

EXPLANATORY MEMORANDUM TO
THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS DESIGNATION
ORDER 2020

2020 No. 14

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 This instrument enables Northamptonshire County Council (in the area of Kettering Borough Council), Suffolk County Council and the Borough of Telford and Wrekin to enforce parking contraventions within their respective areas, rather than the police and police traffic wardens.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Pursuant to this Order, the whole of the area of Kettering Borough Council with the exception of some identified roads, will be designated as a civil enforcement area and the whole of the areas of Suffolk County Council and the Borough of Telford and Wrekin, with the exception of some identified roads, will be designated as a civil enforcement area and a special enforcement area.
6.2 The regime for civil enforcement of parking contraventions in England is set out in Part 6 of the Traffic Management Act 2004 (“the 2004 Act”) together with instruments made under that Part of that Act. Those instruments are the Civil Enforcement of Parking Contraventions (England) Representations and Appeals

Regulations 2007 (S.I. 2007/3482), the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (S.I. 2007/3483), the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (S.I. 2007/3487), the Civil Enforcement Officers (Wearing of Uniforms) (England) Regulations 2007 (S.I. 2007/3485) and the Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007 (S.I. 2007/3486). A further instrument, the Removal and Disposal of Vehicles Regulations 1986 (S.I. 1986/183, as amended by S.I. 2007/3484 in respect of civil enforcement areas in England) applies in respect of civil enforcement areas. The 2004 Act regime has replaced the previous civil enforcement regime under the Road Traffic Act 1991 (c. 40).

7. Policy background

What is being done and why?

- 7.1 Effective traffic regulation requires a robust enforcement of traffic restriction and prohibition orders to promote safety and traffic flow, and to deal with abuses of the system. This has been addressed in relation to parking by the Traffic Management Act 2004. That Act enables the creation of "civil enforcement areas" and "special enforcement areas" in which responsibility for enforcing parking restrictions is transferred from the police and police traffic wardens to civil enforcement officers employed by local authorities.
- 7.2 When an area is designated as a civil enforcement area, the effect is that certain specified parking offences are enforced by the local authority. Where such a designation is in place, a special enforcement area may also be created; the effect of creating a special enforcement area is that two additional parking prohibitions are enforced by the local authority (double parking and parking at dropped footways).
- 7.3 Civil parking enforcement should contribute to the authority's transport objectives by improving road safety, the local environment, the accessibility of public transport, and helping to meet the needs of people with disabilities. A good civil parking enforcement regime is one that uses quality-based standards that the public understands, and which are enforced fairly.
- 7.4 Enforcement authorities should aim to increase compliance with parking restrictions through clear, well designed, legal and enforced parking controls. Civil parking enforcement provides a means by which an authority can effectively deliver wider transport strategies and objectives. Enforcement authorities should not view it in isolation or as a way of raising revenue.
- 7.5 It is Government policy to encourage local authorities in England to take these powers and currently 93% of local authorities in England have applied for and received Civil Parking Enforcement powers, enabling them to enforce parking restrictions through mechanisms including penalty charges.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 The issue of consolidation does not arise in this case. This instrument revokes and replaces the Road Traffic (Permitted Parking Area and Special Parking Area) (County

of Suffolk) (Borough of Ipswich) Order 2005 (S.I. 2005/2362), but does not amend any legislation.

10. Consultation outcome

- 10.1 The Secretary of State has a statutory obligation to consult the appropriate chief officer of police, in this case, of Northamptonshire Police, Suffolk Constabulary and West Mercia Police before making an order, and has done so. The Secretary of State has also consulted Highways England and the Ministry of Defence as, in the case of the latter, there are roads owned by, or under their control, around RAF Mildenhall, RAF Honington, Wattisham Airfield and Rock Barracks in Suffolk. Northamptonshire Police, Suffolk Constabulary, West Mercia Police, Highways England and the Ministry of Defence support the applications.
- 10.2 The applicant authorities also conducted additional consultation with their relevant police forces, Highways England, the Ministry of Defence (where applicable), DVLA, the HMCTS Traffic Enforcement Centre, the Traffic Penalty Tribunal and neighbouring authorities. An application would not proceed unless any objections have been resolved.
- 10.3 Northamptonshire County Council's application was supported by Kettering Borough Council and the HMCTS Traffic Enforcement Centre. Daventry District Council, Corby Borough Council, East Northamptonshire District Council, Halborough District Council, Northamptonshire Police, Highways England, the Traffic Penalty Tribunal and the DVLA had no objection. No response was received from Leicestershire County Council, Northamptonshire Fire and Rescue Service or East Midlands Ambulance Service NHS Trust.
- 10.4 Suffolk County Council's application was supported by Colchester Borough Council, Suffolk Police, the Police and Crime Commissioner for Suffolk; the County Councils for Essex, Cambridgeshire and Norfolk; the District Councils for Babergh, Braintree, Breckland, East Cambridgeshire, Forest Heath, Mid Suffolk, Suffolk Coastal, Tendring and Waveney; the Borough Councils of Great Yarmouth, Ipswich, Kings Lynn and West Norfolk and St Edmundsbury; South Norfolk Council, the HMCTS Traffic Enforcement Centre and Traffic Penalty Tribunal agreed with the application. South Cambridgeshire District Council and the DVLA had no objection.
- 10.5 The Borough of Telford and Wrekin's application was supported by Shropshire Council. Highways England and the HMCTS Traffic Enforcement Centre had no objection. No response was received from West Mercia Police, the DVLA or the Traffic Penalty Tribunal.

11. Guidance

- 11.1 The Secretary of State's 'Statutory Guidance to Local authorities on the Civil Enforcement of Parking Contraventions' (2016)¹ ("the Statutory Guidance") sets out the policy framework for civil parking enforcement and explains how local authorities should approach, carry out, and review their parking enforcement activities.
- 11.2 With regard to the financing of local authorities' civil parking enforcement operations, the Statutory Guidance provides that enforcement authorities should run their civil parking enforcement operations (both on- and off-street) efficiently, effectively and

¹ <https://www.gov.uk/government/publications/civil-enforcement-of-parking-contraventions>. Hard copies are available from the contact identified in paragraph 15.1.

economically. The purpose of penalty charges is to dissuade motorists from breaking parking restrictions. The objective of civil parking enforcement should be 100 per cent compliance, with no penalty charges. Parking charges and penalty charges should be proportionate, so authorities should not set them at unreasonable levels. Any penalty charge payments received (whether for on-street or off-street enforcement) must only be used in accordance with section 55 (financial provisions relating to designation orders) of the Road Traffic Regulation Act 1984 (c. 27)².

- 11.3 The Statutory Guidance also expects local authorities to aim for their parking enforcement scheme to be self-financing as soon as practicable. However, compliant applications for civil parking enforcement will be granted without the scheme being immediately self-financing. Local authorities are reminded that if their scheme is not self-financing, then they need to be certain that they can afford to pay for it from within existing funding.

12. Impact

- 12.1 There is no impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector as local authorities are expected to aim for their parking enforcement scheme to be self-financing as soon as practicable.
- 12.3 An Impact Assessment has not been prepared for this instrument because this instrument does not impose additional parking controls; it simply allows the local authority to enforce existing controls instead of the police.

13. Regulating small business

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

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that each Council should keep the civil enforcement of parking in their area under review. They are required to prepare an Annual Parking Report to assess performance against their own targets, and standards achieved by neighbouring authorities. They must also, pursuant to section 55 of the Road Traffic Regulation Act 1984, keep an account of all income and expenditure in respect of designated (i.e. on-street) parking places which are not in a Civil Enforcement Area, designated parking spaces which are in a Civil Enforcement Area and their functions as an enforcement authority. In accordance with the Statutory Guidance, each Council is obliged to report statistics annually to the Department for Transport.

15. Contact

- 15.1 Anna McCarthy at the Department for Transport Telephone: 07977 411288 or email: anna.mccarthy@dft.gov.uk can be contacted with any queries regarding the instrument.

² Section 55 is modified by regulation 25(2) of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (S.I. 2007/3483) in respect of civil parking enforcement authorities.

- 15.2 Anthony Ferguson, Deputy Director for Traffic and Technology, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Baroness Vere of Norbiton, Parliamentary Under Secretary of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.