EXPLANATORY MEMORANDUM TO

THE TRAFFIC MANAGEMENT ACT 2004 (AMENDMENT OF SCHEDULE 7) (CITY OF EXETER) REGULATIONS 2012

2012 No. 12

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

2. Purpose of the instrument

2.1 This instrument will enable the parking offence in section 30(1) of the Exeter City Council Act 1987 - namely, parking vehicles on verges, central reservations and footways - to be enforced by civil means.

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

3.1 None

4. Legislative Context

4.1 The regime for the civil enforcement of parking contraventions in England is governed by Part 6 of the Traffic Management Act 2004 ("TMA") together with secondary legislation made under that Part - which comprises:

- the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (SI 2007/3483);
- the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 (SI 2007/3482);
- the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (SI 2007/3487); and
- three other sets of Regulations.

The civil parking enforcement regime under the TMA replaced the previous decriminalised parking enforcement regime under the Road Traffic Act 1991.

4.2 Schedule 7 to the TMA lists the road traffic contraventions that are subject to civil enforcement.

4.3 The County of Devon (with the exclusion of some roads) was designated as a civil enforcement area for the purposes of Part 6 of the TMA by the Civil Enforcement of Parking Contraventions (County of Devon) Designation Order 2008 (SI 2008/1051).

4.4 The effect of this instrument will be to amend Schedule 7 to the TMA, and thereby enable an offence under section 30(1) of the Exeter City Council Act 1987 (prohibition of parking vehicles on verges, central reservations and footways – commonly referred to as "pavement parking offences") to be civilly enforced.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

Norman Baker MP has made the following statement regarding Human Rights:

In my view the provisions of the Traffic Management Act 2004 (Amendment of Schedule 7) (City of Exeter) Regulations 2012 are compatible with the Convention rights.

7. Policy background

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

7.1 Although the City of Exeter is within a designated civil enforcement area, section 30(1) of the Exeter City Council Act 1987 is not listed in Schedule 7 to the TMA. Therefore currently enforcement is a matter for the police. As the police have many other important priorities, and the local authority is already geared up for the civil enforcement of parking contraventions (currently Exeter City Council is responsible for enforcement, on behalf of Devon County Council), both wish to transfer the responsibility for enforcing pavement parking offences in Exeter from the police to the local authority. Following the change, it will no longer be possible to bring criminal prosecutions under section 30(1) of the Exeter City Council Act 1987.

- ***Consolidation***

7.2 This is not applicable because the legislation being amended is an Act.

8. Consultation outcome

8.1 The Secretary of State consulted representatives of the appropriate chief officers of police, and the Local Government Association (the body representing English local authorities). There were no objections or concerns raised.

9. Guidance

9.1 Operational Guidance to Local Authorities on Parking Policy and Enforcement was published in 2008 under section 87 of the TMA. This guidance was amended in 2010. The guidance sets out the policy framework for civil parking enforcement and explains how local authorities should approach, carry out, and review their parking enforcement activities. Section 87 of the TMA requires local authorities to have regard to such guidance when exercising functions in connection with the civil enforcement of traffic contraventions.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is negligible. This is because the instrument does not impose additional parking controls; it simply allows the local authority to enforce existing controls as an alternative to enforcement by the police.

10.3 An impact assessment has not been prepared for this instrument because no impact on the private or voluntary sectors is foreseen and the impact on the public sector is negligible.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 In view of the nature of the amendment there is no plan to monitor or review the change. We regard this as a matter for the local authority.

13. Contact

Renata Williams at the Department for Transport Tel: 020 79446483 or email: Renata.williams@dft.gsi.gov.uk can answer any queries regarding the instrument.