EXPLANATORY MEMORANDUM TO

THE SCHOOL CROSSING PATROL SIGN (ENGLAND AND WALES) REGULATIONS 2006

2006 No. 2215

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 This instrument provides increased flexibility in the manufacture of the signs required under section 28 of the Road Traffic Regulation Act 1984 (c.27) for School Crossing Patrol officers to stop traffic on roads while school children are crossing. The specification for the sign has been revised, in response to representations from manufacturers, to take account of the changes made to the appearance of signs by the addition of protective perimeter strips, and to clarify other aspects of the signs' appearance.

2.2 The modifications made, which are those requested by the manufacturers, increase the permitted width of red protective perimeter strips by 5mm; remove the requirement for the black and yellow bands on the pole to be of equal width; clarify other requirements for the appearance of the pole, including the part protruding into the roundel, and of any fastenings used to attach the roundel to the pole; and permit the parts of the roundel coloured yellow or red to be illuminated by means of internal lighting.

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

3.1 None.

4. Legislative Background

4.1 Section 28 of the Road Traffic Regulation Act 1984 (RTRA) provides a power for school crossing patrols to stop traffic by exhibiting a prescribed sign. "Prescribed sign" is defined by section 28(4) as a sign of a size, colour and type prescribed by regulations or authorised by the Secretary of State.

4.2 For many years the school crossing patrol sign was included in the Traffic Signs Regulations, although the power for specifying traffic signs generally is different and located separately in section 64 of RTRA. The need for separate regulations arose as a consequence of Scottish devolution, because the power under section 28 to specify school crossing signs for Scotland was devolved to Scottish Ministers, but the power to make regulations under section 64 was reserved to the UK Government.

4.3 The current Regulations under section 28 are the School Crossing Patrol Sign (England and Wales) Regulations 2002 (S.I. 2002/3020) which are revoked and replaced by this instrument.

5. Extent

5.1 The Regulations apply to England and Wales

6. European Convention on Human Rights

6.1 The Minister, Dr Stephen Ladyman, has made the following statement regarding human rights:

"In my view the provisions of the School Crossing Patrol Sign (England and Wales) Regulations 2006 are compatible with the Convention rights."

7. Policy background

7.1 It is vital for successful prosecutions, and the safety of crossing patrol officers and their charges, that the signs used to stop traffic at crossing patrol sites comply with the statutory specification.

7.2 There have been no problems in producing signs to the statutory specification for over 30 years, but when DfT consulted on draft regulations in 2002 we were informed that glass reinforced plastic signs are now more commonly used than aluminium signs, and, because the practice now is to lay the signs on the ground when not in use, the edge of the roundel needs to be harder-wearing and protected by a perimeter strip.

7.3 The 2002 Regulations therefore include provision for the use of a red or transparent protective perimeter strip to maintain the appearance of the sign. Because the perimeter strip is not retroreflective it affects the appearance of the sign when viewed at times of low visibility, and it is thus necessary to restrict the size of such strip.

7.4 However, it emerged in subsequent discussions with sign manufacturers and the Local Authority Road Safety Officers Association (LARSOA) that manufacturers are no longer able to source red perimeter strips that are sufficiently narrow to comply with the 2002 Regulations, despite having previously given assurances that they could. The Department liaised with the manufacturers and LARSOA to identify and authorise the extent of variations that could be permitted without significantly changing the appearance, conspicuity and effectiveness of the signs.

7.5 The Department agreed to prepare replacement regulations as soon as practicable that would require the use of signs similar in appearance to the diagram included in the 2002 Regulations but help manufacturers by allowing use of slightly wider non-reflective red (or transparent) perimeter strips, and clarifying other

tolerances as agreed in discussions with LARSOA and manufacturers. In the interim, the Department issued each local education authority in England and Wales with an authorisation for the use of signs complying with agreed tolerances. These authorisations expired on 31 July 2006, and manufacturers and local authorities are pressing for the introduction of replacement regulations that will provide a national and publicly available standard for sign manufacture that manufacturers are able to comply with fully.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 The impact on the public sector is that local authorities will be reassured that the signs they purchase meet the national specification. Any signs that meet the requirements of the 2002 Regulations will continue to be permitted, even if they do not meet the requirements of these new Regulations (although this is unlikely) until July 2007.

9. Contact

9.1 Mr Brian Lyus at the Department for Transport, Traffic Management Division. Tel: 020 7944 2987 or e-mail: Brian.lyus@dft.gsi.gov.uk can answer any queries regarding the instrument.

Regulatory Impact Assessment (RIA) for the School Crossing Patrol Sign (England and Wales) Regulations 2006

Title of proposed regulations:
The School Crossing Patrol Sign (England and Wales) Regulations 2006

Purpose and intended effect:

(i) Objective
To assist sign manufacturers to make school crossing patrol signs that are safe and fit for purpose, and that are clearly recognisable as the sign shown in the Highway Code.

These regulations directly affect sign manufacturers, the local education authorities that purchase signs, and the local authority employees who carry the signs to stop traffic where children are crossing roads near schools. A failure to equip school crossing patrol officers with lawful and adequate signs could mean that signs are not clearly distinguished by motorists approaching crossing points, and result in road accidents or failed prosecutions.

(ii) Background

1. Section 28 of the Road Traffic Regulation Act 1984 (RTRA) provides a power for school crossing patrols to stop traffic by exhibiting a prescribed sign. "Prescribed sign" is defined in the primary legislation as a sign of a size, colour and type prescribed by regulations or authorised by the Secretary of State.

2. For many years the school crossing patrol sign was included in the Traffic Signs Regulations, although the provision for specifying traffic signs generally is contained in section 64 of RTRA. The need for separate regulations arose as a consequence of Scottish devolution, because the power under section 28 to specify school crossing signs for Scotland was devolved to Scottish Ministers, but the power to make regulations under section 64 was reserved to the UK Government.

- Rationale for governmental intervention

3. During the preparation of the 2002 Regulations (SI 2002 /3020) the Department was informed that manufacturers had begun to fit black protective perimeter strips around the edge of the roundel. This changed the appearance of the signs, which no longer complied with the 1994 Regulations, either during hours of daylight or in darkness, because such signs had a black border surrounding the red border and because only a narrow band of red was visible.

4. The Department accepted that there was a case for using perimeter strips (to protect the sign when not in use and laid on the ground) but not that the strip should obscure the red roundel. As agreed with manufacturers, the 2002 Regulations permitted the fitting of red or transparent perimeter strips and contained a time-limited saving for black strips on existing signs which expired at the end of 2003.

5. In 2004 the Department was told that the red perimeter strips now being supplied to sign manufacturers were wider than had been agreed for SI 2002 /3020

and that narrower strips would not be available. The use of wider strips also changed the appearance of the sign, particularly during hours of darkness, because the perimeter strips were not reflective and the width of the reflective part of the roundel was therefore reduced.

6. The Local Authority Road Safety Officers Association (LARSOA) carried out a review of the stocks of signs supplied to local authorities in England and Wales, and found that there were a number of other respects in which many signs did not comply with the 2002 (and earlier) regulations besides the width of the perimeter strip. Other common defects included irregularities in the widths of the striped bands on the post and posts protruding into the face of the roundel (and encroaching on the schoolchildren symbol).

7. Manufacturers' representatives explained at a meeting in February 2004 that they would not be able to continue to manufacture and supply signs with protective perimeter strips unless there was a change in the specification. The Department sees the benefit in the protective strips in maintaining the life and functionality of the signs and so has striven to meet the constraints the industry is claiming by changing the Regulations.

Options

The options open to the Department were

a. to do nothing:

This was not considered a feasible option. Manufacturers were producing non-compliant signs, and local authorities and patrol staff needed assurance that they were being supplied with signs that would be fit for purpose. In at least one case the CPS had dropped a prosecution because the sign involved did not comply with the 2002 regulations.

b. to require that all non-compliant signs be quickly replaced with fully compliant ones:

In a few cases, signs were so sub-standard that the Department advised authorities that they should be returned to the manufacturers as not fit for purpose. These manufacturers generally accepted that they had not supplied an adequate product and replaced signs without further charge. But Option b. was not generally considered reasonable or realistic. Even in the cases where the only defect was a non-compliant perimeter strip that could be removed, the lack of protection would mean that signs would quickly become battered and dirty and need replacement.

c. to identify and authorise the extent of variations that could be permitted without significantly changing the appearance, conspicuity and effectiveness of the signs:

This option was identified as the only feasible short-term option, as the primary legislation allows the use of signs authorised by the Secretary of State as well as signs specified in regulations. However, it relies on the issue of separate authorisation

documents to each local authority, whereas national regulations are published by The Stationery Office as an easily accessible national standard.

d. to revise the existing specification in national regulations to provide a greater range of manufacturing tolerances:

This was the preferred option overall because it gives manufacturers a publicly available national standard. They know that products conforming to the regulations can be sold to any local authority in England or Wales. They also asked for a detailed specification to avoid legal challenges over whether certain aspects of the appearance of signs were permitted or not.

The Department agreed to prepare replacement regulations that would require the use of signs similar in appearance to the diagram included in the 2002 regulations but help manufacturers by allowing use of slightly wider non-reflective red perimeter strips, and clarifying other tolerances as agreed in discussions with LARSOA and manufacturers.

The modifications requested by the industry increase the permitted width of red protective perimeter strips by 5mm; remove the requirement for the black and yellow bands on the pole to be of equal width; clarify other requirements for the appearance of the pole, including the part protruding into the roundel, and of any fastenings used to attach the roundel to the pole; permit the parts of the roundel coloured yellow or red to be illuminated by means of internal lighting. Any sign which conforms to SI 2002/3020 will conform to the revised regulations.

It should be noted that the Department's original specification had been in use without problems for over thirty years. Changes are now needed to accommodate the innovation of the protective perimeter strip and changes in the availability of this component which made it impossible to make the signs compliant with the previous Regulations.

Business sectors affected

Sign manufacturers are the only business sector affected by the proposed regulations, and they were represented in discussions with the Department by the Association for Road Traffic Safety and Management. There are believed to be only about ten manufacturers supplying these signs.

Costs and benefits

a. to do nothing:

Impact on businesses:

Sign manufacturers would no longer be able to manufacture a product that would be satisfactory for their customers.

Impact on public sector:

Local authorities would not be able to purchase signs that complied with statutory requirements, or meet their statutory responsibilities towards their employees to provide them with suitable equipment.

Health impacts:

The lack of suitable signs could result in more road traffic accidents and casualties.

b. to require that all non-compliant signs be quickly replaced with fully compliant ones:

Impact on businesses:

Sign manufacturers were no longer able to source the perimeter strip in the original dimensions, and could no longer comply with the specification they had previously agreed to.

Impact on public sector:

Local authorities had not budgeted for rapid replacement of signs, even if compliant ones had been available.

Health impacts:

None identifiable as this wasn't a feasible option.

c. to identify and authorise the extent of variations that could be permitted without significantly changing the appearance, conspicuity and effectiveness of the signs:

Impact on businesses:

This would give a reasonable degree of standardisation and allow manufacturers to continue existing production methods as far as possible, though with less confidence than if there were a revised published national specification.

Impact on public sector:

Local authorities could continue to use signs for which they had already paid.

Health impacts:

None identifiable as the appearance of signs to motorists has been maintained as shown in the Highway Code.

d. to revise the existing specification in national regulations to provide a greater range of manufacturing tolerances:

Impact on businesses:

This will give confidence to manufacturers that their products meet the national specification for signs to be used in England and Wales. A national specification also ensures that rival manufacturers compete on a level playing field. The regulations

have been drafted so that any sign that met the 2002 requirements will meet the updated ones.

Impact on public sector:

This will give confidence to local authorities that the signs they purchase meet the national specification. The regulations also provide for a further year's continued use of signs that were authorised in 2004 but fall short of the revised specification in some respects.

Health impacts:

None identifiable as the appearance of signs to motorists has been maintained as shown in the Highway Code.

Equity and fairness

The regulations are helpful to school children and those who cross the road with them. They do not have any race equality impacts.

Small Firms' Impact Test

The Small Business Service thought it unlikely that the proposed regulations would have a disproportionate effect on small businesses, because they will not be required to make significant changes in their manufacturing processes.

Competition Assessment

The number of firms supplying school crossing patrol signs is small (about ten), because there is a limited demand for school crossing patrol signs, but there is no barrier on entry to the market. The relevant firms were represented at a meeting between manufacturers, LARSOA and the Department, apart from one manufacturer who was subsequently contacted by telephone. The increase in manufacturing tolerances proposed in the draft SI will not affect some firms more substantially than others, nor affect the market structure, nor lead to higher ongoing or set-up costs. The manufacture of school crossing patrol signs is not subject to rapid technological change.

Enforcement and sanctions

DfT has no statutory enforcement role and does not enforce compliance with the School Crossing Patrol Sign (England and Wales) Regulations. There will be no administrative burden placed on businesses to comply with the Regulations.

Monitoring and review

DfT has twice yearly meetings with representatives of sign manufacturers to discuss technical and regulatory issues.

Consultation

The Department consulted local authorities (through LARSOA) to establish the extent to which the signs supplied to them were defective and failed to comply with current or preceding regulations. The Department consulted manufacturers, both through their trade association and by telephone to establish what problems were being caused for them by the 2002 specification, and what changes to regulations they believed would help them to meet their customers' needs.

Post-implementation review

The Department will notify ARTSM and LARSOA of the introduction of the revised regulations, and will also notify enforcement bodies that the manufacturing tolerances have been increased.

Summary and Recommendation:

Option	Costs	Benefits
a. Do nothing	• Would leave manufacturers unable to supply their customers with signs suitable for purpose. No benefits.	
b. Speedy replacement of non-compliant signs with compliant ones.	• Compliant and durable signs not readily available.	• Not feasible so no measurable benefits.
c. Authorise use of non-compliant signs in a separate document for each local authority	• No publicly available specification for manufacturers, local authorities and the courts to refer to.	• Allowed continuing use of signs already manufactured and purchased.
d. Provide revised specification in updated regulations	• No additional costs for manufacturers or their customers because regulations allow for phased replacement of signs already in use.	• Provides publicly available specification to manufacturers and their customers, and for use in court proceedings.

Option c was adopted as a temporary means of meeting the needs of manufacturers and their customers. The recommendation is that option d should now be adopted and the regulations made.

Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed …….

Date …….

Dr Stephen Ladyman
Minister of State
Department for Transport

Departmental contact for enquiries and comments: Brian Lyus at the Department for Transport, Traffic Management Division, 3/21 Great Minster House, 76 Marsham Street, London SW1P 4DR. Tel: 020 7944 2987 or e-mail: Brian.lyus@dft.gsi.gov.uk