
STATUTORY INSTRUMENTS

1996 No. 1171

ROAD TRAFFIC

The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Hampshire, City of Winchester) Order 1996

<i>Made</i>	- - - -	<i>25th April 1996</i>
<i>Laid before Parliament</i>		<i>26th April 1996</i>
<i>Coming into force</i>	- -	<i>20th May 1996</i>

Whereas the Hampshire County 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⁽¹⁾ with respect to part of their area and the Secretary of State for Transport has consulted the Chief Constable of Hampshire 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⁽²⁾ :

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) (County of Hampshire, City of Winchester) Order 1996 and shall come into force on 20th May 1996.

Interpretation

2. In this Order—

“the 1984 Act” means the Road Traffic Regulation Act 1984⁽³⁾;

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

“the permitted parking area” means the area designated as a permitted parking area by article 3(a) of this Order;

(1) 1991 c. 40.

(2) 1992 c. 53.

(3) 1984 c. 27. 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).

“the special parking area” means the area designated as a special parking area by article 3(b) of this Order.

Designation of permitted parking area and special parking area

3. The City of Winchester, other than so much of the A30, A31, A33, A34, A272 and A303 trunk roads as lie within the City, in the county of Hampshire is hereby designated—

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

Modification and application of Part II of the 1991 Act

4. Sections 66, 69 to 74, 78, 79 and 82 of, and Schedule 6 to, the 1991 Act shall apply in relation to the permitted parking area and the special parking area and as so applied shall have effect subject to the modifications specified in Schedule 1 to this Order.

Modification of the 1984 Act

5. The 1984 Act shall be modified in relation to the permitted parking area and the special parking area as specified in Schedule 2 to this Order.

Signed by authority of the Secretary of State for Transport

Department of Transport
25th April 1996

Steven Norris
Parliamentary Under Secretary of State,

SCHEDULE 1

Article 4

MODIFICATIONS OF PROVISIONS OF THE ROAD TRAFFIC ACT 1991 APPLIED IN RELATION TO THE PERMITTED PARKING AREA AND THE SPECIAL PARKING AREA

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

(2) In subsection (1)—

(a) the words “in a designated parking place” shall be omitted; and

(b) after the words “is payable” there shall be inserted “in accordance with paragraph 3(1) and (2) of Schedule 3 to this Act”.

(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) In subsection (1)—

(a) the words “in a designated parking place” shall be omitted;

(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 by virtue of paragraph 3(1) and (2) of Schedule 3 to”.

(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) In subsection (3) for the word “below” there shall be substituted “or subsection (4A) below as the case may be”.

(4) In subsection (4)—

(a) at the beginning there shall be inserted “In the case of a vehicle which it is alleged was found in a designated parking place”; and

(b) for paragraph (a) there shall be substituted—

“(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 designated parking place in circumstances in which a penalty charge was payable by virtue of paragraph 3(1) and (2) of Schedule 3 to this Act;”.

(5) After subsection (4), there shall be inserted the following subsection—

“(4A) In the case of a vehicle which it is alleged was found in a special parking area, but not in a designated parking place, the grounds referred to in subsection (3) above are—

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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 special parking area (but not in a designated parking place) in circumstances in which a penalty charge was payable by virtue of paragraph 3(1) and (2) of Schedule 3 to this Act;
- (b) that the vehicle had been permitted to remain at rest in the place in question 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 a designated parking place or was not in the special 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 72 shall be modified as follows.

(2) In subsection (2) after the words “section 71(4)” there shall be inserted “or (4A)”.

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

(2) In subsection (3) paragraphs (b) and (c) shall be omitted.

(3) The following subsections shall be inserted after subsection (3)—

“(3A) A parking adjudicator appointed under this section is authorised to act as a parking adjudicator in relation to the permitted parking area or the special parking area.

(3B) The parking authority—

- (a) shall provide or enter into arrangements for the provision of accommodation and administrative staff for parking adjudicators acting in relation to either of those areas;
- (b) may enter into arrangements with the Joint Committee appointed under subsection (1), for the remuneration of such parking adjudicators; and
- (c) shall determine the places where they are to sit.

(3C) Any accommodation provided under subsection (3B)(a) above is to be treated as including the principal office of the adjudicator acting in relation to the permitted parking area or the special parking area.”

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

“(12A) Any regulations made under subsection (11) above shall apply, with necessary modifications, to the procedure to be followed in relation to proceedings before parking adjudicators who are acting under authority conferred by subsection (3A) of this section.”

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

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

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

(2) Different levels may be set for different parts of the permitted parking area or, as the case may be, of the special 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.”

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—

“designated parking place” means a parking place in a permitted parking area—

(a) whose use as a parking place has been authorised by an order made under section 32(1)(a) or (b) of the Road Traffic Regulation Act 1984; or

(b) which has been designated as a parking place by an order made under section 45(1) of the Road Traffic Regulation Act 1984;

“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 London authorities” means the councils of the London boroughs and the Common Council of the City of London;

“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) 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;

“permitted parking area” means the area designated as a permitted parking area by the Road Traffic (Permitted Parking Area and Special Parking Area) (County of Hampshire, City of Winchester) Order 1996;

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

“special parking area” means an area designated as a special parking area by the Road Traffic (Permitted Parking Area and Special Parking Area) (County of Hampshire, City of Winchester) Order 1996; and

“vehicle hiring agreement” and “vehicle-hire firm” have the same meanings as in section 66 of the Road Traffic Offenders Act 1988(4) (hired vehicles).”

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

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

(4) 1988 c. 53.

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- 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 paragraphs (c) and (d) there shall be substituted—
 - “(c) that the vehicle has been permitted to remain at rest in a designated parking place or otherwise in the special parking area by a person who was in control of the vehicle without the consent of the owner;
 - (d) that the order by which the designated parking place was designated or, as the case may be, which has allegedly been contravened is unenforceable”.
 - (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 and for the words “that authority” in both places where they occur in sub-paragraph (2) there shall be substituted “the parking authority”;
 - (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 5

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 “Greater London” there shall be substituted “the permitted 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, in subsection (4) for the words “Greater London” there shall be substituted “the permitted parking area and the special 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 permitted parking area or in the special parking area”.
 - (4) Subsection (5) shall be omitted.
 - (5) In subsection (5A) for the words “Greater London” there shall be substituted “the permitted parking area or in the special 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 a parking place in the permitted parking area or from the special 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 (8) in paragraph (b) of the definition of “appropriate authority” for “Greater London” there shall be substituted “the permitted parking area or in the special parking area”.

6. In section 142(1)—
 - (a) after the definition of “parking meter” there shall be inserted—

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““permitted parking area” means the area designated as a permitted parking area by the Road Traffic (Permitted Parking Area and Special Parking Area) (County of Hampshire, City of Winchester) Order 1996;” and

(b) after the definition of “road” there shall be inserted—

““special parking area” means the area designated as a special parking area by the Road Traffic (Permitted Parking Area and Special Parking Area) (County of Hampshire, City of Winchester) Order 1996;”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates the City of Winchester in the county of Hampshire as a permitted parking area and as a special parking area in accordance with Schedule 3 to the Road Traffic Act 1991 and applies with modifications various provisions of that Act to the designated area. The Order provides that persons appointed to act as parking adjudicators in London may so act in relation to the designated area and the Road Traffic (Parking Adjudicators) (London) Regulations 1993 are made to apply with modification to parking adjudicators so acting. The Order also makes consequential modifications to the Road Traffic Regulation Act 1984.