STATUTORY INSTRUMENTS

2004 No. 1305

ROAD TRAFFIC

The Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Wigan) Order 2004

Made - - - -	*7th May 2004*
Laid before Parliament	*17th May 2004*
Coming into force - -	*1st July 2004*

Whereas Wigan Borough Council has applied to the Secretary of State for an order to be made under paragraphs 1(1) and 2(1) of Schedule 3 to the Road Traffic Act 1991(**a**) with respect to part of their area and the Secretary of State has consulted the Chief Constable of the Greater Manchester Police in accordance with the requirements of paragraphs 1(3) and 2(3) of that Schedule and the Council on Tribunals in accordance with the requirements of section 8 of the Tribunals and Inquiries Act 1992(**b**);

NOW, the Secretary of State for Transport, in exercise of the powers conferred 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) (Metropolitan Borough of Wigan) Order 2004 and shall come into force on 1st July 2004.

Interpretation

2. In this Order—

"the 1984 Act" means the Road Traffic Regulation Act 1984(**c**);

"the 1991 Act" means the Road Traffic Act 1991; and

"the parking area" means the area designated as a permitted parking area and as a special parking area by article 4 of this Order.

(**a**) 1991 c.40. Schedule 3 was amended by the Road Traffic Act 1991 (Amendment of Schedule 3) (England and Wales) Order 1996 (S.I. 1996/500) and by the Road Traffic Act 1991 (Special Parking Areas) (England) Order 2003 (S.I. 2003/859) as regards England.

(**b**) 1992 c.53.

(**c**) 1984 c.27. Section 32(4)(a) was amended, and section 45(1) was substituted, by the New Roads and Street Works Act 1991 (c.22), Schedule 8, paragraphs 39 and 44. Sections 46(1A), 63A and 101(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). Section 121A was inserted by the New Roads and Street Works Act 1991 (c. 22), section 168(1) and Schedule 8, paragraph 70.

[DFT 13290]

Application

3.—This Order applies to the whole of the metropolitan borough of Wigan except—

(a) the entire length of the M6, including its on and off slip roads and the associated roundabouts at junctions 26 and 27, within the district;

(b) the entire length of the M58, including its on and off slip roads, within the district;

(c) the link road between junction 25 of the M6 and the A49;

(d) the link road between the roundabout situated on the slip road east of junction 26 of the M6 and the A577;

(e) the entire length of the A580 in the borough, including its on and off slip roads and the circulatory carriageways of its roundabouts, but excluding service roads adjacent to the main carriageway of the A580.

Designation of permitted parking area and special parking area

4. The Secretary of State hereby designates the area to which this Order applies as—

(a) a permitted parking area; and

(b) a special parking area.

Modification and application of Part II of the 1991 Act

5. Sections 66, 69 to 74, 78, 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 1 to this Order.

Modification of other provisions

6. The 1984 Act shall be modified in relation to the parking area as specified in Schedule 2 to this Order.

Signed by authority of the Secretary of State

Tony McNulty
Parliamentary Under Secretary of State
Department for Transport

7th May 2004

SCHEDULE 1

Article 5

MODIFICATIONS OF PROVISIONS OF PART II OF THE ROAD TRAFFIC ACT 1991 APPLIED IN RELATION TO THE PARKING AREA

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 words "the London authority" there shall be substituted "the parking authority".

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

"(1) Where, in the case of a stationary vehicle, a parking attendant has reason to believe that it has been allowed to remain at rest in any of the circumstances in which a penalty charge is payable under this Act, he or another person acting under his direction may fix an immobilisation device to the vehicle."

(3) For subsection (8) there shall be substituted—

"(8) In this section "relevant authority" means the parking authority."

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

(2) In subsection (1) for the words "a London authority" there shall be substituted "the parking authority".

(3) For subsection (4) there shall be substituted—

"(4) The grounds are—

(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 did not apply to the vehicle in question; or

(e) that the penalty or other charge in question exceeded the amount applicable in the circumstances of the case."

4.—(1) Section 73 shall be modified as follows.

(2) For subsections (1) to (3) there shall be substituted—

"(1) The functions conferred on the parking authorities by this section shall be discharged by them through a joint committee ("the Joint Committee") which has been set up in pursuance of arrangements entered into under section 101(5) of the Local Government Act 1972(**a**) and of which the parking authority and at least two other local authorities are constituent authorities.

(2) In subsection (1) "local authorities" means authorities which are county or district councils in England or county or county borough councils in Wales in whose areas permitted parking areas or special parking areas have been designated under Schedule 3 to this Act.

(3) The parking authority shall—

(a) with the consent of the Lord Chancellor appoint persons to act as parking adjudicators for the purposes of this Act in relation to the parking area;

(b) provide or secure the provision of accommodation and administrative staff for parking adjudicators so appointed; and

(c) determine the places at which such parking adjudicators are to sit."

(3) In subsection (5) for the words "the appointing authorities" there shall be substituted "the parking authority".

(**a**) 1972 c.70.

(4) Subsections (8) to (10) shall be omitted.

(5) After subsection (12) there shall be inserted the following subsection—

"(12A) The Road Traffic (Parking Adjudicators) (England and Wales) Regulations 1999(**a**) shall apply to the parking area as they apply to the areas designated by the Orders listed in the Schedule to those Regulations."

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

"**74.**—(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 guidance given by the Secretary of State whether such guidance is given specifically to the parking authority or to local authorities generally.

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

(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 78 shall be modified as follows.

(2) After subsection (7) there shall be inserted the following subsection—

"(8) Any order made under subsection (2), and any regulations made under subsection (4), of this section shall apply with necessary modifications, including in particular the substitution for references to a London authority of references to the parking authority, in relation to the recovery of Part II debts payable in relation to the parking area."

7.—(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, 78 and 79 of, and Schedule 6 to, this Act—

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

"the Joint Committee" has the meaning given by section 73(1) of this Act;

"the parking area" means the area designated as a permitted parking area and as a special parking area by the Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Wigan) Order 2004;

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

"parking authority" means Wigan Borough Council;

"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

"vehicle hiring agreement" and "vehicle-hire firm" have the same meanings as in section 66 of the Road Traffic Offenders Act 1988(**b**) (hired vehicles)."

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

(**a**) S.I. 1999/1918.
(**b**) 1988 c.53

8.—(1) Schedule 6 shall be modified as follows.

(2) In paragraph 1(1) for the words "the London authority concerned" there shall be substituted "the parking authority".

(3) In paragraph 2—

(a) in sub-paragraph (1) for the words "the London authority who served the notice on him" there shall be substituted "the parking authority";

(b) in sub-paragraph (2) for the words "in such form as" to the end of the sub-paragraph there shall be substituted "in writing";

(c) in sub-paragraph (3) for the words "The authority" there shall be substituted "The parking authority";

(d) in sub-paragraph (4) for paragraph (c) there shall be substituted—

"(c) that the vehicle has been permitted to remain at rest in the parking area by a person who was in control of the vehicle without the consent of the owner;"; 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 for the words "the London authority concerned" in both places where they occur there shall be substituted "the parking authority".

(5) In paragraph 4 for the words "the London authority concerned" and for the words "the authority" there shall be substituted "the parking authority".

(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 "the authority's decision" there shall be substituted "the parking authority's decision";

(b) in sub-paragraph (2) for the words "the London authority concerned" there shall be substituted "the parking authority"; and

(c) for sub-paragraph (3) there shall be substituted—

"(3) It shall be the duty of 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 "the authority serving the notice" there shall be substituted "the parking authority"; and

(b) in sub-paragraph (2)(b)(ii) for the words "the authority concerned" there shall be substituted "the parking authority".

(8) In paragraph 7, for the words "the authority concerned" there shall be substituted "the parking authority".

(9) In paragraph 8—

(a) in sub-paragraphs (2)(b) and (5)(d) for the words "the London authority concerned" in both places where they occur there shall be substituted "the parking authority"; and

(b) in sub-paragraphs (6) and (7) for the words "the London authority" in both places where they occur there shall be substituted "the parking authority".

SCHEDULE 2

Article 6

MODIFICATION 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 "Greater London" there shall be substituted "the parking area".

2.—(1) Section 55 shall be amended 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 (within the meaning of 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 possible after the end of each financial year the local authority shall forward 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(4)—

(a) for the words "Greater London" there shall be substituted "the parking area"; and

(b) for the words "Greater London Authority" there shall be substituted "Secretary of State".

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 from the parking area 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) Subsection (2) shall be omitted.

(4) In subsection (4) for the words "by virtue of paragraph (a) or (b) of subsection (2) above" there shall be substituted the words "by virtue of subsection (1) above".

(5) In subsection (8) in paragraph (b) of the definition of "appropriate authority" for "Greater London" there shall be substituted "the parking area".

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

""the parking area" means the area designated as a permitted parking area and as a special parking area by the Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Wigan) Order 2004 and "permitted parking area" and "special parking area" are to be read accordingly;".

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies to whole of the metropolitan borough of Wigan, except the roads specified in article 3.

The Order designates the metropolitan borough of Wigan, other than the excepted roads as both a permitted parking area and a special parking area in accordance with Schedule 3 to the Road Traffic Act 1991. It also applies with modifications various provisions of Part II of that Act to the designated area and modifies the Road Traffic Regulation Act 1984 in relation to the designated area. A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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The Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Wigan) Order 2004

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