EXPLANATORY MEMORANDUM TO

THE ROAD VEHICLES (REGISTRATION AND LICENSING) (AMENDMENT NO.3) REGULATIONS 2008

2008 No. 2849

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

2. Description

2.1 These Regulations update the provisions under which the Secretary of State may disclose particulars from the vehicle register, following the repeal, in England and Wales, of the provisions on decriminalised parking contraventions, and their replacement with civil enforcement schemes.

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

3.1 None.

4. Legislative Background

4.1 The Road Vehicles (Registration and Licensing) Regulations 2002 (SI No. 2002/2742) currently enable the Secretary of State to make any particulars contained in the vehicle register kept under the Vehicle Excise and Registration Act 1994 (c. 22) available for use by a local authority for any purpose connected with the investigation of an offence or decriminalised parking contravention (regulation 27(1)(a)). A decriminalised parking contravention is defined in regulation 27(3)(a) as any act or omission which would have been an offence but for certain provisions in the Road Traffic Act 1991 (c.40 – "the 1991 Act").

4.2 The 1991 Act provided for the decriminalisation of certain non-endorsable parking offences in London. It also allowed local authorities outside London to apply to the Secretary of State to create a similar enforcement regime in their area.

4.3 Section 92 of and Schedule 12 to the Traffic Management Act 2004 (c.18 – the TMA), which only extends to England and Wales, repealed those provisions. Instead, the TMA provides, in its Part 6, for the creation, by statutory instrument, of a civil enforcement regime, under which certain road traffic contraventions concerning parking, bus lanes and moving traffic could be subject to civil penalties.

4.4 In respect of parking contraventions in England, such a regime was created by the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (SI No. 2007/3483), which came into force on 31 March 2008. In Wales, a similar regime was created by the Civil Enforcement of Parking Contraventions (General Provisions) (Wales) (No 2) Regulations 2008 (SI No. 2008/1214), entering into force on 22 May 2008 (but replacing similar Regulations that had entered into force on 31 March 2008). In

England, it is Government's intention to make Regulations under Part 6 in due course to create civil enforcement regimes in respect of bus lanes and moving traffic. At the moment, authorities outside London enforce bus lanes under the Transport Act 2000 (c. 38). Inside London, authorities currently enforce bus lanes requirement under the Local Authorities Act 1996 (c.9), and moving traffic requirements and the London Lorry Ban under the London Local authorities and Transport for London Act 2003 (c.3).

4.5 In England and Wales, the amendment will allow local authorities to apply to the Secretary of State for information from the vehicle register in connection with their civil enforcement functions under the TMA. In Scotland, where the provisions creating decriminalised parking contraventions have not been replaced, the amendment will preserve the right of local authorities to apply for information in relation to them.

4.6 Between the repeal of the 1991 Act and the coming into force of these Regulations, the Secretary of State has been able to make particulars available to authorities for the purposes of civil enforcement under regulation 27(1)(e), which allows him to make any particulars contained in the register available for use by any person who can show to his satisfaction that he has reasonable cause for wanting the particulars to be made available to him.

5. Territorial Extent and Application

5.1 This instrument extends to all of the United Kingdom.

5.2 It does not replicate legislation which already exists in any part of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 Government policy is to provide for enforcement of minor traffic contraventions through the civil law. This frees up police resources and is supported by them. Civil enforcement of parking and certain moving traffic contraventions is part of the toolkit Government has provided local authorities in order to carry out their Network Management Duty under the Traffic Management Act, contributing to policies at the local level to tackle congestion and keep traffic moving.

7.2 It is necessary for local authorities to continue to be able to apply to the Secretary of State to obtain details of the keepers of vehicles they suspect have been involved in a contravention in order for the authority to be able to issue a penalty charge notice.

7.3 There is no statutory requirement to consult. The relevant TMA provisions and the creation of the current civil enforcement schemes did give rise to public interest. In England, consultation was undertaken in respect of the creation of the parking civil enforcement scheme, details of which are given in the Explanatory Memorandum to SI No. 2007/3483. However, as this amendment is purely consequential on the TMA and its implementation, no further consultation has been carried out.

7.4 Consolidation of the amendments to the Road Vehicles (Registration and Licensing) Regulations 2002 is not envisaged in the foreseeable future.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is nil.

9. Contact

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