

EXPLANATORY MEMORANDUM TO
THE FIXED PENALTY (AMENDMENT) ORDER 2017

2017 No. 66

1. Introduction

1.1 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 amends the Fixed Penalty Order 2000, to increase to £200 the fixed penalty amount for the offence of using a hand-held mobile telephone or other hand-held interactive communication device, while driving.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Section 41D(b) of the Road Traffic Act 1988 (RTA) makes it an offence to fail to comply with a construction and use requirement as to the use of a hand-held mobile telephone or other hand-held interactive communication device, while driving, or supervising the driving of a motor vehicle. S.41D(b) also make it an offence to fail to comply with a construction and use requirement as to causing or permitting the driving of a motor vehicle by another person using such a telephone or device. The relevant construction and use requirement is contained in regulation 110 of the Road Vehicles (Construction and Use) Regulations 1986.

4.2 The Fixed Penalty Order 2000 (the “2000 Order”) prescribes the penalty amounts for various road traffic offences for which a fixed penalty may be given.

4.3 This instrument amends the 2000 Order to increase the fixed penalty amount for an offence under section 41D(b) RTA, from £100 to £200.

5. Extent and Territorial Application

5.1 The extent of this instrument is Great Britain.

5.2 The territorial application of this instrument is Great Britain

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 The Government has a Manifesto commitment to '...reduce the number of cyclists and other road users killed and injured on our roads every year'. In support of that commitment, the Government published its road safety statement "Working Together to Build a Safer Road System" in December 2015. That statement sets out the context of road safety in Britain today and the overarching scope of road safety activity for the government.
- 7.2 A number of proposals were announced in the Statement, including increasing the penalty point levels and fixed penalty amount for the offence of using a hand-held mobile telephone whilst driving.
- 7.3 Hand-held mobile telephone use while driving is a dangerous activity which increases the risk of a collision and the proposals ultimately aim to reduce the number of deaths and injuries on the roads.
- 7.4 A consultation¹ was issued to the general public and ran from January to March 2016. See point 8.1 below.

Consolidation

- 7.5 The Department has no current plans to consolidate the instrument amended by this Order, and does not consider that it would be proportionate to do so now.

8. Consultation outcome

- 8.1 The consultation on increasing the penalties for the use of hand-held mobile telephones while driving closed on the 15th of March 2016 with over 4,000 responses. On the basis of the consultation response, there is clear support for change for an increase in penalties, although for a significant number of the respondents the changes proposed in the consultation document did not extend far enough.
- 8.2 In view of the strength of feedback to the consultation, the fixed penalty for the offence will increase from £100 to £200 for all drivers. There will not, as had been proposed in the consultation, be any difference between the fixed penalty for drivers of cars and HGVs committing the offence. This is to ensure that all drivers using a hand-held mobile telephone or other similar hand-held device, are treated equally seriously, and to avoid any confusion in the message we are trying to convey which is that hand-held mobile telephone use while driving is dangerous and unacceptable, ultimately with the objective of changing behaviour.
- 8.3 The proposal to increase the number of penalty points endorsed on the driving licence of those who commit this offence, is being taken forward in a separate SI – The Road Traffic Offenders Act 1988 (Penalty Points) (Amendment) Order 2017.

¹ <https://www.gov.uk/government/consultations/hand-held-mobile-telephones-changes-to-penalties-for-use-while-driving>

9. Guidance

- 9.1 The Government is not issuing specific Guidance in relation to this order. It intends, however, to raise public awareness through advertising campaigns and will amend information on Government websites².

10. Impact

- 10.1 There is no specific impact on business, charities, voluntary bodies or the public sector. This legislation is applicable to all members of the public who drive on GB roads or who supervise a holder of a provisional licence at a time when the provisional licence holder is driving a motor vehicle on a road.
- 10.2 An Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses but it will not adversely impact upon them as the regulatory burden will not increase for any size of firm.

12. Monitoring & review

- 12.1 This legislation will be monitored within three years of implementation to assess its effectiveness with a specific focus on number of offenders caught.

13. Contact

- 13.1 Steve Townsend at the Department for Transport can answer any queries regarding the instrument. Telephone: 020 7944 3885 or email: Steve.Townsend@dft.gsi.gov.uk

² <https://www.gov.uk/using-mobile-telephones-when-driving-the-law>