EXPLANATORY MEMORANDUM TO

THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS DESIGNATION (NO. 2) ORDER 2020

2020 No. 946

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 East Sussex County Council (in the area of the District of Rother) and Hampshire County Council (in the area of the Borough of Gosport) to enforce parking contraventions within their respective areas, rather than the police and police traffic wardens.

2.2 It also extends the existing civil enforcement areas for parking contraventions and special enforcement areas of Stoke-on-Trent City Council and Surrey County Council.

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 areas of Rother District Council and Gosport Borough Council will be designated as a civil enforcement area and a special enforcement area.

6.2 Stoke-on-Trent City Council and Surrey County Council have requested extensions to their existing permitted parking areas and special enforcement areas. The previous designation Orders in respect of both authorities were made under Schedule 3 to the

Road Traffic Act 1991 which was repealed in 2008. This Order revokes and replaces those Orders (set out in paragraphs 9.2 to 9.13).

6.3 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). In areas that are not so designated, the contraventions remain criminal.

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 understand, 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 96% 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 instrument referred to paragraph 9.2 for the City of Stoke-on-Trent and revokes the 11 separate instruments for Surrey County Council referred to in paragraphs in 9.3 – 9.13 and replaces them with one instrument for the entirety of Surrey County Council but does not amend any legislation

9.2 The Road Traffic (Permitted Parking Area and Special Parking Area) (City of Stoke-on-Trent) Order 2001 No. 3059.

9.3 The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Surrey) (District of Mole Valley) Order 2004 No. 914.

9.4 The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Surrey) (Borough of Guildford) Order 2004 No. 1278.

9.5 The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Surrey) (Borough of Reigate and Banstead) Order 2004 No. 1285.

9.6 The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Surrey) (Borough of Runnymede) Order 2004 No. 2616.

9.7 The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Surrey) (Borough of Epsom and Ewell) Order 2005 No. 388.

9.8 The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Surrey) (Borough of Spelthorne) Order 2005 No. 403.

9.9 The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Surrey) (Borough of Woking) Order 2005 No. 1645.

9.10 The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Surrey) (Borough of Elmbridge) Order 2005 No. 3407.

9.11 The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Surrey) (Borough of Surrey Heath) Order 2006 No. 851.

9.12 The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Surrey) (District of Tandridge) Order 2006 No. 2319.

9.13 The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Surrey) (Borough of Waverley) Order 2007 No. 664.

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 Hampshire Constabulary, Sussex Police, Staffordshire Police and Surrey Police, before making an order, and has done so. The Secretary of State has also consulted Highways England and the Ministry of Defence as there are roads owned by them, or under their control, in Surrey. Hampshire Constabulary, Sussex Police, Staffordshire Police, Surrey Police and Highways England support the applications. The Ministry of Defence have no objections.

10.2 As new applicants, East Sussex County Council and Hampshire County Council conducted additional consultation with their relevant police forces, Highways England, the Driver and Vehicle Licensing Agency ("DVLA"), the HMCTS Traffic Enforcement Centre, the Traffic Penalty Tribunal and neighbouring authorities. An application would not proceed unless any objections had been resolved.

10.3 The Council of the City of Stoke-on-Trent and Surrey County Council conducted additional consultation with their relevant police forces, Highways England and neighbouring authorities with regard to the changes to their existing enforcement areas.

10.4 East Sussex County Council's application was supported by Wealden District Council, Sussex Police, the HMCTS Traffic Enforcement Centre, Highways England and the Traffic Penalty Tribunal. DVLA had no objection. No response was received from Kent County Council or Hastings District Council

10.5 Hampshire County Council's application was supported by Hampshire Constabulary, the HMCTS Traffic Enforcement Centre and the Traffic Penalty Tribunal. Highways England, DVLA and Fareham Borough Council had no objections.

10.6 The Council of the City of Stoke-on-Trent application for amendments was supported by Staffordshire Police and Highways England. No response was received from Staffordshire County Council.

10.7 The Surrey County Council's application for amendments was supported by Surrey Police and Highways England. Kent County Council and Hampshire County Council had no objections. No response was received from The Royal Borough of Windsor And Maidenhead, East Sussex County Council, Horsham District Council, Sevenoaks District Council, Bromley London Borough Council, Rushmoor Borough Council, Hounslow London Borough Council, Slough Borough Council, Bracknell Forest Council, The Royal Borough of Kingston upon Thames, Mid Sussex District Council, Chichester District Council, West Sussex County Council, Sutton London Borough Council, Hillingdon London Borough Council, Croydon London Borough Council, Crawley Borough Council, East Hampshire District Council and the Ministry of Defence.

11. Guidance

11.1 The Secretary of State's 'Statutory Guidance to Local authorities on the Civil Enforcement of Parking Contraventions'[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 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. Parking schemes should be self-financing and the law does not allow local authorities to use

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

parking enforcement schemes for the purpose of raising revenue. Section 55 (financial provisions relating to designation orders) of the Road Traffic Regulation Act 1984 (c. 27) [2] requires that any surplus made on parking enforcement operations is directed towards the costs, incurred by the local authority, of other schemes to improve local transport and environment, including local public transport schemes, highway or road improvement projects and improvement measures to reduce environmental pollution.

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 schemes to be self-financing as soon as practicable.

12.3 An Impact Assessment has not been prepared for this instrument because it 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.

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.

[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.

15.3 Baroness Vere of Norbiton, Parliamentary Under Secretary of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.