

EXPLANATORY MEMORANDUM TO THE:

**CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS (ENGLAND) GENERAL
REGULATIONS 2007 No. [XXXX]**

**CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS (ENGLAND)
REPRESENTATIONS AND APPEALS REGULATIONS 2007 No. [XXXX]**

**THE REMOVAL AND DISPOSAL OF VEHICLES (AMENDMENT) (ENGLAND)
REGULATIONS 2007 No. [XXXX]**

**THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS (APPROVED
DEVICES) (ENGLAND) ORDER 2007 No. [XXXX]**

**THE CIVIL ENFORCEMENT OFFICERS (WEARING OF UNIFORMS) (ENGLAND)
REGULATIONS 2007 No. [XXXX]**

**THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS (GUIDELINES ON
LEVELS OF CHARGES) (ENGLAND) ORDER 2007 No. [XXXX]**

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

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

2. **Description**

- 2.1 These four sets of Regulations and two Orders (all of which apply only to England) are designed to implement Part 6 of the Traffic Management Act 2004 in relation to the civil enforcement of parking controls and to replace the present system of decriminalised parking enforcement under Part II and Schedule 3 of the Road Traffic Act 1991. The instruments are supplemented by Statutory Guidance issued by the Secretary of State, to which local authorities are required to have regard, although they are not obliged to follow it.
- 2.2 The principal elements of the new system of parking enforcement are contained in the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (“the General Regulations”) and the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 (“the Representations and Appeals Regulations”) and these two sets of Regulations should be read as a whole. It has been necessary for the subject matter to be split in this way because the powers to make regulations relating to Representations and Appeals are exercisable by statutory instrument subject to the affirmative procedure, whereas the General Regulations fall to be made under negative procedure powers. The other instruments contain provisions ancillary to the two principal sets of regulations.

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

3.1 None.

4. Legislative Background

- 4.1 Part 6 of the Traffic Management Act 2004 confers powers on the Lord Chancellor and “the appropriate national authority” (in England, the Secretary of State) to make regulations providing for a national legislative framework for the civil enforcement by local authorities of contraventions of parking and bus lane restrictions and some moving traffic contraventions, such as box junctions and banned turns. Part 6 and the regulations will replace existing provisions in the Road Traffic Act 1991 (with regard to parking), the Transport Act 2000 (with regard to bus lanes) and London local legislation.
- 4.2 The purpose of these instruments is to implement Part 6 of the Traffic Management Act 2004 so far as it relates to parking contraventions. They will in due course be followed by regulations to implement Part 6 in relation to bus lane and other moving vehicle contraventions.

5. Territorial Extent and Application

- 5.1 These instruments apply to England.
- 5.2 They do not replicate legislation which already exists in another part of the United Kingdom

6. European Convention on Human Rights

- 6.1 The Representations and Appeals Regulations 2007 are subject to affirmative resolution. Rosie Winterton (the Minister responsible for parking policy and enforcement) has made the following statement regarding Human Rights:

“In my view the provisions of the Representations and Appeals Regulations 2007 are compatible with the Convention rights.”

- 6.2 The rest of the instruments are subject to negative resolution procedure and do not amend primary legislation, and so no statement is required.

7. Policy background

- 7.1 The first aim of the new framework will be to replace the unsatisfactory state of the statute law on the civil enforcement of parking. This has hitherto rested on Part II of the Road Traffic Act 1991 and the Road Traffic Regulation Act 1984 in relation to parking places in Greater London. A series of orders extended this legislation to other parking contraventions in designated “special parking” areas in London and to certain areas outside London designated by order in relation to all types of parking contravention. Each order, applying in London or elsewhere,

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contained modifications of both the 1991 and the 1984 Acts in their application to the designated area. Such modifications will no longer be necessary.

- 7.2 Secondly, although it is largely based on the old system of enforcement, the framework includes many changes of detail. Some of these derive from modifications to the Road Traffic Act 1991 made by London local legislation.
- 7.3 A public consultation (“Better Parking – Keeping Traffic Moving”) on the draft Statutory Guidance, draft Regulations and on the Partial RIA was conducted from 12th July 2006 to 25th September 2006. The consultation document set out the Government’s position on CPE and sought views on 20 specific issues set out in the document.
- 7.4 This was sent to all Local Authorities in England, 85 other organisations (including the key stakeholders and members of the working group), and specific individuals who requested the consultation. There were 112 responses, 77 from Local Authorities, 13 from the public and motorists groups and 22 from businesses and other interested parties
- 7.5 Those who responded agreed with the vast majority of the issues and the policies on these will remain as suggested in the consultation.
- 7.6 There was widespread support for the Partial Regulatory Impact Assessment. 75% of respondents agreed that the Partial Regulatory Impact Assessment represented a fair analysis of the policy.
- 7.7 There was support for differential penalty charges based on the severity of the contravention. Some Local Authorities thought that there might be confusion among the public on this issue, but 70% of non-LA respondents did not believe that there will be confusion and that this policy is fairer.
- 7.8 There was support for the 50% discount to be available for 21 days where the PCN was issued by post on the basis of camera evidence. The rationale behind this idea was that when receiving a PCN by post the motorist would have fewer days during which it can be paid at a discount than if the PCN had been left on the vehicle or given to the person who appeared to be in charge of the vehicle at the time of the contravention. Local authorities were concerned that the two tier discount period could lead to confusion. However, 87% of the public were in favour and overall support was positive. .
- 7.9 Responses on three of the issues suggested that the proposals were not appropriate and the minister agreed that they should be revised. 82% of respondents said that a grievance unit should not be set up and it was agreed that local authorities should not to set up a new parking grievance/complaints unit. 74% of respondents said that the police should not be given the power to also enforce parking in areas where the local authorities have been given this power, and this was also agreed. Finally, it was agreed that the time before a vehicle in a parking place can be clamped or removed should be 30 minutes after the PCN is issued rather than the 60 minutes proposed. This was not a yes/no question, but the majority if those who responded thought 30 minutes was more appropriate.

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- 7.10 There have been a number of minor changes to the details of the Regulations. These changes cover points of principle that weren't specifically consulted on. The main change is that local authorities will not be able to recover the money for all past PCNs from persistent evaders that are clamped or removed. The Minister took this decision in response to the 2nd London Local Authorities and Transport for London Bill. This Bill has proposed a system for tackling persistent evaders in London for which there is no primary legislative power in the rest of the country. After a trial in London the Minister will consider whether to implement the provisions in the rest of the country with new primary legislation.

- 7.11 More detailed responses to the questions can be seen on the departmental website [\[give web address here\]](#)

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- 7.12 The main changes to the current parking enforcement system by this package of proposals are:

Changes in terminology:

- Decriminalised parking enforcement to be called civil parking enforcement
- Parking attendants to be called civil enforcement officers
- Special Parking Areas and permitted Parking Areas to be called Civil Enforcement Areas

Changes to Regulations:

- Enforcement cameras ("approved devices") to be certified by the Secretary of State;
- 21 day discount for PCNs sent by post with evidence from an approved device;
- Adjudicators will have the power to decide cases where procedural irregularity has taken place - for example where a charge certificate has been issued before an appeal has been decided;
- Adjudicators will have the power to refer back to LA cases where a contravention has taken place but in mitigating circumstances;
- Where authorities choose to clamp the current 15minute period before a vehicle in a parking place can be clamped or removed is changed to 30 minutes. However, the vehicles of persistent evaders may be clamped after 15 minutes.

New powers for authorities outside London currently only held by those in London

- Send PCNs by post with camera evidence or when CEO is prevented from serving it at the time by violence or driving away;
- Enforce dropped footways;
- Enforce double parking;
- Place a 6 month time limit on authorities issuing a Notice to Owner.

Changes to the Statutory Guidance:

- Authorities no longer need to be able to show that enforcement is self-funding to apply for powers
- Authorities should publish parking policies;

- In situations where a contravention has occurred but in mitigating circumstances authorities should make and publish guidelines on their use of discretion which should be applied flexibly.
- Emphasis on staff training;
- Authorities are encouraged to use CCTV or other photographs as additional evidence to the CEO's statement that the contravention occurred.
- Discouragement wheel clamping vehicles except those of persistent evaders;
- Where a vehicle is parked in contravention and in an obstructive manner the vehicle should be removed rather than clamped.
- Where an informal challenge made against a PCN within the 14 day 50% discount period is rejected, authorities should re-offer 14 day discount period.
- Need for monitoring.
- Authorities should review their parking policies on a regular basis in consultation with local stakeholders and, once finalised, these should be made publicly available.
- Authorities should publish certain financial and statistical data in an annual parking report.

7.13 Statutory Guidance and detailed Operational Guidance will be issued to local authorities and stakeholders in association with the Regulations. The Statutory Guidance will set out the policy framework for Civil Parking Enforcement, and how enforcement should be approached, undertaken and reviewed. Section 87 of the TMA stipulates that local authorities “must have regard” to the Statutory Guidance. The Operational Guidance is a detailed document which informs English local authorities who have not yet done so of the scope and procedure for taking over the enforcement of parking regulations from the police. It also advises all English local authorities of the procedures that the Government recommends they follow when enforcing parking restrictions, and provides the framework for a consistent nationwide approach to parking policy and enforcement and a point of reference for members of the public, as well as for the local authorities.

8. Impact

- 8.1 A Public Sector Regulatory Impact Assessment for this set of instruments is attached to this memorandum. No significant financial implications have been identified for members for the public or the public sector.
- 8.2 A Regulatory Impact Assessment was prepared for the Traffic Management Bill as a whole and is available at <http://www.dft.gov.uk/consultations/aboutria/ria/thetrafficmanagementbillregu5592?version=1>

9. Contact

██████████ at the Department for Transport can answer any queries regarding the instrument. Telephone: 0207 944 ████████ E-mail: ██████████ [dft.gsi.gov.uk](mailto:gsi@dft.gov.uk)

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