
STATUTORY INSTRUMENTS

1998 No. 1539 (S.80)

ROAD TRAFFIC

The Road Traffic (Permitted Parking Area and Special Parking Area) (City of Edinburgh) Designation Order 1998

<i>Made</i>	- - - -	<i>22nd June 1998</i>
<i>Laid before Parliament</i>		<i>14th July 1998</i>
<i>Coming into force</i>	- -	<i>5th October 1998</i>

The Secretary of State, having received an application from the City of Edinburgh Council under paragraphs 1(1)(d) and 2(1)(c) of Schedule 3 to the Road Traffic Act 1991(1) and having consulted the Chief Constable of Lothian and Borders Police in accordance with paragraphs 1(3) and 2(3) of that Schedule, in exercise of the powers conferred on him by paragraphs 1(1), 2(1) and 3(3) of Schedule 3 to the Road Traffic Act 1991 and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Road Traffic (Permitted Parking Area and Special Parking Area) (City of Edinburgh) Designation Order 1998 and shall come into force on 5th October 1998.

Interpretation

2. In this Order—

“the 1984 Act” means the Road Traffic Regulation Act 1984(2);

“the 1991 Act” means the Road Traffic Act 1991;

“parking area” means the area designated as a permitted parking area and a special parking area by article 3 of this Order.

(1) 1991 c. 40; paragraphs 1(1) and 2(1) of Schedule 3 were amended by the Local Government etc. (Scotland) Act 1994 c. 39, Schedule 13, paragraph 171.
(2) 1984 c. 27. Sections 46(1A), 63A and 191(4A) and (5A) were inserted by the Road Traffic Act 1991 sections 64(2), 44(1) and 67(4) and (6); section 102(8) was amended by the Road Traffic Act 1991, section 68(3).

Designation of permitted parking area and special parking area

3. That part of the City of Edinburgh local government area⁽³⁾ specified in Schedule 1 to this Order is hereby designated as—

- (a) a permitted parking area; and
- (b) a special parking area.

Modification and application of Part II of the 1991 Act

4. Sections 66, 69 to 74, 79 and 82 of, and Schedule 6 to, the 1991 Act shall apply in relation to the parking area and as so applied shall have effect subject to the modifications specified in Schedule 2 to this Order.

Modification of the 1984 Act and Schedule 3 to the 1991 Act

5.—(1) The 1984 Act shall be modified in relation to the parking area as specified in Part I of Schedule 3 to this Order.

(2) Schedule 3 to the 1991 Act shall be modified in relation to the parking area as specified in Part II of Schedule 3 to this Order.

Consequential modification

6. In relation to a parking adjudicator appointed under section 73(3) of the 1991 Act by virtue of this Order, the reference in paragraph 40(b) of Schedule 1 to the Tribunals and Inquiries Act 1992⁽⁴⁾ to a parking adjudicator appointed under section 73(3)(a) of the 1991 Act shall be construed as if it were a reference to a parking adjudicator appointed under section 73(3) of that Act by virtue of this Order.

St Andrew's House,
Edinburgh
22nd June 1998

Henry McLeish
Minister of State, Scottish Office

(3) The City of Edinburgh local government area was established by section 1(2) and (4) of and Schedule 1 to the Local Government etc. (Scotland) Act 1994 (c. 39).

(4) 1992 c. 53.

SCHEDULE 1

Article 3

SPECIFICATION OF AREA

The City of Edinburgh, other than

- (a) so much of any road as lies within the City and for which the City of Edinburgh Council is not the traffic authority within the meaning of section 121A(4) of the 1984 Act⁽⁵⁾;
- (b) that length of the A720 road extending from Gogar Junction to its junction with the M8 road; and
- (c) those lengths of road referred to as the greenway in terms of Article 3 of and specified in Paras I, II and IV of Schedules 1 to 6, and in Part III of Schedules 2 to 6 to The City of Edinburgh Council (Greenways) Order 1997⁽⁶⁾.

SCHEDULE 2

Article 4

MODIFICATIONS OF PROVISIONS OF PART II OF THE ROAD TRAFFIC ACT 1991

1.—(1) Section 66 shall be modified as follows.

- (2) In subsection (1), the words “in a designated parking place” shall be omitted.
- (3) Subsection (2) shall be omitted.
- (4) In subsection (3)—
 - (a) in paragraph (d) for the words “the specified proportion” there shall be substituted “one half”; and
 - (b) in paragraph (e) for the word “London” there shall be substituted “parking”.
- (5) Subsection (4) shall be omitted.
- (6) In subsection (5), for paragraph (b) there shall be substituted—

“(b) the parking authority.”.

2.—(1) Section 69 shall be modified as follows.

- (2) In subsection (1)—
 - (a) the words “in a designated parking place” shall be omitted; and
 - (b) for the words “specified in section 66(2)(a), (b) or (c) of” there shall be substituted “in which a penalty charge is payable”.
- (3) In subsection (8), for the words from “London” to the end there shall be substituted “parking authority”.

3.—(1) Section 71 shall be modified as follows—

- (2) In subsection (1) for the words “a London” there shall be substituted “the parking”.
- (3) For subsection (4) there shall be substituted—

“(4) The grounds are—

(5) 1984 c. 27; section 121A was inserted by the New Roads and Street Works Act 1991 c. 22, Schedule 8, paragraph 70 and subsection (4) was amended by the Local Government etc. (Scotland) Act 1994 c. 39, Schedule 13, paragraph 134(9).

(6) Made on 12th June 1997. Copies are available from the offices of the City of Edinburgh Council at 1 Cockburn Street, Edinburgh.

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- (a) that there were no reasonable grounds for the parking attendant concerned to believe that the vehicle had been permitted to remain at rest in the parking area in circumstances in which a penalty charge was payable;
 - (b) that the vehicle had been permitted to remain at rest in the place where it was by a person who was in control of the vehicle without the consent of the owner;
 - (c) that the place where the vehicle was at rest was not in the parking area;
 - (d) in a case within subsection (1)(d) above, that, by virtue of an exemption given by section 70 of this Act, section 69 of this Act did not apply to the vehicle in question at the time in question; or
 - (e) that the penalty or other charge in question exceeded the amount applicable in the circumstances of the case.”.
- (4) In subsection (8)(b) for the word “costs” there shall be substituted “expenses”.
- 4.—(1) Section 73 shall be modified as follows.
- (2) Subsections (1) and (2) shall be omitted.
 - (3) For subsection (3) there shall be substituted—
 - “(3) The traffic commissioner shall, with the consent of the Lord Advocate, appoint persons to act as parking adjudicators for the purposes of this Part of this Act.”.
 - (4) After subsection (3) there shall be inserted the following subsections—
 - “(3A) A parking adjudicator appointed by virtue of this section is authorised to act as a parking adjudicator in relation to the parking area.
 - (3B) The parking authority, after consultation with the traffic commissioner—
 - (a) shall—
 - (i) provide or enter into arrangements for the provision of accommodation and administrative staff for the parking adjudicators acting in relation to the parking area;
 - (ii) determine the places at which such parking adjudicators are to sit; and
 - (b) may enter into arrangements for the remuneration of such parking adjudicators.”.
 - (5) In subsection (4) for the words from “have” to the end there shall be substituted “be an advocate or solicitor of at least five years' standing”.
 - (6) In subsection (5), for the words “London authorities” there shall be substituted “traffic commissioner”.
 - (7) For subsections (8) to (10) there shall be substituted—
 - “(8) The reasonable expenses of the traffic commissioner incurred in connection with the discharge of the duties imposed on him by this section, shall be met by the parking authority.”.
 - (8) In subsection (12)—
 - (a) in each of paragraphs (i) and (j), for the word “costs” there shall be substituted “expenses”; and
 - (b) in paragraph (j) for the word “county” there shall be substituted “sheriff”.
 - (9) In subsection (15), for the words from “if a” to the end there shall be substituted “be recoverable by the person to whom the amount is payable as if it were payable under an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland”.

(10) In subsections (17) and (18), for the words “Joint Committee”, in each place where they occur, there shall be substituted “parking authority”.

5. For section 74 there shall be substituted the following section—

“74 Fixing of certain parking and other charges for parking area

(1) It shall be the duty of the parking authority to set the levels of additional parking charges to apply in the parking area.

(2) Different levels may be set for different parts of the parking area.

(3) The levels of additional parking charges set by the parking authority under this section shall accord with any guidance given by the Secretary of State whether such guidance is given specifically to the parking authority or to local authorities generally.

(4) Any guidance given by the Secretary of State under subsection (3) above may be varied at any time by him.

(5) The parking authority shall publish, in such manner as the Secretary of State may determine, the levels of additional parking charges which have been set under this section.

(6) In this section “additional parking charges” means penalty charges, charges made by the parking authority for the removal, storage and disposal of vehicles and charges for the release of vehicles from immobilisation devices fixed under section 69 of this Act.”.

6.—(1) Section 82 shall be modified as follows.

(2) For subsection (1) there shall be substituted—

“(1) In this section and sections 66, 69 to 74 and 79 of, and Schedule 6 to, this Act—

“hiring agreement” and “vehicle-hire firm” have the same meanings as in section 66 of the Road Traffic Offenders Act 1988;

“immobilisation device” has the same meaning as in section 104(9) of the Road Traffic Regulation Act 1984;

“parking area” means the area designated as a permitted parking area and a special parking area by the Road Traffic (Permitted Parking Area and Special Parking Area) (City of Edinburgh) Designation Order 1998;

“parking attendant” has the same meaning as in section 63A of the Road Traffic Regulation Act 1984;

“parking authority” means—

(a) in relation to a parking place which was provided or authorised under section 32(1) of the Road Traffic Regulation Act 1984, the local authority as defined by section 32(4)(a) of that Act in relation to the parking place;

(b) in any other case, the traffic authority (other than the Secretary of State) as defined by section 121A of that Act;

“penalty charge” means a penalty charge which is payable by virtue of paragraph 3(1) and (2) of Schedule 3 to this Act;

“prescribed” means prescribed by regulations made by the Secretary of State; and

“traffic commissioner” means the traffic commissioner appointed for the Scottish Traffic Area under section 4 of the Public Passenger Vehicles Act 1981.”.

(3) In subsection (5), for the words “London authority concerned” there shall be substituted “parking authority”.

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- 7.—(1) Schedule 6 shall be modified as follows.
- (2) In paragraph 1(1), for the words “London authority concerned” there shall be substituted “parking authority”.
- (3) In paragraph 2—
- (a) in sub-paragraph (1), for the words from “London” to the end there shall be substituted “parking authority”;
 - (b) in sub-paragraph (2), for the words from “such” to the end there shall be substituted “writing”;
 - (c) in sub-paragraph (3), after the word “The”, where it first occurs there shall be inserted “parking”;
 - (d) in sub-paragraph (4)(c), for the word “place” there shall be substituted “area”; and
 - (e) in sub-paragraph (7), for the words “an authority to whom representations are duly made” there shall be substituted “the parking authority when representations are duly made to it”.
- (4) In paragraph 3(1) and (2), for the words “London authority concerned” there shall be substituted “parking authority”.
- (5) In paragraph 4—
- (a) for the words “London authority concerned” and “authority” there shall be substituted “parking authority”; and
 - (b) in sub-paragraph (b), for the word “costs” there shall be substituted “expenses”.
- (6) In paragraph 5—
- (a) in sub-paragraph (1), for the words “an authority” there shall be substituted “the parking authority” and for the words “authority’s decision” there shall be substituted “parking authority’s decision”;
 - (b) in sub-paragraph (2), for the words “London authority concerned” there shall be substituted “parking authority”; and
 - (c) in sub-paragraph (3), for the words from “any” to the end there shall be substituted “the parking authority to comply with any direction given to it under sub-paragraph (2) above”.
- (7) In paragraph 6—
- (a) in sub-paragraph (1), for the words “authority serving the notice” there shall be substituted “parking authority”; and
 - (b) in sub-paragraph 2(b)(ii), for the words “authority concerned” there shall be substituted “parking authority”.
- (8) In paragraph 7, for the words from “authority concerned” to the end there shall be substituted “parking authority may recover the increased charge as if the charge certificate were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court in any sheriffdom in Scotland”.
- (9) Paragraph 8 shall be omitted.

SCHEDULE 3

Article 5

PART I

MODIFICATIONS OF THE ROAD TRAFFIC REGULATION ACT 1984

- 1.—(1) Section 46 shall be modified as follows.
 - (2) Subsection (1) shall be omitted.
 - (3) In subsection (1A), for the words “Greater London” there shall be substituted “the parking area”.
- 2.—(1) Section 55 shall be modified as follows.
 - (2) For subsection (1), there shall be substituted—
 - “(1) A local authority shall keep an account—
 - (a) of their income and expenditure in respect of designated parking places for which they are the local authority and which are in the permitted parking area; and
 - (b) of their income from additional parking charges (as defined in section 74(6) of the Road Traffic Act 1991) received by them in respect of vehicles found within the special parking area and the expenditure incurred by them in relation to that area by virtue of any provision of Part II of the Road Traffic Act 1991 as it applies in relation to that area.
 - (1A) As soon as reasonably practicable after the end of each financial year, the local authority shall send to the Secretary of State a copy of the account for that year.”.
 - (3) Subsections (3A) and (3B) shall be omitted.
3. In section 63A, in subsection (4) for the words “Greater London” there shall be substituted “the parking area”.
- 4.—(1) Section 101 shall be modified as follows.
 - (2) Subsection (4) shall be omitted.
 - (3) In subsection (4A), for the words “Greater London” there shall be substituted “the parking area”.
 - (4) Subsection (5) shall be omitted.
 - (5) In subsection (5A), for the words “Greater London” there shall be substituted “the parking area”.
- 5.—(1) Section 102 shall be modified as follows.
 - (2) For subsection (1) there shall be substituted—
 - “(1) If a vehicle is removed by the local authority in circumstances in which an offence would have been committed but for the provisions of paragraph 1(4) or 2(4) of Schedule 3 to the Road Traffic Act 1991, the local authority shall be entitled to recover from any person responsible such charges in respect of the removal, storage and disposal of the vehicle as they may require.”.
 - (3) Subsections (2) and (3) shall be omitted.
 - (4) For subsection (4) there shall be substituted—

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“(4) Without prejudice to subsection (1) above, where any sum is recoverable in respect of a vehicle by a local authority in whose custody the vehicle is, the local authority shall be entitled to retain custody of it until that sum has been paid.”

(5) In subsection (5), for the words “an authority” there shall be substituted “the local authority”.

(6) Subsections (6) and (7) shall be omitted.

(7) In subsection (8) in paragraph (b) of the definition of “appropriate authority” for the words “outside Greater London” there shall be substituted “within the parking area”.

6. In section 142(1) after the definition of “owner” there shall be inserted—

““parking area” means the area designated as a permitted parking area and a special parking area by the Road Traffic (Permitted Parking Area and Special Parking Area) (City of Edinburgh) Designation Order 1998; and “permitted parking area” and “special parking area” are to be read accordingly;”.

PART II

MODIFICATION OF SCHEDULE 3 TO THE ROAD TRAFFIC ACT 1991

In paragraph 1(4) of Schedule 3 to the Road Traffic Act 1991, paragraph (ab) shall be omitted.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to the City of Edinburgh new arrangements for enforcing parking controls already available in London and certain other areas in England. It does so by designating the City of Edinburgh (with certain specified exceptions) as a permitted parking area and as a special parking area in accordance with Schedule 3 to the Road Traffic Act 1991. The Order applies to the designated area various provisions of the 1991 Act and modifies them where necessary. It also makes consequential modifications to certain provisions of the Road Traffic Regulation Act 1984 dealing with parking and related matters.

While the Order is in force certain specified offences will be discriminalised: for example, in the case of the permitted parking area, breaches of orders relating to free on-street parking places and in the case of orders prohibiting or restricting waiting, loading and unloading.

Enforcement will be carried out by parking attendants provided under section 63A of the Road Traffic Regulation Act 1984. A system of parking adjudicators will deal with disputes.