EXPLANATORY MEMORANDUM TO

THE ROAD VEHICLES (APPROVAL) (AMENDMENT) REGULATIONS 2018

2018 No. 984

1. Introduction

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

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

2. Purpose of the instrument

2.1 The purpose of this instrument is to correct defects in SI 2018/673, the Road Vehicles (Defeat Devices, Fuel Economy and Type-Approval)(Amendment) Regulations by providing for sanctions for contravention of certain prohibitions, which were inserted in SI 2009/717 the Road Vehicle (Approval) Regulations by SI 2018/673. These sanctions were inadvertently omitted from SI 2018/673.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument is prepared in response to the 29th Report of the JCSI of Session 2017-19. It corrects SI 2018/673.

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 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales, Scotland and Northern Ireland.

4.2 The territorial application of this instrument is England and Wales, Scotland and Northern Ireland.

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 This instrument is being made as a consequence of defects in SI 2018/673, the Road Vehicles (Defeat Devices, Fuel Economy and Type-Approval)(Amendment) Regulations, and in particular, defects in Part 6 of that SI. That SI amended a number of motor vehicle regulations, with Part 6 amending the Road Vehicles (Approval) Regulations 2009 (SI 2009/717). Those regulations implement the EU regime for the

approval of new road vehicles, specifying the safety and environmental standards that new vehicles must be tested against.

7. Policy background

What is being done and why?

7.1 SI 2018/673 created an offence of supplying a new road vehicle that is fitted with a defeat device[1], as a result of issues identified following the VW scandal. It included prohibitions on providing false information to an enforcement officer in the course of his or her investigations, and on impersonating such an enforcement officer. A defect in that instrument meant that there were no sanctions for persons contravening these prohibitions.

7.2 This instrument makes available the same penalties when a person contravenes these prohibitions as would apply to the underlying offence of a manufacturer supplying a new vehicle with a defeat device, namely civil or criminal penalties. These penalties are primarily fines but in the case of criminal penalties, an individual found to have committed an offence could receive a prison term of up to 3 months.

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.

9. Consolidation

9.1 Consolidation is not planned, given the brevity of this instrument and the need to agree and make it as soon as possible.

10. Consultation outcome

10.1 No consultation has been undertaken on this instrument due to its brevity and nature as a correction, rather than new policy.

11. Guidance

11.1 Guidance is not considered necessary due to the brevity of this instrument.

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 An Impact Assessment has not been prepared for this instrument. DfT assessed that the costs to business imposed by the measures in SI 2018/673 will fall below the threshold of £5m in any year, and the net benefits (Present Value) were likely to fall between £15m and £61m over 20 years with a central estimate of £37m. These Regulations make minor corrections which make no material changes to those estimates.

[1] A defeat device is designed to circumvent or defeat the intention of regulatory testing, such as vehicle emissions testing. It can take the form of hardware or software, normally the latter in modern vehicles.

13. Regulating small business

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

13.2 No specific action is proposed to minimise regulatory burdens on small businesses, given that this is purely a correction. Consideration of the effect of the underlying policy on small businesses is described in the EM to SI 2018/673.

14. Monitoring & review

14.1 Monitoring of the impact of this correcting instrument is considered disproportionate. The approach to monitoring of the underlying policy is described in the EM to SI 2018/673.

14.2 The regulation does not include a statutory review clause, in line with the instrument being corrected.

15. Contact

15.1 Mike Lowe at the Department for Transport. Telephone: 07769 243345 or email: mike.lowe@dft.gsi.gov.uk can be contacted with any queries regarding the instrument.

15.2 Ian Yarnold, Deputy Director for International Vehicle Standards, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Jesse Norman at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.