

POLICY NOTE

THE ROAD TRAFFIC (PERMITTED PARKING AREA AND SPECIAL PARKING AREA) (MIDLOTHIAN COUNCIL) DESIGNATION ORDER 2018

SSI 2018/60

THE PARKING ATTENDANTS (WEARING OF UNIFORMS) (MIDLOTHIAN COUNCIL PARKING AREA) REGULATIONS 2018

SSI 2018/61

THE ROAD TRAFFIC (PARKING ADJUDICATORS) (MIDLOTHIAN COUNCIL) REGULATIONS 2018

SSI 2018/62

1. The above instruments were made in exercise of powers conferred by Schedule 3 of the Road Traffic Act 1991, sections 73(11) and (12) of the Road Traffic Act 1991, and section 63A of the Road Traffic Regulation Act 1984 respectively. The instruments are subject to negative procedures before the Scottish Parliament.

Policy Objectives and background

2. The purpose of the three Scottish Statutory Instruments is to introduce a decriminalised parking regime within the Midlothian Council area.

3. The Road Traffic Act 1991 introduced provisions enabling the decriminalisation of most non-endorsable parking offences in London and permitted similar arrangements to be introduced elsewhere in the UK. Decriminalised Parking Enforcement (DPE) is a regime which enables a local authority to administer its own parking penalty schemes, including the issuing of Penalty Charge Notices (PCNs) to motorists breaching parking controls in specific areas. DPE seeks to ensure compliance with parking controls through transparent, effective enforcement aimed at dissuading motorists from breaching parking controls and achieving 100% compliance with such controls.

4. To date, 19 Scottish local authorities have now introduced DPE within their areas. Under these arrangements, local authorities are allowed to retain the penalties collected. However, section 55 of the Road Traffic Regulations Act 1984 requires that any surplus accrued by local authorities from their DPE regimes should be ring-fenced and may only be used for certain transport-related provisions, including the provision and maintenance of off-street parking, the provision or operation of (or facilities for) public passenger transport services or for road improvement projects in the local authority area.

5. Previously, and continuing for authorities that have not introduced DPE, income generated from fines arising from parking infringements accrue to the Exchequer as these are non-endorsable criminal offences. Under DPE, enforcement powers no longer rest with the police but are implemented by parking attendants employed either directly by, or under

contract to, the local authority. As such, a breach of parking rules within an area where DPE is in force requires payment to the local authority of a penalty charge.

The Road Traffic (Permitted Parking Area and Special Parking Area) (Midlothian Council) Designation Order 2018 (SSI. 2018/60)

6. The SSI defines the area within Midlothian where DPE can be enforced. This area covers all local roads and sections of the A68 and A702 in Midlothian. A section of the A720 as specified in schedule 1 of the Order is excluded from the DPE area. The trunk road excluded from the DPE regime will continue to be the responsibility of Police Scotland, following agreement with the Council that they are best equipped to enforce this section.

The Parking Attendants (Wearing of Uniforms) (Midlothian Council) Regulations 2018 (SSI. 2018/61)

7. This SSI stipulates that a parking attendant must be wearing an identifiable uniform when carrying out the duties associated with a parking attendant.

The Road Traffic (Parking Adjudicators) (Midlothian Council) Regulations 2018 (SSI. 2018/62)

8. This SSI provides for the adjudication process to be followed where a motorist believes that a penalty charge notice has been incorrectly issued.

Consultation

9. All statutory requirements regarding the consultation for these three Scottish Statutory Instruments have been carried out. We received comments/responses from the Scottish Borders Council, Police Scotland and the Traffic Commissioner for Scotland in relation to Midlothian Council's draft SSIs, indicating that they were content with the proposals.

Business and Regulatory Impact Assessment

10. As the draft regulations relate to the enforcement of existing parking restrictions and do not therefore constitute an additional burden on business a Business and Regulatory Impact Assessment is not required. The enforcement costs incurred by Midlothian Council are expected to be absorbed by income from parking penalties.

Financial Effects

11. These SSIs will have no financial effect on the Scottish Government.

Roads Policy Team

Transport Scotland

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