

**EXPLANATORY MEMORANDUM TO**  
**THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS (ENGLAND)**  
**GENERAL (AMENDMENT No. 2) REGULATIONS 2015**

**2015 No. 1001**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 These Regulations amend the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 to require that a penalty charge notice in respect of a parking contravention on a road be served by fixing it to the vehicle, except in certain cases. They also make consequential amendments to the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.

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

3.1 Unfortunately it has not been possible to meet the 21-day rule in this case. Royal Assent for the Deregulation Act 2015 (which amended the enabling powers for these Regulations) was not given until 26th March 2015. The reasons why the Government considered it necessary to commence the Regulations on 1st April 2015 are set out below in section seven.

4. **Legislative Context**

4.1 The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 make provision for, among other matters, the civil enforcement of parking in England, including Greater London. The 2007 Regulations were made using powers under the Traffic Management Act 2004.

4.2 These Regulations are made following amendment of the powers in the Traffic Management Act 2004 by the Deregulation Act 2015 (see section 53 of that Act). The 2004 Act was amended to allow for regulations to be made which tighten the circumstances in which CCTV may be used as the sole evidence for issuing a parking contravention notice (see section 78A). The amendments to the Traffic Management Act 2004 also include provision for prohibiting the use of CCTV for on-street parking enforcement entirely (see section 87A). However, these Regulations do not make use of this latter power.

4.3 Making use of the section 78A powers in the Traffic Management Act 2004, these Regulations provide for prescribed circumstances in which the use of CCTV and service of parking contravention notices by post are deemed to be appropriate in the context of on-street parking. Other than these prescribed circumstances the general position is that CCTV evidence alone cannot be used to issue a parking contravention notice by post. Separate provision is made in relation to off-street parking.

4.3 These regulations also make consequential amendment to the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 to update these in line with the amendments made to the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 by these Regulations.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England.

## **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 This instrument will restrict local authorities from issuing parking tickets in the post based solely on evidence from CCTV cameras. Once the regulations are in place, traffic wardens will need to either affix tickets physically to the vehicle, or hand the ticket to the person that appears to be in charge of the vehicle.

7.2 Parking issues and in particular over zealous enforcement by local authorities are a matter of significant public concern and have been a priority for Ministers. The independent adjudication services have also had concerns that local authorities are not using their powers in accordance with the guidance<sup>1</sup>. In its written evidence to the Transport Select Committee in 2013, the Traffic Penalty Tribunal said, “Adjudicators have found cases where camera enforcement appears to be used as a matter of routine where the strict requirements for use in the Guidance do not appear to be present.”<sup>2</sup> The Transport Select Committee felt sufficiently persuaded by the evidence that it went so far as to recommend<sup>3</sup> that Government should act to halt the proliferation in the use of CCTV.

7.3 Ministers are concerned that this overuse of CCTV has unfair consequences on the public. An individual accused via CCTV misses an initial opportunity to receive discretion; an opportunity that is available to someone who is observed by a Civil

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/416617/operational-guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416617/operational-guidance.pdf)

<sup>2</sup> <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmtran/118/118.pdf> (p.143)

<sup>3</sup> *ibid* (p.4 and p.29)

Enforcement Officer (CEO). It is also unfair because drivers receive penalty notices in the post weeks later, with no opportunity to examine the parking location as it was at the time of the alleged contravention. Signs may have been obscured or fallen down, and lines could have been hidden – which could change before the driver can return to inspect the location.

7.4 The Government believes that powers are not being used as originally intended. Statutory Guidance requires that “approved devices are used only where enforcement is difficult or sensitive and CEO enforcement is not practical”. Operational Guidance states that, “Motorists may regard enforcement by cameras as over-zealous and authorities should use them sparingly.” Eighty-four local authorities now operate some form of parking enforcement under approved device certification; this equates to approximately 25% of all local authorities with civil parking enforcement powers, suggesting that use has become widespread and beyond the original intention.

7.5 These legislative changes are intended to be a proportionate response to this. With local authorities seeming to ignore guidance, Ministers felt something more robust than tightened guidance would be necessary. By requiring a notice to be affixed to the vehicle whilst retaining the possibility of using CCTV and service by post in certain cases (such as contraventions outside schools and along red routes), Ministers consider the right balance will be struck between ensuring safety and traffic flow, whilst ensuring CCTV is not used excessively.

7.6 This is a key political priority of this Government, and Ministers want to ensure that their public commitments to take action on this issue are given effect before Parliament dissolves. It is important that the law is changed as quickly as possible; the delay between announcing the intention to legislate and the legislation coming into force has caused significant confusion amongst the public and it is important certainty can be given.

7.7 A related statutory instrument on parking has been laid. This amendment to the Traffic Management Act 2004 will introduce a ten minute grace period before a penalty charge notice can be served. This will apply at the end of paid-for and free on-street parking in England, and also to local authority owned or operated car parks. The instrument will come into force on 6 April 2015. Further information can be found at: <http://www.legislation.gov.uk/uksi/2015/561/contents/made>.

## **8. Consultation outcome**

8.1 A three-month consultation was carried out between December 2013 and February 2014. 836 responses to the consultation were received; 58% from individuals, 39% from organisations and 3% did not say whether they were individuals or organisations. Local authorities, cycling groups, schools, bus operators and disabled groups were against a ban on the use of CCTV. Motoring groups and businesses were more supportive, but said CCTV still had some role to play in enforcing on-street parking. On the basis of the responses to the consultation, the Government decided not to impose an outright ban on

the use of CCTV cameras to on-street enforce parking contraventions. The consultation showed that many respondents argued for some CCTV use to be retained where there are clear safety or serious congestion issues such as outside schools, in bus lanes and on red routes. These exemptions are set out in the instrument. The consultation document and the Government's response are available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/322495/response-parking-consultation.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/322495/response-parking-consultation.pdf).

## **9. Guidance**

9.1 The Secretary of State for Transport's statutory guidance to local councils on the civil enforcement of parking contraventions will be updated to reflect the new requirement.

## **10. Impact**

10.1 The impact on business will be limited to businesses that provide services to local authorities that use CCTV to enforce on-street parking. These businesses may need to renegotiate existing contracts with local authorities. The impact on charities or voluntary bodies is nil.

10.2 The impact on the public sector will be to those local authorities that use CCTV to enforce on-street parking. These authorities may need to renegotiate existing contracts with service providers, which could come at a cost. There may be a need to employ additional traffic wardens to enforce in areas that were previously enforced using CCTV.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 There is no specific plan to review the impact of this instrument, however officials will monitor the impact on an ongoing basis; working alongside industry bodies and local authority representative groups.

## **13. Contact**

John Osborne at the Department for Communities and Local Government (tel: 0303 44 41860 or email: [john.osborne@communities.gsi.gov.uk](mailto:john.osborne@communities.gsi.gov.uk)) can answer any queries regarding the instrument.