EXPLANATORY MEMORANDUM TO

THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS DESIGNATION ORDER 2021

2021 No. 1125

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 Warwickshire County Council (in the area of the Borough of North Warwickshire) to enforce parking contraventions within that area rather than the police and police traffic wardens.

2.2 It also extends the existing civil enforcement area for parking contraventions and special enforcement areas of Oxfordshire County Council.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

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 North Warwickshire Borough Council will be designated as a civil enforcement area and special enforcement area.

6.2 Oxfordshire County Council has requested an extension to its existing permitted parking areas and special enforcement areas. This Order revokes and replaces the previous Orders for Oxfordshire, including one made under Schedule 3 to the Road Traffic Act 1991 (c.40) ("the 1991 Act") which was repealed in 2008. These are set out in paragraphs 9.2 to 9.4.

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 1991 Act.

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 2004 Act. The 2004 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 97% 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 and Future Relationship

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 the instruments for Oxfordshire County Council referred to in paragraphs 9.2 to 9.4 and replaces them with one instrument for the entirety of Oxfordshire County Council but does not amend any legislation.

9.2 The Road Traffic (Permitted Parking Areas and Special Parking Areas) (City of Oxford and Parish of North Hinksey) Order 1996 No. 2650.

9.3 The Road Traffic (Permitted Parking Areas and Special Parking Areas) (City of Oxford and Parish of North Hinksey) (Amendment) Order 1999 No. 1668.

9.4 The Civil Enforcement of Parking Contraventions (County of Oxfordshire) (District of West Oxfordshire) Designation Order 2009 No. 3298.

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 Warwickshire Police and Thames Valley Police, before making an order, and has done so. The Secretary of State has also consulted Highways England.

10.2 Warwickshire Police support the application, and Thames Valley Police and Highways England have no objections to the applications.

10.3 As part of their applications, Warwickshire County Council and Oxfordshire County Council conducted additional consultations with their relevant police forces, Highways England, the Driver and Vehicle Licensing Agency ("DVLA"), the HM Courts & Tribunal Services ("HMCTS") Traffic Enforcement Centre, the Traffic Penalty Tribunal and neighbouring authorities. An application would not proceed unless any objections had been resolved.

10.4 Warwickshire County Council's application received no objections from: Warwickshire Police, Highways England, the DVLA, the HMCTS Traffic Enforcement Centre, the Traffic Penalty Tribunal, Coventry City Council, Hinckley & Bosworth Borough Council, Leicestershire County Council, Lichfield District Council, North West Leicestershire District Council and Nuneaton and Bedworth Borough Council. No response was received from Birmingham City Council, Staffordshire County Council and Solihull Metropolitan Borough Council.

10.5 Oxfordshire County Council's application received no objections from: Thames Valley Police, Highways England, the DVLA, the HMCTS Traffic Enforcement Centre, the Traffic Penalty Tribunal, Buckinghamshire Council, Cherwell District Council, Gloucester County Council, Northamptonshire County Council, South and Vale of White Horse District Councils, Stratford-on-Avon District Council, Swindon Borough Council, Warwickshire County Council, West Oxfordshire District Council and Wokingham Borough Council.

11. Guidance

11.1 The Secretary of State's 'Statutory Guidance to local authorities on the Civil Enforcement of Parking Contraventions' ("the Statutory Guidance") [1] sets out the policy framework for civil parking enforcement and explains how local authorities should approach, carry out, and review their parking enforcement activities.

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1 https://www.gov.uk/government/publications/civil-enforcement-of-parking-contraventions/guidance-for-local-authorities-on-enforcing-parking-restrictions. (A printed copy is available on request from the Department for Transport using the contact details in paragraph 15.1 of this document.)

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 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) ("the 1984 Act") 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 the 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, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

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.

14.2 They must also, pursuant to section 55 of the 1984 Act, 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.

14.3 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.

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.