

EXPLANATORY MEMORANDUM TO
THE CIVIL ENFORCEMENT OF TRAFFIC CONTRAVENTIONS
(CONSEQUENTIAL AMENDMENTS) (ENGLAND) REGULATIONS 2018

2018 No. 488

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 In 2016, the Secretary of State for Transport made the Traffic Signs Regulations and General Directions 2016, (S.I. 2016/362) (“TSRGD 2016”) which, with transitional and other savings, revoked and replaced the Traffic Signs Regulations and General Directions 2002 (S.I. 2002/3113) (“TSRGD 2002”), the Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 (S.I. 1997/2400) (“ZPPPCRGD 1997”) and certain other instruments (“the revoked instruments”).
- 2.2 Two statutes, the London Local Authorities and Transport for London Act 2003 (“the 2003 Act”) and the Traffic Management Act 2004 (“the 2004 Act”) contain references to the revoked instruments. The purpose of these Regulations is to make consequential amendments to those two Acts so as to replace the references in those Acts to the revoked instruments with references to the equivalent provisions of TSRGD 2016 and, in a case where the saved provisions need to apply, to the relevant provisions of TSRGD 2002.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 By virtue of section 64 of the Road Traffic Regulation Act 1984, a traffic sign placed in Great Britain must either be specified through regulations (currently being TSRGD 2016) or be authorised by the Secretary of State for Transport. Highway authorities are responsible for the management of their traffic network to ensure expeditious movement of traffic, including pedestrians and cyclists, as required under the TMA Network Management Duty.
- 4.2 Schedule 3 to the 2003 Act and Schedule 7 to the 2004 Act list the driving and parking infringements that are subject to civil enforcement within London and Civil Enforcement Areas respectively. In relation to London, section 4(19) of the 2003 Act permits the Secretary of State to make such amendments to Schedule 3 as may be

necessary as a consequence of TSRGD 2016 replacing the revoked instruments. Similarly, in relation to Civil Enforcement Areas, section 73(4) the 2004 Act permits the Secretary of State (as regards England) to amend Schedule 7 for the same purpose.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of the instrument is England.

6. European Convention on Human Rights

- 6.1 The Parliamentary Under Secretary of State for Transport has made the following statement regarding Human Rights:

“In my view the provisions of the Civil Enforcement of Traffic Contraventions (Consequential Amendments) (England) Regulations 2018 are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 Traffic signs are strictly regulated to ensure national consistency of traffic sign design and use, in order to maximise accessibility to road users.
- 7.2 TSRGD 2016 revoked and replaced with amendments TSRGD 2002, ZPPPCRGD 1997 and certain other related instruments.
- 7.3 In Civil Enforcement Areas, responsibility for enforcing various driving and parking restrictions is transferred from the police and police traffic wardens to civil enforcement officers employed by local authorities. Many local authority areas have sought and been granted permission to adopt civil enforcement.
- 7.4 The 2003 Act lists the driving and parking infringements that are subject to civil enforcement within London and the 2004 Act does the same with regard to the rest of England and Wales. These two Acts contain references to the revoked instruments. The purpose of these Regulations is to amend those two Acts, so far as they apply to England, so as to replace those references to the revoked instruments with references to the equivalent provisions of TSRGD 2016 and, in a case where the provisions need to apply to the legislation preserved by the transitional savings, to the relevant provisions of TSRGD 2002.
- 7.5 This instrument also updates headings and references to ensure it is clear that the amended references apply only to England and that, with respect to Wales, references remain as they were prior to this instrument.

Consolidation

- 7.6 A consolidation has not been done in the present amending instrument as it amends primary legislation.

8. Consultation outcome

- 8.1 Due to the limited scope of the amending instrument, a 4-week consultation was carried out between November and December 2016 involving a small number of prominent traffic signs industry experts. Those consulted included: the Devolved

Administrations, the Local Government Association, Highways England, the Office of Road and Rail, the Institute of Highway Engineers and the Association for Road Traffic Safety and Management and the Police.

8.2 The consultation sought comments on consequential amendments to the 2003 Act and to the 2004 Act consequent to the coming into force of TSRGD 2016.

8.3 Various helpful comments and suggestions were received on the issue of drafting and account has been taken of them. Those consulted were supportive of the changes but some suggested that consequential amendments be used to add references to further traffic signs to extend the scope of civil enforcement. This suggestion was not adopted as it was not considered desirable to extend the scope of civil enforcement. The purpose of the instrument is thus restricted to maintaining the status quo by updating references to the revoked instruments in primary legislation.

9. Guidance

9.1 The Government has no plans to produce guidance on these Regulations. The Department for Transport will work with relevant stakeholders to ensure that they are aware of the changes.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is minimal. The proposed changes are permissive, and merely update obsolete references. This instrument does not affect the discretion of highway authorities over whether or not to place traffic signs.

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

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The Department has no plans for formal monitoring and review of how the new provisions are working. However the Department will be kept informally updated by highway authorities on how the provisions are working in practice.

13. Contact

13.1 Sally Gibbons at the Department for Transport, tel: 07773 643795 or e-mail: traffic.signs@dft.gsi.gov.uk can answer any queries regarding the instrument.