA and Police	
What is the total annual cost of enforcement for these organisations?			£ Negligible	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ none	
What is the value of changes in greenhouse gas emissions?			£ none	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ negligible Decrease of £ negligible **Net Impact** **£** none

Key: **Annual costs and benefits: Constant Prices**

Summary: Analysis & Evidence

Policy Option: 3	Description: Financial Penalty Deposits (or

COSTS

ANNUAL COSTS

One-off (Transition) **Yrs**

£ 830,000

Average Annual Cost (excluding one-off)

£ 550,000

Description and scale of **key monetised costs** by 'main affected groups' There will be a cost both for the police and VOSA in adapting their systems for issuing and recording fixed penalties - so that they can record the payment of a deposit where one is required. There would be some annual administrative cost. (We estimate the cost to foreign operators at some £2.7M but this is not included in the total as it is not a cost to the UK).

Total Cost (PV) **£ 4.98M**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS

One-off **Yrs**

£ nil

Average Annual Benefit (excluding one-off)

£ 3.6M

Description and scale of **key monetised benefits** by 'main affected groups' There will be a benefit to the UK for issuing FPs to non-UK resident offenders as this will bring the same sanction as applied to UK offenders (VOSA FP's estimated at £2.7M). We estimate that there will be an additional £0.9M income benefit from the police issuing FP's.

Total Benefit (PV) **£29.94M**

Other **key non-monetised benefits** by 'main affected groups' The main benefit arises from VOSA and the police effectively being able to collect on-the-spot deposits from non-GB offenders - who currently run little risk of facing any punitive action for offending. This will deliver benefits for road safety, congestion (caused by accidents), and reduced road damage (reduced overloading).

Key Assumptions/Sensitivities/Risks The main risk is that non-UK offenders will decline to pay a deposit in respect of a FP (an on-the-spot deposits). However, in that event their vehicle will be prohibited and immobilised (under Policy Option 4). We estimate that 90% of offenders will pay a financial penalty deposit.

Price Base Year 2007	Time Period Years 10	**Net Benefit Range** (NPV) **£ 24.96M**	**NET BENEFIT** (NPV Best estimate) **£ 24.96M**

What is the geographic coverage of the policy/option?			GB	
On what date will the policy be implemented?			Spring 2009	
Which organisation(s) will enforce the policy?			Police and VOSA	
What is the total annual cost of enforcement for these organisations?			£ 550,000	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ none	
What is the value of changes in greenhouse gas emissions?			£ none	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ negligible Decrease of £ negligible **Net Impact** **£** none

Key: **Annual costs and benefits: Constant Prices**

Summary: Analysis & Evidence

Policy Option: 4	Description: Immobilisation of prohibited V

COSTS

ANNUAL COSTS

One-off (Transition) **Yrs**

£ 70,000

Average Annual Cost (excluding one-off)

£ 1M

Description and scale of **key monetised costs** by 'main affected groups' It is estimated that 2000 devices will be needed nationally (as a one-off cost) . Annual costs will be associated with immobilising those vehicles which have been prohibited and where there is perceived to be a serious risk to road safety unless the vehicle is immobilised.

Total Cost (PV) **£ 8.32M**

Other **key non-monetised costs** by 'main affected groups' It is possible that some immobilised vehicles will need to be removed to temporary storage facilities. It is likely that the number will be small, but we do not have an estimate of that number. Any storage costs and associated would be recoverable from the vehicle owner.

BENEFITS

ANNUAL BENEFITS

One-off **Yrs**

£ nil

Average Annual Benefit (excluding one-off)

£ 1.1M

Description and scale of **key monetised benefits** by 'main affected groups' We estimate a total average deposit income resulting from immobilisation of £1.1M per annum.

Total Benefit (PV) **£ 9.15M**

Other **key non-monetised benefits** by 'main affected groups' The main benefit is being able to hold to account offenders who either: currently abscond whilst a prohibition notice is in force; or, where, in future, a non-UK driver elects not to pay an on-the-spot fine (deposit payment). These will translate into benefits to road safety (reduction in injury accidents) and fair competition.

Key Assumptions/Sensitivities/Risks We anticipate that immobilisation devices will generally be used by VOSA and the Police whenever a vehicle has been prohibited and there is judged to be a significant risk to road safety unless a vehicle is also immobilised. From our research to date we believe that contractors are only likely to be used in remote locations or during 'unsocial' hours.

Price Base Year 2007	Time Period Years 10	**Net Benefit Range** (NPV) **£ 0.83M**	**NET BENEFIT** (NPV Best estimate) **£ 0.83M**

What is the geographic coverage of the policy/option?			GB	
On what date will the policy be implemented?			Spring 2009	
Which organisation(s) will enforce the policy?			Police and VOSA	
What is the total annual cost of enforcement for these organisations?			£ 100,000	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ none	
What is the value of changes in greenhouse gas emissions?			£ none	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ negligible Decrease of £ negligible **Net Impact** **£** none

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Introduction

1. This Impact Assessment presents a detailed cost-benefit analysis of four elements of a new strategic enforcement scheme which is intended to help improve compliance with the requirements of road traffic law. This scheme has been provided under provisions in the Road Safety Act 2006 and it is therefore already 'law' in GB. It is being implemented in a practical sense through secondary legislation, and it is the impact of this secondary legislation that is being considered in this Assessment.

2. Although the assessment presents four options for consideration, these options are, in fact, all integral to the operation of the scheme and the scheme would not function as intended unless all elements were to be implemented as intended under the primary legislation. In that sense the Options are not really separate options – but they are presented as such here in order that the reader is able to obtain a better understanding of how the individual elements are likely to contribute to the effective operation of the whole scheme.

3. The four options considered are
- Option 1: issuing of fixed penalties by VOSA's vehicle examiners;
- Option 2: graduation of fixed penalties;
- Option 3: financial penalty deposits; and
- Option 4: immobilisation of prohibited vehicles.

4. The justification for each can be summarised briefly as follows:
- Option 1: will enable VOSA's vehicle examiners to issue fixed penalties in respect of offences they currently either deal with by way of prohibiting a vehicle from continuing its journey; and/or by prosecuting the offence in court. This will save time and effort for everyone – including the courts – and therefore cost.
- Option 2: will enable the Secretary of State to 'graduate' the level of fixed penalty offences so that they can more easily be related to the seriousness of the offence. In practice this means that the penalty level for some fixed penalty offences can be increased for commercial vehicles since the offence is likely to represent a more serious risk to road safety when committed in respect of a commercial vehicle. It also means that the penalty level for some fixed penalties (commercial vehicle drivers' hours and overloading offences) can be graduated according to the level of offending.
- Option 3: will enable both the police and VOSA's vehicle examiners to take financial penalty deposits from offenders who do not have a 'satisfactory address in the UK'. Most notably this means that – for the first time – fixed penalties can be issued to foreign offenders and enforced on-the-spot.
- Option 4: will enable the police and VOSA's vehicle examiners to immobilise prohibited vehicles. Most notably this means that – for the first time – it will be possible to ensure that drivers of vehicles which have been prohibited from continuing their journey comply with the terms of that prohibition.

OPTION 1 - Issuing of fixed penalties by VOSA Examiners.

Background

5. Under current arrangements only the police can issue a fixed penalty notice. This is an unhelpful arrangement - and limiting - because, whereas the police carry out most compliance enforcement activity in respect of private and light goods vehicles, vehicle examiners in VOSA carry out the majority of enforcement activity in relation to heavy goods vehicles (HGVs) and public services vehicles (PSVs). In addition there are certain offences such as drivers' hours and overloading that are not currently fixed penalty offences that we intend to make fixed penalty offences.

Costs

6. There would be some set-up costs for VOSA associated with establishing new IT systems for the issue of fixed penalties and training staff (the total VOSA-estimated one-off cost of which is £2.6M).

7. There would be some additional administrative cost associated with the issuing of fixed penalties by VOSA examiners (net estimated by VOSA at £550K annually).

8. There would be additional costs to offenders - these would be the costs of paying the FPs.

Strategic Benefits of implementing the Option

9. The current system places an additional burden on the Court service and VOSA in having to deal with the prosecution of offences, which, under these proposals, would very largely be dealt with by way of fixed penalties.

10. The current system is also inequitable, in that it prevents offenders from having the opportunity to pay a fixed penalty instead of going to court, when, if they had been dealt with by the police, such an opportunity would have been available to them.

11. Implementing the proposal under Option 1 would address both of these problems.

Quantified Benefits of implementing the Option

12. *The Home Office Motoring Offences and Breath Test Statistics, England and Wales 2004* indicate that the level of non-payment of Fixed Penalty Notices issued by the police for motoring offences is relatively small. In 2004, for example:

- 98% of endorsable fixed penalties were paid,
- 74%of non-endorsable, driver present fixed penalties were paid;
- 71% of non-endorsable driver absent were paid;

The overall payment rate was 88% - and so we would expect to see a similar level of payment of fixed penalties offered by VOSA, and a corresponding reduction in the number of cases that have to be taken to court (say 90% reduction)..

13. Given that VOSA currently prosecute around 15,000 offenders in court annually, the expected 90% reduction in the number of court cases as a result of the introduction of these powers to allow VOSA to issue fixed penalties instead would mean a saving in the prosecution of around 13,500 cases annually. According to information from the Home Office Research, Development and Statistics Directorate (97/98 Research Findings No.103), we have estimated the average cost of a court prosecution for a offence relating to a motor vehicle is £1,150. Therefore, we estimate that the total annual saving to courts would be 13,500 x £1,150 = £15.5M.

14. So far as equity is concerned, implementing the proposal will mean that vehicle operators will be able to save the direct and indirect costs of having to attend court. It is difficult to put a precise figure on what the total saving might be, but on the basis of an 90% saving in the number of cases prosecuted; and, on the assumption that the direct costs to an operator of attending a court hearing is, say, £250 (based on the estimated value of an average day of lost business), the total value of benefits could be up to £3.0M, calculated as follows:

- 13,500 cases prosecuted each year x £250 per operator = £3.4M.

However, these savings are not included as 'benefits' in the IA since they are the result of breaking the law and accrue to offenders.

15. Given the fact that VOSA will be able to issue fixed penalties for the first time we believe this fact is likely to encourage greater compliance by UK operators and drivers. Although we are unable to quantify the effect of this additional deterrent it can only serve to benefit road safety.

OPTION 2 - Graduation of Fixed Penalties

Background

16. Currently a fixed penalty notice (issued by the police) can only be for the prescribed monetary amount - irrespective of whether the offence was committed in a relatively minor or more significant manner.

17. Furthermore, where multiple offences are detected only the most serious endorseable offence (and up to two non-endorseable offences) will be taken into account this is the current policy of the police and VOSA will follow this best practice. This means that more serious offending and multiple offences continue to be treated as per now and are prosecuted in court.

18. Under this policy option it would, in future, be possible to solve both of these problems. The level of penalty for offences could be graduated according to the level of offending - and some of the more serious offences and multiple offences could be dealt with by way of fixed penalties. (Very serious offences would still continue to be prosecuted in court).

19. Introducing a more broadly-based system of graduated fixed penalties will, in particular, provide a greater incentive to comply with road safety legislation - given that more serious offences will attract higher penalties - and therefore help to reduce road casualties.

20. These provisions do not cover the graduated structure for speeding penalties in respect of which the Department has consulted separately.

Costs

21. There is some initial cost to the government - in determining which offences should be graduated and at what levels - and in arranging for the necessary enabling legislation. This will be a relatively insignificant 'one-off' cost of administration - which we cannot easily quantify. There will also be a small one-off cost in making essential

modifications to the current police computerised system for fixed penalties (the VP/FPO system) to enable it to take account of graduated fixed penalty offences in future. The cost involved will be in the region of £40K.

22. Offenders may see some additional cost since more serious offences will face higher fixed penalty levels in future. We are unable to quantify this because the costs are dependent both on the level and extent of offending, and both are unknown quantities in the future.

Strategic Benefits of implementing the Option

23. Drivers' hours and overloading offences will be made fixed penalty offences under the provisions of the Fixed Penalty (Amendment) Order, along with some other offences. At the present time only fixed penalties relating to drivers' hours and overloading offences – and also some offences under the Road Vehicles (Construction and Use) Regulations 1986 – will be graduated to reflect the nature and severity of the offence. These offences are, for the most part, dealt with by VOSA, rather than by the police because they relate to the operation of commercial vehicles.

24. In 2007/8, the number of such offences dealt with by VOSA were:

Offence type	UK HGV	Non-UK HGV	UK PSV	Non-UK PSV
Drivers' hours	7,339	7,329	1,349	113
Overloading	4,377	3,383	257	19

25. The main benefit will be in providing an additional deterrent to offending - so that the greater the level of offending, the higher the level of FP that will be faced by the offender. This will, in turn, bring benefits in the following main areas:

- Road safety - mainly because of the additional deterrent to drivers considering breaching maximum driving time rules; and,
- Competition - because additional deterrent to would-be offenders should translate into fewer offences - which will in turn be better for the majority of law-abiding vehicle operators.

Quantified Benefits of implementing the Option

26. We have not attempted to make any monetised analysis of benefits - because the parameters on which any assessment was based would be highly speculative and subjective.

Summary of costs and benefits

27. However, it appears that there would there would be net benefits to society. The reason for saying so is because the set-up and running costs would be negligible, but the benefits of introducing higher levels of penalty for more serious offences would be inevitable.

OPTION 3 - Financial Penalty Deposits (on-the-spot deposits)

Background

28. Currently fixed penalties are only issued to offenders who are based in the UK. The reason for this is because, in the event that a fixed penalty is not accepted; or, in the event that an offender ignores a fixed penalty notice, the subsequent follow-up action involves court action. Whilst it is possible to serve a court summons outside the UK (only in certain countries), the process involved is complicated and costly; and, except where offenders can be extradited for very serious offences, there is no requirement for non-UK offenders to attend a UK court or for any legal remedy to be pursued if they fail to do so. Additionally, in respect of endorseable offences (those offences for which the offender is required to surrender the driving licence for endorsement at the roadside or at a police station within 7 days), it is currently not possible to issue a fixed penalty to non-GB licence holders unless they hold a counterpart licence with a record of their penalty points.

29. The consequence is that non-UK offenders are rarely pursued - either by the police or by VOSA - for road traffic and vehicle roadworthiness offences. This results in an inequality of treatment as between UK and non-UK offenders, and it also provides an almost total lack of deterrent against non-compliance by non-UK drivers and vehicle operators. (The same inequality and lack of deterrent also applies in the case of UK residents who have no fixed abode in the UK).

30. The purpose of this Policy option is to ensure that any driver who does not have a 'satisfactory' UK address cannot evade the law and also expect to escape any punitive action. Under this Option an offender who did not have a satisfactory UK address would have to pay a deposit on-the-spot that would be equal to the relevant (graduated) fixed penalty notice issued in respect of the offence or offences. The same requirement would apply in respect of

cases where the offence was too serious to be dealt with by way of a fixed penalty - so that, in these cases, a deposit payment would be required as a 'surety' pending court prosecution.

Costs

31. The cost to an offender will be the payment of a deposit - which will be dependent on the severity and number of offences committed by the driver; or the number of defects found on their vehicle, but these costs will be offset by an equivalent new income for the Treasury (which would be classified as an equivalent benefit to society).There will be no costs to compliant drivers and operators.

32. There will be set-up and running costs, both for the police and for VOSA. VOSA estimate that there would be some set-up costs associated with establishing new IT systems for the issue of fixed penalties and training staff (the total VOSA-estimated one-off cost of which is £0.6M). There will be a cost associated with modifying the current police computerised systems for recording and processing the issue of fixed penalties so as to enable them to take account of financial penalty deposits in future. The relevant estimated cost for adapting the common system used in England and Wales will be in the region of £100K (part of the modification cost is attributed to Option 2 costs). We do not, as yet, have a figure of the cost of adapting the existing system in Scotland, but we do not believe there is any reason why the cost would be significantly different from the England and Wales system. There will also be mainly one-off training costs for the police so that appropriately authorised officers may issue financial deposit requirements.

33. The Court Services both in England and Wales and in Scotland will incur some one-off set up costs because they will have to make a minor modification to their accounting system in order to process and account for deposit payments. The estimated total cost is small – around £30K.

34. There would be some additional administrative cost associated with the issuing of fixed penalties by VOSA examiners (net estimated by VOSA at £550K annually). The police will also incur some extra costs in issuing fixed penalties to non-UK offenders for the first time, and in collecting financial penalty deposits from them. However, these costs will be largely notional because, even though the police only prosecute a small number of offenders, they nevertheless do stop and warn offenders.

35. There would be additional costs to foreign offenders, although since they are not part of UK society we have not included the monetary value of these costs in the analysis in this evidence-base.

Strategic Benefits of implementing the Option

36. The main benefit arises from VOSA and the police effectively being able to collect on-the-spot deposits from non-GB offenders - who currently run little risk of facing any punitive action for offending. This will deliver benefits for road safety, congestion (caused by accidents), and reduced road damage (reduced overloading).

37. The introduction of deposits will create a more level playing field in competition - through the application of more consistent and equal enforcement, irrespective of the driver’s nationality or residency status.The GB industry will benefit from a more effective deterrent against unfair competition from law-breakers.

38. We have made the initial assumption in this analysis that 88% (say 90%) of non-UK offenders will pay a financial penalty deposit on-the -spot - whether it is a deposit in respect of a fixed penalty offer or a deposit in respect of a prospective court prosecution. We consider that this is a realistic assessment based on the overall payment rate of fixed penalties by UK drivers.

39. However, if Option 4 were also to be implemented we would expect that percentage to increase to 100%, bearing in mind that offenders who declined to make such a payment are liable to find that their vehicles were immobilised unless or until they do agree to make a payment. In that event, the financial benefits identified under this option would increase by a further 10% (and the estimated financial benefits under Option 4 would correspondingly decrease).

Quantified Benefits of implementing the Option

40. The total number of prohibitions issued to non-GB offenders at present by VOSA is in the region of 25,000 (covering driver’s hours, overloading and roadworthiness offences). We are assuming, for the purposes of this broad estimate, that, in future, a fixed penalty and deposit requirement would be made in all of these cases. We consider that an average level of deposit payment in these cases would be around £120 - bearing in mind that - according to recent 'fleet compliance surveys' and the results of enforcement action taken against vehicles involved in international transport - non-UK vehicles and drivers are far more likely to be involved in traffic offences than UK counterparts - and these are at the upper level of deposit payment requirements. The total net benefit to the UK would be some £3M per year, but bearing in mind that only 90% of offenders are thought likely to pay a financial penalty deposit requirement, the estimated income from VOSA-issued requirements would be £2.7M.

41. Whilst the police cannot currently issue fixed penalties to non-UK offenders they will be able to do so once these new deposit provisions are commenced and implemented. This means that there will be a significant increase in the number of fixed penalties issued. Using best estimates from the police - based on recorded motoring offences committed by non-UK offenders - the minimum number of additional fixed penalties is around 10,000 annually. Bearing in mind that this number also includes cars, we think it is reasonable to suggest that the additional annual income from deposit requirements issued by the police will be in the region of 10,000 x £100 = £1M. So, again, if 90% pay, the total net income would be £900,000.

Non-quantifiable benefits

42. Calculating the potential road safety benefit in respect of being able to deter would-be foreign offenders is challenging. However, we do have some background information on which to make some, at least, qualitative estimates:

- We know from random surveys of the condition of 'heavy vehicles' visiting the UK from the Continent that some 22% of the fleet have roadworthiness defects, and an equal number of road traffic offences result in the issue of prohibition notices by VOSA examiners.
- VOSA examiners find roadworthiness defects in up to 45% of non-UK registered commercial vehicles they stop for inspection (which is a higher percentage than what is found in random surveys because VOSA are able to 'target' their action against the most likely offenders).
- In 2006, there were some 1.5 million journeys to GB by non UK-registered HGV motor vehicles (Road Goods Vehicles Travelling to Mainland Europe 2006).
- In 2007, there were 159 killed and serious casualties attributed to accidents involving foreign-registered HGVs, as compared to 1850 killed and serious casualties attributed to accidents involving UK-registered HGVs (so foreign-registered HGVs account for around 8% of the total of KSI casualties)(Road Casualties Great Britain: 2007).
- Although we do not know how many foreign-registered HGVs are on the road at any one time, the DfT survey of foreign vehicle activity in GB (http://www.dft.gov.uk/results?view=Filter&t=2003+ro+ro+survey&pg=1) suggested that foreign HGVs travelled an estimated 924 million vehicle Km in 2003. We think that figure is likely to have increased by some 30% by 2007 (based on comparisons of increased foreign HGV ferry traffic over the same period), to around 1200 million vehicle Km. So, bearing in mind that total HGV traffic in 2007 was 29.4 bn Km, foreign vehicles only account for around 4% of the total HGV traffic.
- Foreign-registered HGVs are around two times more likely to be involved in a KSI accident than a UK-registered vehicle - which is perhaps not surprising bearing in mind that foreign-registered HGVs are three times more likely to be unroadworthy than UK-registered HGVs, and their drivers three times more likely to be in breach of drivers' hours rules.
- Nevertheless, we do not know how many visiting vehicles would be liable to be involved in accidents were it not for VOSA's intervention.
- Nor do we know what the impact of issuing fixed penalties by VOSA might be in terms of encouraging greater compliance.
- However, we do know that each road death is currently valued at £1,645,110; each serious injury at £188,960; and, each slight injury at £19,260.

Overall, it would seem likely that significant road safety benefits can reasonably be expected as a result of providing this additional deterrent enforcement power that VOSA can use both to deter would-be GB offenders and also, for the first time, non GB-offenders (this is part of options 3 and 4). If these new measures saved just one life a year - out of the 3,000 killed each year in road accidents - the benefit to society would be over £1M annually.

43. However, we have not included any estimate of casualty reductions as monetised benefits because there is no way of making any firm estimates of what the number of reduced casualties is likely to be. However, we do think that it will be inevitable that these measures will result in a substantial overall benefit to society in terms of a reduction in road casualties and damage-only accidents.

Option 4 - Immobilisation of prohibited vehicles

Background

44. Over recent years both VOSA and the police have become aware of incidences where offenders were driving off whilst their vehicles were the subject of an immediate prohibition. A "prohibition" is issued where the driver or vehicle is deemed unsafe to continue with its journey. This could be because the vehicle is overloaded, unroadworthy or because the driver has driven for too long a period without the required break or rest. The prohibition applies at the discretion of the enforcement officer but normally until the infringement has been rectified

45. In the case of prohibitions for roadworthiness defects, a prohibition can only be cleared after the relevant mechanical defect (or defects) has been rectified and the vehicle has subsequently been re-inspected to confirm compliance. In the case of drivers' hours offences, prohibitions simply expire after a set time has passed. In the case of overloading offences, the prohibition is generally removed once relevant gross weight (or weights) have been reduced to below the maximum permitted for the vehicle.

46. The problem in all cases is ensuring that the terms of the prohibition are complied with. Generally speaking this can be assured where VOSA or the police are still present at the enforcement site, but clearly the risk of non-compliance with the terms of the prohibition increases once they have left. Immobilisation powers were obtained to help manage this risk, and also to help ensure that offenders from whom a financial penalty deposit has been requested complies with the requirement to pay a deposit. The ability to immobilise a vehicle will, simply and effectively, help to secure compliance with prohibition notices and deposit requirements.

47. Based on historic data from VOSA about prohibitions and level of severity of offence, we have estimated that they are likely to need to purchase 1000 immobilisation devices. In the main the devices will be stored within VOSA vehicles which are always present at VOSA's roadside checks.

48. Based on figures from the police we expect that each police force will purchase approximately 1,000 immobilisation devices.

Costs

49. The initial set-up costs only relate to the purchasing of immobilisation devices - the cost of which is unlikely to exceed £35 per device. However, given that it is unlikely - generally speaking - that an offender will decline to co-operate with the enforcement agencies, we believe that immobilisation devices will only be used on rarer occasions. Consequently there will be no need - either for the police or for VOSA - to purchase a significant number of devices. Our estimate of set-up costs is based on the following simple calculation:
- VOSA will purchase 1000 devices;
- The police are likely to purchase a similar number of devices, nationally = 1000 devices;
- Therefore the total number of devices is thought unlikely to exceed 2000; and
- the total set-up cost will be 2000 x £35 = £70,000.

50. It is difficult to know what the running costs of the immobilisation proposals will be. We anticipate that immobilisation devices will generally be used by VOSA whenever a vehicle has been prohibited and there is judged to be a significant risk to road safety unless a vehicle is also immobilised. This is likely to be where an immediate prohibition has been issued and which cannot be cleared prior to VOSA leaving the enforcement site. It is a matter for Chief Officer of the police to decide how best to make use of immobilisation powers. However, we understand it is unlikely that their general policy would be significantly different from that which VOSA intend to apply. From our research to date we believe that contractors are only likely to be used in remote locations or during 'unsocial' hours.

51. We estimate that the total cost in time in fitting and removing an immobilsation device would be £100 per vehicle. However it is unfortunately very difficult to estimate with any certainty what proportion of VOSA-prohibited vehicles will be immobilised – it will be a proportion of the 25,000 non-GB vehicles prohibited and around 30,000 GB vehicles prohibited annually (though the overall total will be lower because some vehicles are prohibited for more than one offence). Our best estimate is that VOSA will be likely to immobilise around 10% of the total of all vehicles prohibited – so perhaps some 5,000 vehicles annually. This means that the estimated annual running costs to VOSA of fitting immobilisation devices will be £500,000K annually. From what the police service has indicated to us to-date we think it is very unlikely that police costs would be any more than this – to produce a total of up to 10,000 vehicles immobilised each year. Consequently the total estimated annual running costs will be of the order of £1M.

Strategic Benefits of implementing the Option

52. The benefit of implementing this option is that there is an additional sanction for offenders to comply with a prohibition notice. Immobilising the vehicle simply prevents the vehicle from being driven before the prohibition has expired it could be said that the benefit of this is in cases where the vehicle has been prohibited because of a serious roadworthiness defect the vehicle will be prevented from using the road network until the defect has been rectified.

Quantified Benefits of implementing the Option

53. We consider that there will be an additional benefit as a result of immobilising the estimated 10% of VOSA-detected and police-detected offenders - who would otherwise be unlikely to pay a financial penalty deposit requirement. The benefit would be that these offenders will pay a deposit which they would otherwise not pay in the absence of fitting of an immobilisation device. Our estimate of the additional consequential deposit income is calculated as follows:
- (VOSA-detected commercial vehicle offenders) = 5000 offences x £120 per average deposit requirement = £600,000; and,
- (police-detected offenders) = 5000 offences x £100 per average deposit requirement = £500,000.
The total gross annual benefit could therefore be £1.1M.

Non-quantifiable benefits

54. It is not easy to attribute a monetary value to the benefit of this option. However we have estimated that up to 10,000 vehicles or drivers are likely to be at significant risk of being involved in an accident - either because the vehicle has defects or the driver is tired, or both. Consequently, if only 3 serious injuries accident and 21 slight injury accidents could be prevented through immobilising prohibited vehicles and drivers, the annual casualty saving alone would equate to £1M annually – which – by itself – would be enough to offset the annual operational cost, both to VOSA and to the police.

55. However, we have not included any estimate of casualty reductions as monetised benefits because there is no precise way of making any firm estimates of what the likely number of reduced casualties is likely to be. However, we do think that it will be inevitable that these measures will result in an overall benefit to society in terms of a reduction in road casualties and damage-only accidents.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	Yes	Yes
Rural Proofing	No	No

Annexes

Race Equality Impact/Human Rights Impact

The underlying principle of the deposit scheme is to achieve a consistent and fairer playing – field in terms of enforcement practice and penalties for all nationalities of drivers on our roads. Most EU Member States have similar schemes and the Department does not consider the scheme would be in anyway in conflict with EU Law or the European Convention on Human Rights.

The nationality of the driver to whom a Graduated Fixed Penalty or Deposit Notice is issued will be recorded for statistical purposes only. The fixed penalty notice will be printed off in English only. However, all of the official wording and explanatory notes will be available in different languages in a pre-printed format. It is also envisaged that the call centre VOSA will be using will include a multilingual voice activated service.

Environmental

Benefits are likely to arise as a result of the new schemes encouraging operators to ensure that their vehicles remain compliant with environmental protection requirements.

Consultation with small business: the small firms' impact test

In developing the schemes both formal and informal consultation has taken place with the Road Haulage Association (RHA), Freight Transport Association (FTA) and the Confederation of Passenger Transport (CPT). In July 2004, a formal consultation exercise took place on the principle of the graduated fixed penalty and deposit schemes. Although none of the respondents to the consultation exercise indicated if they were small businesses, the response of the main commercial vehicle trade associations (RHA, FTA and CPT), whose membership consists of all sizes, was supportive of the proposals and the impact it would have on its members.

Gender Equality

These provisions will be applied equally to any offender, irrespective of gender.

Disability Equality

These provisions will be applied equally to any offender, irrespective of whether or not they have any disability. However the immobilisation provisions exclude VOSA and the Police from applying an immobilisation device to a vehicle if the person is a holder of a valid blue badge.