

**EXPLANATORY MEMORANDUM TO
THE FIXED PENALTY OFFENCES ORDER 2013**

2013 No. 1565

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 The purpose of the Statutory Instrument (SI) covered by this Memorandum is to make the offence under section 3 of the Road Traffic Act 1988 (careless, and inconsiderate, driving) a fixed penalty offence.

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

3.1 This SI is part of a package of three SIs, the others being the Fixed Penalty (Amendment) Order 2013 and the Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Order 2013. The former increases penalty levels for most motoring fixed penalty offences and it also includes an amount for the new fixed penalty offence of careless driving. The latter increases the level of financial penalty deposits for substantially the same offences in line with the changes made by the Fixed Penalty (Amendment) Order 2013.

3.2 As this instrument is part of this linked package of SIs, and in the interests of both legal clarity and efficient administration, it needs to come into force at the same time as the other two SIs. Furthermore, any delays in bringing all three SIs into force could have a detrimental impact on the services available to victims of crime since the additional revenue raised from increasing fixed penalty levels is to be used to fund victim support services. Accordingly this SI has been drafted so as to come into force automatically at the same time as the draft affirmative Order forming part of the package (the Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Order 2013 which was laid in Parliament on 5 June 2013). In order to respect the “21-day rule”, this SI will be laid at least 21 days before the draft affirmative Order is brought into force.

4. Legislative Context

4.1 This SI makes careless driving a fixed penalty offence. Consistent with that change, it also inserts the new offence into the list of fixed penalty offences at Schedule 3 to the Road Traffic Offenders Act 1988.

4.2 This SI is one of a package of three SIs, the others being the Fixed Penalty (Amendment) Order 2013 and the Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Order 2013.

5. Territorial Extent and Application

5.1 This Order extends to Great Britain.

6. European Convention on Human Rights

6.1 Stephen Hammond, Parliamentary Under Secretary of State at the Department for Transport, has made the following statement regarding Human Rights:

“In my view the provisions of the Fixed Penalty Offences Order 2013 are compatible with the Convention rights.”

7. Policy background

- *What is being done and why*

7.1 In May 2011, the Department for Transport announced its intention to make careless driving a fixed penalty notice (“FPN”) offence in its Strategic Framework for Road Safety. The decision has been taken to make this offence a fixed penalty to increase levels of compliance.

- *Consolidation*

7.2 The Department has no current plans to consolidate any of the Acts amended by the Order.

8. Consultation outcome

8.1 The Department held a public consultation on making careless driving a fixed penalty notice offence and raising most of the penalty levels for motoring offences by 50% or by a similar proportion from June to September 2012. Responses to the consultation were received from the following groups: members of the public, road safety interest groups, police, courts, business, local authorities and other interested groups.

8.2 Views were invited on whether the careless driving offence should be made into a fixed penalty offence, the associated penalty levels for the FPN and the operational guidance criteria surrounding its use. A majority (63%) of respondents were in favour of making careless driving a fixed penalty offence and open to the offer of remedial training, provided it was used for low level offending. They also welcomed the use of educational courses to address such as low level driving behaviours. 57% of respondents disagreed with the proposed penalty of £90 and 3 penalty points for the careless driving FPN. These were mainly from members of the public, many of whom felt the proposed penalty level was as a revenue-raising exercising and unfair when the cost of motoring was already expensive. A majority (53%) of respondents supported the proposed operational guidance criteria for the use of the fixed penalty.

8.3 The Department has decided to make careless driving a fixed penalty notice offence, setting the penalty level at £100 with three penalty points. This penalty amount is in line with the decision taken on raising the penalty levels for most motoring FPNs. In view of the broad consensus, the Association of Chief Police Officers intend to proceed

with the operational guidance criteria but will make clear that only the lowest levels of careless driving behaviours are to be dealt with by a fixed penalty.

8.4 A summary of responses, including the Government response, can be found on the GOV.UK website.

9. Guidance

9.1 The Association of Chief Police Officers has prepared operational guidance on the enforcement of this fixed penalty.

10. Impact

10.1 A full impact assessment of the effect of this instrument is available on the GOV.UK website. The preferred option was to make careless driving a fixed penalty notice offence. This would improve enforcement of the offence, reduce the administrative burden on the police and workload of the courts, and provide remedial training for offenders (paid for by the offenders). The penalty level proposed was £100, as this is consistent with the policy to increase most motoring FPN amounts, which was considered in a parallel impact assessment.

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

11. Regulating small business

11.1 The legislation applies to all users of motor vehicles, irrespective of whether they are private individuals, large businesses or small businesses. However, the legislation will only affect road traffic offenders who are not compliant with relevant legal requirements relating to the use of motor vehicles.

12. Monitoring and review

12.1 The Department for Transport will continue to keep the subject of fixed penalties under review in conjunction with colleagues in the Home Office and the Ministry of Justice who have a wider responsibility for fixed penalties generally.

13. Contact

13.1 Priti Khatri at the Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR (telephone 020 7944 4715) can answer any queries regarding the instrument.