

**EXPLANATORY MEMORANDUM TO THE  
THE FIXED PENALTY OFFENCES ORDER 2004**

**2004 No. 2922**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
  
2. **Description**
  - 2.1 This instrument will, subject to annulment in pursuance of a resolution of either House, come into force on 1 December 2004 and adds a further existing offence to the fixed penalty system for road traffic offences. That offence is one of driving or riding a motor cycle on a road while using eye protectors if those eye protectors are not of a type prescribed by regulations made by the Secretary of State under section 18 of the Road Traffic Act 1988 or are used in contravention of those regulations.
  
3. **Matters of special interest to the Joint Committee on Statutory instruments**
  - 3.1 None.
  
4. **Legislative Background**
  - 4.1 The instrument is made under section 51(3) of the Road Traffic Offenders Act 1988.
  
5. **Extent**
  - 5.1 The instrument applies to Great Britain.
  
6. **European Convention on Human Rights**
  - 6.1 The Parliamentary Under-Secretary of State for the Home Department, Caroline Flint, has made the following statement regarding Human Rights:
  
  - 6.2 In my view the provisions of the instrument are compatible with the Convention Rights.
  
7. **Policy background**
  - 7.1 Section 18 of the Road Traffic Act 1988 authorises the Secretary of State to make regulations prescribing types of head-worn appliances for use by motorcyclists. It is an offence for a motorcyclist to drive or ride a motor cycle on a road while using eye protectors if they are not of a type prescribed by regulations made under section 18 of the 1988 Act or they are used in contravention of those regulations. The Motor Cycles (Eye Protectors) Regulations 1999 (S.I. 1999/535) were made under section 18 of the 1988 Act and prescribe types of authorised eye protector, which are defined by reference to conformity with certain standards/specified requirements. At present the police can deal with this offence either by an oral warning or prosecution; the availability of a fixed penalty notice will provide greater flexibility of

response. In the most serious cases the police will still be able to prosecute because of the serious risks posed to other road users as well as to the offending motorcyclist. This is a non-endorsable offence for which offenders issued with a fixed penalty notice will pay a fine of £30.

- 7.2 The fixed penalty system provides a quick, simple and direct way of dealing with a wide range of relatively minor road traffic offences while preserving the rights of individuals to challenge an alleged offence in court. The offences in the system are kept under review by the Home Office chaired Fixed Penalty Procedures Working Group. The Group which includes representatives of ACPO, the Department for Transport and its agencies, the Department for Constitutional Affairs, the court service, the Magistrates' Association and other representatives of the criminal justice system, unanimously recommended the addition of this offence.

## **8. Impact**

- 8.1 Consultation has taken place with representative organisations with an interest in the fixed penalty system. The vast majority of organisations actively supported the change.
- 8.2 The impact will be on those motorcyclists who endanger themselves and others by breaching the law. It is a relatively low volume offence, non –controversial and will give the police greater flexibility in their responses to breaches of the law. The police place particular importance on the safety aspects of failing to comply with the motor cycle visor regulations. Adding this offence to the fixed penalty system will aid enforcement and help to reduce death and injury on our roads.

## **9. Contact**

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