

EXPLANATORY MEMORANDUM TO
THE ROAD TRAFFIC OFFENDERS (PRESCRIBED DEVICES)
ORDER 2008

2008 No. 1332

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 The Road Traffic Offenders (Prescribed Devices) Order prescribes further types of device designed or adapted for measuring the speed of motor vehicles, evidence from which can be adduced in proceedings for certain road traffic offences, in accordance with section 20 of the Road Traffic Offenders Act 1988. This Order permits the use of devices that record the time it takes for a vehicle to travel between two points on a road by manual activation and which are capable of measuring the distance between those two points by means of the odometer (mileage recording device) pulses of the vehicle to which they are fitted.

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

3.1 None.

4. **Legislative Background**

4.1 Section 20 of the Road Traffic Offenders Act 1988 as amended allows a documentary record produced by a prescribed device, accompanied by an appropriately signed certificate as to the circumstances of its production, to be admitted as evidence in respect of proceedings for certain road traffic offences. Amongst the offences to which section 20 applies are offences of speeding contrary to the Road Traffic Regulation Act 1984.

4.2 Devices to measure the speed of vehicles are of various generic types. Each generic type has to be prescribed by Order before a particular device can be approved by the Secretary of State. There has to date been no Order prescribing a type that records the time it takes for a vehicle to travel between two points on a road by manual activation and which is capable of measuring the distance between those two points by means of the odometer

(mileage recording device) pulses of the vehicle to which they are fitted. Such prescription is necessary before any individual make of such a device can be used by the police for speed enforcement purposes and have its evidence relied on in court without the need for other corroborative evidence.

5. Territorial Extent and Application

5.1 This instrument applies to 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

7.1 Section 20 of the Road Traffic Offenders Act 1988 aims to facilitate police enforcement of certain road traffic offences by providing that evidence from particular types of enforcement device is admissible in court. There are two requirements devices must meet for this to be the case. First the generic type of device must be prescribed by the Secretary of State. Secondly, any particular example or make of a prescribed device must be of a type approved by the Secretary of State.

7.2 The Secretary of State grants type approval only to devices that have a high degree of accuracy and reliability in performance. This is assessed through rigorous testing by the Home Office Scientific Development Branch (HOSDB) and the police in the field. Testing ensures that all devices are robust, reliable in operation and can produce accurate readings or images under a variety of extreme conditions. The courts and public at large can therefore rely on the evidence they produce.

7.3 Prescription of the generic type must precede the type approval of any individual make of device. As far as devices for measuring vehicle speed are concerned, a number of generic types are already prescribed, including a type using radar and a type using light beams. There has to date been no prescription of a type that is manually activated and effects its measurement by means of the odometer (mileage recording device) pulses of the vehicle to which it is fitted. This Order is necessary to enable the Secretary of State to type approve particular makes of such a device that satisfy the testing regime.

7.4 The types of device being prescribed in the Order can be used to record and measure the speed of a motor vehicle ("Vehicle A") from another vehicle to which the device is fitted ("Vehicle B") in three ways. Firstly, the device can be manually operated to record the time taken by Vehicle A to pass two positions on the road, for example, to pass between two bridges on a motorway. The distance travelled by Vehicle A can be measured by

Vehicle B travelling through the same two positions (either ahead or behind Vehicle A) and the device recording the number of odometer pulses from Vehicle B during that time. Odometer pulses are signals derived from a vehicle's sensors monitoring either the rotation of a wheel or wheels or the final part transferring power from the engines to the wheels (such as an axle) at a rate proportional to the distance travelled. The distance travelled during one odometer pulse will depend on the vehicle including the size of the wheels, tyre pressure and wear and therefore vehicles on which the device is fitted will have to undergo a calibration test to determine this distance, known as the "calibration factor". By counting the number of odometer pulses and multiplying this by the calibration factor, it will be possible to work out the distance between the two positions and therefore, by dividing this by the time taken by vehicle A, the average speed of Vehicle A between the two points.

7.5 Secondly, the device can be manually operated to record the time it takes Vehicle B to pass through the two positions. Again, the distance travelled by Vehicle B can be measured using the odometer pulses and record of the calibration factor stored in the vehicle as described above. From these measurements, the average speed of Vehicle B between the two positions can be calculated. Provided a constant distance is held between Vehicle A and Vehicle B, this will also be the speed travelled by Vehicle A over this distance. The record will make clear that Vehicle A's speed has been inferred from the speed of Vehicle B. Any approval of a device of this type, for use in this way, will be on the condition that Vehicle B is the same distance from Vehicle A at the time when it passes the two positions on the road.

7.6 Thirdly, the device can be used from a stationary position, provided the distance travelled by Vehicle A is measured prior to it passing through two pre-determined positions on the road. The distance between the two points could be measured manually using, for example, a measuring wheel or by driving Vehicle B over the two points and using the device to calculate the distance between them from the count of the odometer pulses from that vehicle as described above. The device can then be manually operated to measure the time Vehicle A takes to pass both locations. From these measurements of time and distance, the average speed of Vehicle A can then be calculated.

7.7 One manufacturer has produced a device of this type that has met the test requirements. The Secretary of State intends to grant it type approval. This Order will enable her to do so. It is expected that other devices of this type will be submitted for approval in future.

7.8 This is a technical measure, to allow, within the context of long-standing policy and an existing legal framework, the type approval of devices that satisfy objective practical, scientific and technical tests. It has therefore not been the subject of public consultation.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

8.2 The impact on the public sector is not cost-related. The instrument will not in itself lead to any increased or diminished costs. Subject to the Secretary of State's type approval of devices covered by the prescription Order, it will increase the range of devices that the police can use to record evidence for speed enforcement purposes that can then be relied on in court.

9. Contact

9.1 Geoffrey Biddulph at the Home Office, Public Order Unit, Tel: 020 7035 1801, e-mail: geoffreycharles.Biddulph@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.