EXPLANATORY MEMORANDUM TO

THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS (ENGLAND) REPRESENTATIONS AND APPEALS REGULATIONS 2007

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

2. Description

2.1 These draft Regulations, the draft Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 ("the Representations and Appeals Regulations"), have been laid by the Secretary of State for Transport on behalf of the Lord Chancellor. Together with three other sets of Regulations and two Orders, all of which will be subject to the negative procedure, the Representations and Appeals Regulations are designed to implement, as respects England, Part 6 of the Traffic Management Act 2004 in relation to the civil enforcement of parking controls by civil enforcement officers acting on behalf of local authorities, rather than police officers or police traffic wardens.

2.2 These draft Regulations set out procedures whereby persons upon whom civil penalties have been imposed for parking contraventions in areas where civil enforcement applies, or whose vehicle has been immobilised or removed on account of such contraventions, can make representations to the enforcement authorities against the imposition of the penalties in particular cases and can appeal to an independent adjudicator if their representations are rejected. The draft Regulations set out the grounds for making representations and for appealing and the Schedule contains rules for the conduct of proceedings before adjudicators.

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.

4.3 The effect of the package of parking instruments will be to replace the present system of decriminalised parking enforcement under Part II and Schedule 3 of the Road Traffic Act 1991. The instruments will be supplemented by Statutory Guidance issued by the Secretary of State, to which local authorities will be required to have regard, although they will not be obliged to follow it.

4.4 Apart from the Representations and Appeals Regulations, the most important element of the package will be the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 ("the General Regulations"), to be made by the Lord Chancellor and the Secretary of State. The General Regulations and the Representations and Appeals Regulations should be read as a whole. It has been necessary for the subject matter to be split between two instruments 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 negative instruments will contain provisions ancillary to the two principal sets of regulations.

4.5 The complete list of proposed instruments comprising the package is—

Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007

Civil Enforcement of Parking Contraventions (England) General Regulations 2007

Removal And Disposal of Vehicles (Amendment) (England) Regulations 2007

Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007

Civil Enforcement Officers (Wearing of Uniforms) (England) Regulations 2007

Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007

4.6 The draft Representations and Appeals Regulations cross-refer to the proposed Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and also to the Removal and Disposal of Vehicles Regulations 1986 (S.I. 1986/183) as proposed by the Secretary of State to be amended by the Removal and Disposal of Vehicles (Amendment) (England) Regulations 2007. Copies are accordingly attached of the drafts of those two sets of Regulations so

as to show the effect of the cross-references. Subject to the draft Representations and Appeals Regulations being approved by the two Houses, it is Ministers' intention to make the other instruments at the same time and to bring them all into force on 31st March 2008. It may be necessary to postpone the making of the draft Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007 until after the others because of the requirement to notify it to the European Union, but that Order will need to come into force at the same time as the others. The instruments subject to the negative procedure will be laid before Parliament in the usual way when they have been made.

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."

7. Policy background

7.1 The first aim of the new framework will be to replace the unsatisfactory state of the current 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, contains 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 are similar to modifications to the Road Traffic Act 1991 made by London local legislation which is to be repealed by the Traffic Management Act 2004.

7.2 In the Representations and Appeals Regulations there are two main changes. First "procedural impropriety", that is to say a failure by the enforcement authority to observe any of the detailed statutory requirements for imposing a penalty charge, is made a ground for representations and for appealing to an adjudicator. Secondly an adjudicator may refer a case back to the enforcement authority for reconsideration, where the finding is that none of the grounds of appeal apply but that there are compelling reasons for remitting a charge. There are however many differences of detail between the Representations and Appeals Regulations and the existing legislation.

7.3 A public consultation exercise on the draft Statutory Guidance, draft Regulations and on the Partial Regulatory Impact Assessment was conducted from 12th July 2006 to 25th September 2006. The consultation document ("Better Parking – Keeping Traffic Moving") set out the Government's position on the civil enforcement of parking and sought views on 20 specific issues set out in the document.

7.4 This document was sent to all Local Authorities in England, 85 other organisations (including the key stakeholders and members of the working group of experts set up by the Department for Transport to consider the civil enforcement of parking), 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 were agreed on 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 Most of the responses to the consultation concerned issues relating to instruments other than the Representations and Appeals Regulations.

7.8 The consultation has resulted in a number of minor changes to the details of the Regulations. In particular the draft Representations and Appeals Regulations were amended in the light of a number of detailed drafting points raised by the parking adjudication services for London and for the rest of England and Wales.

7.9 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 in exercising their civil enforcement functions. 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 nation-wide 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

9.1 Marilyn Waldron at the Department for Transport can answer any queries regarding the instrument. Telephone: 0207 944 2468. E-mail: Marilyn.Waldron@dft.gsi.gov.uk

11th September 2007

Final Regulatory Impact Assessment (RIA)

1. Title of Proposal

1. Proposals to implement the parking provisions of Part 6 of the Traffic Management Act 2004.

2. Purpose and intended effect

Objectives

2. The Government's aim is to strengthen the existing system of Decriminalised Parking Enforcement (DPE), which will become known as Civil Parking Enforcement (CPE), by providing a regulatory framework, associated Statutory Guidance and detailed Operational Guidance to enforcement authorities. The objectives are to ensure that:

    (i) There exists a common and harmonised regulatory framework for the enforcement of civil parking contraventions by enforcement authorities across England;
    (ii) There is a high level of public understanding and acceptance for CPE
    (iii) Enforcement authorities have the necessary enforcement powers to secure a high level of public compliance with traffic regulations, which should lead, in turn, to reductions in congestion and improvements in safety and network management; and
    (iv) CPE powers are exercised in a fair and reasonable manner by enforcement authorities

Background

3. As the volume of traffic on the roads increases, the need for effective parking enforcement becomes critical to the successful management of congestion and road safety.

4. At present, all London authorities and 177**a** enforcement authorities in England outside London operate Decriminalised Parking Enforcement (DPE). Under DPE, parking regulations are enforced by parking attendants employed, directly or indirectly, by enforcement authorities. This reflects the need for the police to concentrate on core policing priorities. As part of the system, parking attendants issue Penalty Charge Notices (PCNs) to the owners of vehicles they believe to be parked in contravention of traffic regulations. Representations against a PCN can be made to the issuing authority and if this is rejected there is a right of appeal to an independent adjudicator. The enforcement is funded by income from parking charges and penalty charges rather than the local or national taxpayer.

5. The Road Traffic Act 1991 and regulations made under the Act**b** supply the current national legislative framework for DPE. London local authorities have built on the 1991 Act using local legislation, taken additional enforcement powers

a As at July 9th 2007
b The Road Traffic (Parking Adjudicators) (England and Wales) Regulations 1999 (S.I. No 1918).

and altered certain aspects of the enforcement process**a**. To support enforcement authorities in their exercise of DPE powers, non-Statutory Guidance was issued by the Department for Transport/Welsh Office**b**.

6. With the help of stakeholders and a working group of experts, the Government has reviewed the existing system of DPE to identify how it could be improved through the issue of Regulations, Statutory Guidance and Operational Guidance. A list of the stakeholder groups invited to attend a workshop and members of the Working Group are shown in annex A and B of the Regulatory Impact Assessment.

7. Part 6 of the TMA provides a single framework in England for the civil enforcement of parking, bus lanes, some moving traffic offences and the London lorry ban. The Government intends to implement the provisions in Part 6 in stages, beginning with parking. Under the TMA, Decriminalised Parking Enforcement will become known as Civil Parking Enforcement. Parking attendants will be known as Civil Enforcement Officers (CEOs).

8. To bring Part 6 into force, the Government will need to commence the relevant Sections of the TMA, make regulations that provide the detail of the legislative framework for Civil Parking Enforcement and issue accompanying Statutory Guidance. Once the TMA has been brought into force, Part 6 and the regulations will replace existing provisions in the Road Traffic Act 1991 (with regard to parking). Any actions that commenced under the RTA 1991 or local Acts will continue to be enforceable.

9. Statutory Guidance will be issued along with the Regulations. The Regulations and Statutory Guidance will cover England only and it is expected that the Welsh Assembly Government will make corresponding Regulations and issue Statutory Guidance for Wales. The Government will also publish non-statutory Operational Guidance for England and Wales. This will supersede the Department's Circular 1/95.

10. The Mayor of London will need to consider revising his Transport Strategy so that the parking aspects in it are consistent with the new Regulations and Guidance.

<u>Rationale for Government Intervention</u>

11. The existing legislative framework and supporting Guidance for DPE has been successful in helping authorities to better enforce their traffic regulations. Nevertheless, the experience of DPE so far has shown that there are some areas where it would be beneficial to amend the existing legislative framework. Some of the changes result from experience in London, where enforcement authorities have obtained additional powers from local legislation.

12. The new framework is also required because:

a See the London Local Authorities Act 1995, the London Local Authorities Act 2000 and the London Local Authorities and Transport for London Act 2003.

b *Guidance on Decriminalised Parking Enforcement Outside London* (Local Authority Circular 1/95 and Welsh Office Circular 26/95) available from www.dft.gov.uk.

(i) There is evidence that there is scope for improving the public's understanding of and confidence in the DPE system. This could be achieved if enforcement authorities make information about their policies and operations available publicly; and

(ii) The Department of Transport/Welsh Office's Guidance on DPE for authorities outside of London has remained unaltered since it was originally issued in 1995. By updating this Operational Guidance it would be possible to strengthen areas where some enforcement authorities are not complying with their responsibilities correctly. It will also draw upon experience that has been gained since 1991 to improve the CPE system. This updated Operational Guidance, along with the Regulations and Statutory Guidance, will be published in 2007 to provide detailed information to enforcement authorities.

3. Consultation

Within Government

13. The main elements of the Government's proposals to strengthen DPE were worked up during the preparation, and passage through Parliament, of the Traffic Management Bill. In the course of this work, the Department for Transport (DfT) worked closely with other relevant policy Departments including the Ministry of Justice, the Home Office and the Communities and Local Government. Colleagues in the Welsh Assembly Government and Scottish Executive were also consulted on these proposals as they were developed.

Public consultation

14. In 2002, DfT consulted local authorities and a number of representative organisations about proposals to give non-London local authorities the additional powers that had been taken by London authorities since the Road Traffic Act 1991. The responses showed clear support for this approach.

15. Following the successful passage of the Traffic Management Bill in 2004, the Government has given further consideration to proposals to strengthen DPE. DfT held a stakeholder workshop and a number of meetings of the working group involving representatives from a wide range of parking stakeholders, including local authorities. A full list of the organisations invited to participate in the workshop is at Annex A. Organisations represented at the Working Group are listed at Annex B. Preliminary consultation with these key parties took place before the full public consultation

16. A public consultation on the draft Statutory Guidance, draft Regulations and on the Partial RIA was conducted from 12th July 2006 to 25th September 2006. This consultation set out the Government's position on CPE and sought to establish views on 20 specific issues that were set out in the consultation document.

17. 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

18. There was widespread support for the Partial Regulatory Impact Assessment and 75% of respondents agreed that it gave a fair analysis of the policy.

19. Those who responded agreed with the vast majority of the issues, and the policies on these will remain as proposed in the consultation.

20. Responses on three of the issues suggested that the policy was not appropriate and the minister agreed that the policy be revised in light of these points. 82% of respondents said that a separate parking grievance/complaints unit should not be set up and it was agreed that enforcement authorities should not be asked to do this. It was also agreed not to give to the police the power to also enforce parking in areas where the enforcement authorities have this power, as 74% of respondents said the police should not be given this power. Finally, it was agreed that the time before a vehicle can be clamped or removed in a parking place would be 30 minutes after the PCN is issued rather than the 60 minutes proposed in the consultation. This was not a yes/no question, but the majority if those who responded thought 30 minutes was more appropriate.

21. 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 enforcement authorities will not be able to recover the money for all past PCNs from persistent evaders that are clamped or removed. The Minister took the decision to remove this provision to protect innocent drivers and also in response to the 2nd London Local Authorities and Transport for London Bill. This Bill has proposed a system for tacking persistent evaders in London that is not possible to implement in the rest of the country at the present time because there is no power in primary legislation. After a trial in London the Minister will consider whether to implement the provisions in the rest of the country with new primary legislation.

22. The responses are too detailed to be set out in any great depth here. More detailed responses to the questions can be seen in the consultation summary on the departmental website.

4. Options

Option 1: Do nothing

23. This option assumes that the Government does not commence the parking provisions in Part 6 of the TMA and does not issue new Regulations or Statutory Guidance on CPE. As a result, the existing system of DPE would remain in force and would continue to garner relatively low public support, which may lead to increases in congestion and reductions in road safety.

Option 2: Replicate existing legislation and Guidance in Regulations and Guidance made under the TMA

24. This option involves commencing the parking provisions in the TMA, making Regulations that copy in their entirety the framework established by the Road Traffic Act 1991 and its associated Regulations, and putting existing Guidance on parking enforcement on a statutory footing. It is unlikely that this would improve public understanding and support.

Option 3: Issue Regulations and Statutory Guidance that build on the existing system of DPE

25. This option would also involve commencing the parking provisions in the TMA. It would entail making regulations that build upon and enhance the current legislative framework giving to enforcement authorities outside London the same powers as London local authorities, so that the enforcement framework is the same throughout England. It would also include issuing Statutory Guidance that would establish the key principles and minimum standards which all authorities would be expected to meet. Detailed Operational Guidance (in the form of an updated version of Local Authorities Circular 1/95) would also be issued. We believe that this option would improve the fairness and clarity of the system and encourage more authorities to take on the responsibility of enforcing, as well as making, parking policies and local regulations (as recommended by the House of Commons Transport Committee).

5. Costs and Benefits

Sectors and groups affected

26. All options would affect all enforcement authorities that currently operate DPE or intend to operate DPE in the future, and the firms who are contracted to carry out the on-street enforcement, or provide the tools to operate the system, as well as consumers who park on-street and in enforcement authority owned car parks within the authorities' boundaries. There would be no material differences in the impact on other businesses, voluntary organisations and charities or people in different social groups. However the operation of parking enforcement will have an impact on all individuals who use the road network.

27. Under option 3, the new powers will allow enforcement authorities outside London to provide enforcement with "approved devices" (these powers are already in place for local authorities inside London). The businesses that supply or design the equipment systems used for parking enforcement would be required to obtain certification from the Secretary of State before their equipment could be used. This certification is needed to ensure that devices provide correct and tamper proof evidence to a common standard. There would be no charge for this certification and the information that the Secretary of State is likely to require to support a request for certification (the details will be set out in the Operational Guidance) would be very much along the lines of tests that any reputable manufacturer/designer of a system would do to satisfy themselves that it meets the high standards required for law enforcement. Furthermore this will create a new market and therefore is a benefit to businesses.

28. There are existing requirements about the wearing of uniforms by parking attendants and it is likely that the provisions will be carried forward largely unchanged in all three options. So there will be no change in the impact that they would have on the businesses that currently supply uniforms for parking attendants.

29. The procedures to be carried out in connection with the removal and disposal of vehicles are likely to be very much the same in all three options and will to a large extent replicate what is already in place, so there will be no change in the impact that they would have on the businesses that operate these services on behalf of enforcement authorities. The discouragement of clamping and removal for vehicles except those of persistent evaders may reduce in the long term the number of vehicles clamped and removed on-street and in enforcement authority owned car parks. This could potentially have a negative effect on clamping companies and may lead to an increase in costs per unit. It should be noted that these Regulations and Guidance will make no change to wheel-clamping or removal of vehicles parked on private land, which is currently unregulated and causes a significant number of complaints from members of the public.

Race equality impact

30. There are no Race Equality impacts to any of these proposals

Environmental quality impact

31. It is unlikely that there will be any significant and quantifiable environmental impacts from any of the options. However, option 3 is designed to improve the system of civil parking enforcement. An efficient parking system may play a part in improving road safety and reducing traffic congestion and associated emissions and therefore we would expect some positive qualitative impacts.

Analysis of costs and benefits

Option 1

32. As it would not involve changes to the existing DPE system, this option would not impose any new costs. But neither would it deliver any benefits over and above those derived from the existing DPE system. There are a number of disadvantages to this option.

33. By not implementing Part 6 of the TMA the changes would not be made that are necessary to ensure that authorities conduct their parking enforcement in a transparent, fair and proportionate manner. This would lead to continued press and public antipathy and accusations that parking enforcement is only about raising money rather than enforcing transport objectives. Furthermore authorities outside London currently lack certain powers that have been given to London authorities through local legislation. These are important to the efficient running of CPE and include the power to:
    (i) Serve a PCN by post where a CEO is prevented from fixing a PCN to a vehicle or handing it to the driver. This will tackle the problem in the

current system of parking attendants being unable to serve a PCN as a result of a motorist driving away or making threats against the attendant.

(i) Issue a PCN on the basis of information provided by an "approved device" (currently a camera plus the associated system). This will help authorities target enforcement activity on sensitive areas (e.g. in "no stopping" areas such as red routes and clearways) and areas where there is a high level of short-stay contraventions such as dropping off children at school.

(ii) Ensure specified items of information appear on PCNs so that vehicle owners understand how they can go about paying a penalty charge, the process for enforcing a PCN and their right to appeal to an adjudicator;

(iii) Place a 6 month time limit on the issue of a Notice to Owner.

Option 2

34. Authorities would face additional enforcement costs resulting from the exercise of the new powers conferred on them by the TMA. However, these costs could be funded from any additional parking income.

35. This option would deliver some benefits to road users in terms of improved traffic flow and safety. These would derive from the greater levels of compliance with traffic regulations that authorities' additional enforcement powers could be expected to bring about.

36. However this legislation is out of date and is not built on the experience that has been garnered since the beginning of DPE. Since the RTA proposed decriminalised parking enforcement in 1991 much has been learnt about the most efficient ways to carry out enforcement and by simply replacing existing legislation with that made under the TMA, it would not update the system.

37. During the consultation on the Traffic Management Bill in 2002 it was established that key stakeholders supported the adoption of regulations under the TMA and that there should be a further process of consultation to establish how best to update decriminalised parking in the light of experience. There are no powers in RTA 1991 to make regulations that would allow these necessary changes to be made. Therefore option 2 would not fulfil our stakeholders' requirements.

Option 3

38. There is no requirement to take on CPE powers if an authority does not wish to. Enforcement authorities who opt into CPE would face the following additional costs under option 3:

39.

(i) Implementing costs:

a. Enforcement authorities who do not yet operate DPE:

i. If an enforcement authority chooses to take on CPE powers then they will need to apply to DfT for these powers (as they

have to at present for DPE powers). As with taking on DPE powers at present, an enforcement authority will need to cover the start up costs of taking on this power. However, an enforcement authority will not face any higher costs in bringing in CPE than they would have faced to bring in DPE.

b. Enforcement authorities who already have DPE powers (at present all London authorities and 177 enforcement authorities in England outside London):
    i. There will be some up front costs for the transition from DPE to CPE. These costs include training, IT, stationary, uniform and promotional costs. There are also costs involved in the time it will take to understand the implications of the Act and to change the processes and procedures.
    ii. Up front costs for the transition from DPE to CPE have been estimated for us by a number of enforcement authorities who would be affected by the new Regulations. Estimations vary from £8,000 to £54,000. These costs vary because large enforcement authorities with more employees will have more training costs for their employees, more uniforms to change for their CEOs, and may have a larger amount of stationary to replace. IT costs also varied from nothing (some enforcement authorities estimate that the IT changes will cost nothing or be very minimal since they could do these when they were due to have an IT upgrade) to £20,000.
    iii. However, these will be covered by the income the authority gets from the parking charges and parking penalty charges. Therefore, this is cost neutral to the authority.

(ii) Running costs:

a. Enforcement authorities that do not respond positively to the enhanced regime (either through pursuing over-zealous enforcement decisions, or though inefficiency) may face additional adjudication costs resulting from more appeals on the ground that there was procedural impropriety, or mitigating circumstances. This is unlikely to be the case for authorities that follow the Regulations and Guidance. As enforcement authorities improve their service and provide better trained staff to deal with appeals, the number of appeals to the adjudicators may decrease.
b. We are unable to quantify the exact additional costs that enforcement authorities will face because these will vary with between different authorities, and will depend on the size of the authority, whether urban or rural, the number of PCNs issued, the extent to which these are paid or challenged, and the efficiency with which the parking system is run.
c. However, under CPE (as with DPE) enforcement authorities will be able to cover the costs of their enforcement activity through income from parking charges and from any parking penalty charges. The Government's proposals would make enforcement easier and we expect that, overall, this would reduce the costs of enforcement. The enforcing authority will be able to run CPE in a way that is at least cost neutral.

40. We expect that contracts would be varied to take account of any additional costs incurred by firms carrying out enforcement on behalf of enforcement authorities.

41. There would also be some very minimal administrative costs in amending the Traffic Enforcement Centre's procedure for processing statutory declarations.

42. There would also be benefits to enforcement authorities, some of which would mean a positive financial impact. The Government's proposals would make enforcement easier and we expect that, overall, this would reduce the costs of enforcement. This is because their objective is that the public will see civil enforcement as fair, and the levy of penalty charges for parking contraventions as more acceptable through changes such as limiting the use of clamping and encouraging authorities to be transparent. Changes such as allowing service of a PCN on the basis of camera evidence will facilitate the provision of robust evidence that will make it more difficult to dispute that a contravention took place. This will help to protect the motorist who has not committed a contravention.

43. This option would deliver a number of benefits for all road users within CPE authorities, especially those using parking facilities:

    (i) Harmonising the powers available would improve levels of consistency between authorities using CPE and, through this, public understanding of the system;
    (ii) The enhancements to authorities' enforcement powers should result in higher levels of compliance with traffic regulations and concomitant improvements to traffic flow and road safety;
    (iii) Placing a 6 month time limit on the issue of a Notice to Owner would encourage authorities to follow up their PCNs in a prompt and efficient manner;
    (iv) Introducing greater transparency into civil parking enforcement, for example by publishing polices and annual reports on CPE activities will improve public understanding and acceptance of CPE;
    (v) CEOs undergoing independently assessed training and demonstrating a satisfactory level of competence will result in improved effectiveness and professionalism of civil enforcement;
    (vi) The additional grounds of appeal to an adjudicator should help to ensure that authorities give proper consideration to representations made against PCNs on the basis of procedural impropriety or mitigating circumstances;
    (vii) Clarifying issues where High Court judgements have changed the assumptions on which authorities have been enforcing for a number of years;
    (viii) The principles and standards set out in the Statutory Guidance would help to ensure that enforcement authorities exercise their functions in a fair and reasonable manner, and in a way that increases public understanding and acceptance of CPE.

44. The Government considers that this option is the most effective way to strengthen the existing system of DPE and increase its acceptability to the public.

6. Small Firms Impact Test

45. Small firms may be affected by these proposals in two ways. The first is as organisations who themselves, and whose customers, use the road network. None of the options would have a significant impact on small firms over and above the impacts of the existing DPE system. However the existing DPE system garners low public support and thus below maximum compliance and this has a potential cascading effect on trade (for example parking outside local shops). Some small shopkeepers might contend that option 3 would have a negative impact on their trade, but what option 3 would do is to enforce effectively what is already the law, rather than change it. The Guidance would emphasise the need to discuss parking restrictions with, among others, people who run small shops. This would help ensure that the parking restrictions put in place by enforcement authorities are consulted on properly and as far as is practicable, respond to the points made in those consultations

46. We are not aware of any instance where a small firm is a contractor to an enforcement authority to deliver their parking enforcement responsibilities. But if there are any, option 3 will benefit them in the same way as larger firms by helping to improve the respect given by members of the public to their on-street employees and the regulations they enforce. Option 3 also discourages clamping. This could potentially have a negative effect on clamping companies and may lead to an increase in costs per unit

7. Competition Assessment

47. Many enforcement authorities contract out CPE functions following competitive tenders, but we have no information about how many. This means that the Government's proposals will affect private sector contractors who deliver public services. However, we believe that the changes would not have a competition impact because they will not favour one type of supplier or market.

8. Enforcement, Sanctions and Monitoring

48. It will be for enforcement authorities and the parking adjudicator to exercise the additional functions provided for in the proposed Regulations. In addition, under the TMA enforcement authorities must have regard to Statutory Guidance on CPE issued by the relevant national authority.

49. There are a number of ways in which enforcement authorities can be held to account for the way in which they carry out their CPE functions:

    (i) Through representations to the authority itself;
    (ii) Through an appeal to the parking adjudicator where those representations do not resolve a dispute;
    (iii) Through a complaint to the Local Government Ombudsman;
    (iv) Through Judicial Review of an authority's decisions or actions;
    (v) Through the democratic process, the councillors are accountable at local elections. This should be made easier by the increased

transparency in the CPE regime brought about as a result of the Government's proposals.

9. Implementation and Delivery Plan

50. It is our intention that the affirmative Regulations will be laid before Parliament in mid 2007. Once these have been approved, all the negative resolution statutory instruments will be laid before Parliament.

51. Subject to Parliamentary scrutiny procedures, it is our intention that the Regulations will come into force in early 2008. This will allow an appropriate implementation period for enforcement authorities to prepare for the changes and adapt to the new requirements before the proposals take effect.

52. We will inform key stakeholders when the Regulations have been laid. We will publish Statutory Guidance for all enforcement authorities who are affected by the Regulations, and for the key stakeholders.

53. We will also publish detailed Operational Guidance and a communications toolkit. The Operational Guidance will offer enforcement authorities detailed information on how to implement the new proposals. The communications toolkit will offer user-friendly information and advice to enforcement authorities on how to communicate effectively with the public to explain what parking enforcement means and why it is important.

10. Post-Implementation review

54. Enforcement authorities will be encouraged to monitor the effectiveness of these Regulations. We may also produce a monitoring toolkit that would enable this to be done by enforcement authorities across the country on a consistent basis.

11. Summary and recommendation

Option	**Benefits**	**Costs**
Option 1: Do Nothing	• No Benefits	• No economic costs • Potentially a worsening of congestion and road safety • Continued press and public antipathy
Option 2: Replicate existing legislation and Guidance in Regulations and Guidance made under the TMA	• Some benefits to road users in terms of improved traffic flow and safety	• Additional enforcement costs resulting from the exercise of the new powers conferred on them by the TMA. However, these costs could be funded from

		any additional parking income • Out of date legislation that is not built on recent experience • Will not fulfil stakeholder's requirements
Option 3: Issue Regulations and Statutory Guidance that build on the existing system of DPE	• Enforcement will be easier and overall, costs should reduce. • Increased public understanding and acceptance of CPE. • More robust evidence from cameras • Benefits for road users including consistency, improvements to traffic flow and road safety, more efficient dealings with PCNs and the issue of a Notice to Owner, greater transparency, improved effectiveness and professionalism of civil enforcement officers, clarification of procedures and powers following High Court decisions.	• Enforcement authorities that already have DPE powers would face additional up-front costs for the transition period to CPE. • Enforcement authorities who do not yet operate DPE would not face any higher costs in bringing in CPE than they would have faced to bring in DPE. • There are costs resulting from enforcement, which will vary depending on the size of the LA, the number of PCNs issued, and the efficiency. These costs will be covered through income from parking charges and parking penalty charges • Very minimal administrative costs in amending the Traffic Enforcement Centre's procedure

55. In view of the above, the Department recommends that option 3 be taken forward. This option is the most effective way to strengthen the existing system of DPE and

increase its acceptability to the public. The benefits of improved parking enforcement resulting from publication of the Guidance and Regulations will more than outweigh any additional up-front costs. The Government's proposals should make enforcement easier and we expect that, overall, this would reduce the costs of enforcement.

11. Declaration and Publication

56. I have read the Public Sector Regulatory Impact Assessment in the context of the Regulatory Impact Assessment associated with the Traffic Management Act and am satisfied that the benefits justify the costs.

Rosie Winterton

Minister of State for Transport, Department for Transport

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1st August 2007

Annex A

Invitees to Stakeholder Workshop

Automobile Association

London Councils

British Motorcyclists' Federation

British Parking Association

Country Surveyors Society

Cyclists' Touring Club

Disabled Persons Transport Advisory Committee

Freight Transport Association

Government Office for London

Government Office for Yorkshire and Humberside

Living Streets

Local Government Association

London Technical Advisors Group

National Parking Adjudication Service

Parking and Traffic Appeals Service

RAC Foundation

Road Haulage Association

Transport for London

Annex B

Members of Working Group

Automobile Association

London Councils

British Parking Association

Department for Constitutional Affairs

Essex County Council

Government Office for London

Local Government Association

National Parking Adjudication Service

North Yorkshire Police

Parking and Traffic Appeals Service

RAC Foundation

Transport for London

Papers Only

Welsh Assembly Government

Scottish Executive

DRAFT

STATUTORY INSTRUMENTS

2007 No. 0000

ROAD TRAFFIC, ENGLAND

The Civil Enforcement of Parking Contraventions (England) General Regulations 2007

Made - - - -	*2007*
Laid before Parliament	*2007*
Coming into force - -	*31st March 2008*

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SCHEDULE — PENALTY CHARGES NOTICES 35

These Regulations are made by the Secretary of State for Transport, in exercise of the powers conferred by sections 72, 73(3), 77, 79, 88 and 89 of the Traffic Management Act 2004(**a**), by paragraph 6 of Schedule 9 to that Act, and by the Lord Chancellor, in exercise of the powers conferred on him by sections 78, 81, 82 and 89 of that Act.

PART 1
PRELIMINARY

Citation, commencement and application

5.—(1) These Regulations may be cited as the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and shall come into force on 31st March 2008.

(2) These Regulations apply only to England.

Interpretation

6.—(1) In these Regulations—

"the 2004 Act" means the Traffic Management Act 2004;

(**a**) 2004 c. 18; section 79 was amended by the Disability Discrimination Act 2005 (c. 13), Schedule 1, paragraph 48 and section 81 was amended by S.I. 2006/1016 . By virtue of section 92, the Secretary of State is the "appropriate national authority" as regards England, for the purposes of regulations made under Part 6.

"the 28-day period" has the meaning given by regulation 10(4);

"adjudicator" means an adjudicator appointed under Part 4 of these Regulations;

"applicable discount" and "applicable surcharge" mean the amount of any discount or, as the case may be, surcharge set in accordance with Schedule 9 to the 2004 Act;

"charge certificate" has the meaning given by regulation 21(1);

"enforcement authority" in relation to a penalty charge or the immobilisation of a vehicle means the enforcement authority in relation to the alleged contravention in consequence of which the charge was incurred or the vehicle was immobilised;

"notice to owner", subject to regulations 21(4) and 23(9) has the meaning given by regulation 19;

"outstanding" in relation to a penalty charge shall be construed in accordance with paragraphs (2) to (4);

"owner" in relation to a vehicle includes any person who falls to be treated as the owner of the vehicle by virtue of regulation 5(3);

"pedestrian crossing contravention" means a parking contravention consisting of an offence referred to in paragraph 3(2)(c), 3(2)(h)(i), 4(2)(c) or 4(2)(i)(i) of Schedule 7 to the 2004 Act (prohibition on stopping of vehicles on or near pedestrian crossings);

"penalty charge" means a penalty charge relating to a parking contravention and payable in accordance with regulation 4;

"penalty charge notice" has the meaning given by regulation 8(1);

"regulation 10 penalty charge notice" has the meaning given by regulation 10;

"the English enforcement authorities" means Transport for London and those enforcement authorities which are London authorities or local authorities in England and "the non-London enforcement authorities" means the English enforcement authorities other than Transport for London and the London authorities; and

"the Representations and Appeals Regulations" means the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007(**a**).

(2) For the purposes of these Regulations a penalty charge is outstanding in relation to a vehicle if—

(a) the charge has not been paid and the enforcement authority to which the charge is payable has not waived payment, whether by cancellation of the penalty charge notice or notice to owner or otherwise;

(b) the owner of the vehicle when it was immobilised was also the owner of the vehicle when the penalty charge was imposed; and

(c) either—

(i) a notice to owner or regulation 10 penalty charge notice has been served in respect of the charge and the conditions in paragraph (3) are satisfied; or

(ii) no notice to owner or regulation 9 penalty charge notice has been served in respect of the charge and the conditions in paragraph (4) are satisfied.

(3) The conditions referred to in paragraph (2)(c)(i) are that—

(a) the penalty charge was imposed, in accordance with these Regulations, by an enforcement authority in respect of a parking contravention;

(b) the penalty charge is the subject of a charge certificate served under regulation 21 which has not been set aside in accordance with regulation 23.

(4) The conditions referred to in paragraph (2)(c)(ii) are that—

(a) the penalty charge related to a vehicle which, when the penalty charge became payable,—

(i) was not registered under the Vehicle Excise and Registration Act 1994(**b**); or

(**a**) S.I. 2007/0000.
(**b**) 1994 c. 22.

(ii) was so registered, but without the inclusion in the registered particulars of the correct name and address of the keeper of the vehicle;

(b) having taken all reasonable steps, the enforcement authority to which the penalty charge was payable was unable to ascertain the name and address of the keeper of the vehicle and was consequently unable to serve a notice to owner under regulation 19 or a regulation 10 penalty charge notice; and

(c) the period of 42 days beginning with the date on which the penalty charge became payable has expired.

Service by post

7.—(1) Subject to paragraph (5), any notice (except a penalty charge notice served under regulation 9) or charge certificate under these Regulations —

(a) may be served by first class (but not second class) post; and

(b) where the person on whom it is to be served is a body corporate, is duly served if it is sent by first class post to the secretary or clerk of that body.

(2) Service of a notice or charge certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted shall, unless the contrary is proved, be taken to have been effected on the second working day after the day of posting.

(3) In paragraph (2), "working day" means any day except—

(a) a Saturday or a Sunday;

(b) New Year's Day;

(c) Good Friday;

(d) Christmas Day;

(e) any other day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971**(**a**)**.

(4) A document may be transmitted to a vehicle hire firm (as defined in regulation 5(4)) by a means of electronic data transmission where—

(a) the vehicle hire firm has indicated in writing to the person sending the notice or document that it is willing to regard a document as having been duly sent to it if it is transmitted to a specified electronic address; and

(b) the document is transmitted to that address.

(5) Nothing in this regulation applies to the service of any notice or order made by a county court.

PART 2

PENALTY CHARGES

Imposition of penalty charges

8. Subject to the provisions of these Regulations a penalty charge is payable with respect to a vehicle where there has been committed in relation to that vehicle—

(a) a parking contravention within paragraph 2 of Schedule 7 to the 2004 Act (contraventions relating to parking places in Greater London);

(b) a parking contravention within paragraph 3 of that Schedule (other parking contraventions in Greater London) in a civil enforcement area in Greater London; or

(c) a parking contravention within paragraph 4 of that Schedule (parking contraventions outside Greater London) in a civil enforcement area outside Greater London.

(**a**) 1971 c. 80.

Person by whom a penalty charge is to be paid

9.—(1) Where a parking contravention occurs, the person by whom the penalty charge for the contravention is to be paid shall be determined in accordance with the following provisions of this regulation.

(2) In a case not falling within paragraph (3), the penalty charge shall be payable by the person who was the owner of the vehicle involved in the contravention at the material time.

(3) Where—

(a) the vehicle is a mechanically propelled vehicle which was, at the material time, hired from a vehicle-hire firm under a hiring agreement;

(b) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice served in respect of any parking contravention involving the vehicle during the currency of the hiring agreement; and

(c) in response to a notice to owner served on him, the owner of the vehicle made representations on the ground specified regulation 4(4)(d) of the Representations and Appeals Regulations and the enforcement authority accepted those representations,

the penalty charge shall be payable by the person by whom the vehicle was hired and that person shall be treated as if he were the owner of the vehicle at the material time for the purposes of these Regulations.

(4) In this regulation—

(a) "hiring agreement" and "vehicle-hire firm" have the same meanings as in section 66 of the Road Traffic Offenders Act 1988(**a**); and

(b) "the material time" means the time when the contravention giving rise to the penalty charge is said to have occurred.

Evidence of contravention

10. A penalty charge shall not be imposed except on the basis of—

(a) a record produced by an approved device; or

(b) information given by a civil enforcement officer as to conduct observed by him.

Criminal proceedings for parking contraventions in civil enforcement areas

11.—(1) No criminal proceedings may be instituted and no fixed penalty notice may be served in respect of any parking contravention occurring in a civil enforcement area, except a pedestrian crossing contravention.

(2) A penalty charge shall not be payable in relation to a pedestrian crossing contravention where—

(a) the conduct constituting the contravention is the subject of criminal proceedings; or

(b) a fixed penalty notice, as defined by section 52 of the Road Traffic Offenders Act 1988(**b**), has been given in respect of that conduct.

(3) Where, notwithstanding the provisions of paragraph (2)—

(a) a penalty charge has been paid in respect of a pedestrian crossing contravention; and

(b) the circumstances are as mentioned in paragraph (2)(a) or (b),

the enforcement authority shall, as soon as reasonably practicable after those circumstances come to its notice, refund the amount of the penalty charge.

(**a**) 1988 c. 53.

(**b**) Section 52 was amended by the Access to Justice Act 1999 (c. 22), Schedule 13, paragraph 147, by the Courts Act 2003 (c. 39) Schedule 8, paragraph 314 and by the Statute Law (Repeals) Act 2004 (c. 14), Schedule 1, Part 14.

Penalty charge notices

12.—(1) In these Regulations a "penalty charge notice" means a notice which—

(a) was served in accordance with regulation 9 or 10 in relation to a parking contravention; and

(b) complies with the requirements of the Schedule which apply to it as well as to the those of regulation 3 of the Representations and Appeals Regulations which so apply.

(2) The Schedule has effect with regard to penalty charge notices.

Penalty charge notices — service by a civil enforcement officer

13. Where a civil enforcement officer has reason to believe that a penalty charge is payable with respect to a vehicle which is stationary in a civil enforcement area, he may serve a penalty charge notice—

(a) by fixing it to the vehicle; or

(b) giving it to the person appearing to him to be in charge of the vehicle.

Penalty charge notices — service by post

14.—(1) An enforcement authority may serve a penalty charge notice by post where—

(a) on the basis of a record produced by an approved device, the authority has reason to believe that a penalty charge is payable with respect to a vehicle which is stationary in a civil enforcement area;

(b) a civil enforcement officer attempted to serve a penalty charge notice in accordance with regulation 9 but was prevented from doing so by some person; or

(c) a civil enforcement officer had begun to prepare a penalty charge notice for service in accordance with regulation 9, but the vehicle concerned was driven away from the place in which it was stationary before the civil enforcement officer had finished preparing the penalty charge notice or had served it in accordance with regulation 9,

and references in these Regulations to a "regulation 10 penalty charge notice" are to a penalty charge notice served by virtue of this paragraph.

(2) For the purposes of paragraph (1)(c), a civil enforcement officer who observes conduct which appears to constitute a parking contravention shall not thereby be taken to have begun to prepare a penalty charge notice.

(3) A regulation 10 penalty charge notice shall be served on the person appearing to the enforcement authority to be the owner of the vehicle involved in the contravention in consequence of which the penalty charge is payable.

(4) Subject to paragraph (6), a regulation 10 penalty charge notice may not be served later than the expiration of the period of 28 days beginning with the date on which, according to a record produced by an approved device, or information given by a civil enforcement officer, the contravention to which the penalty charge notice relates occurred (in these Regulations called "the 28-day period").

(5) Paragraph (6) applies where—

(a) within 14 days of the appropriate date the enforcement authority has requested the Secretary of State to supply the relevant particulars in respect of the vehicle involved in the contravention and those particulars have not been supplied before the expiration of the 28-day period;

(b) an earlier regulation 10 penalty charge notice relating to the same contravention has been cancelled under regulation 23(5)(c); or

(c) an earlier regulation 10 penalty charge notice relating to the same contravention has been cancelled under regulation 5 of the Representations and Appeals Regulations.

(6) Where this paragraph applies, notwithstanding the expiration of the 28-day period, an enforcement authority shall continue to be entitled to serve a regulation 10 penalty charge notice—

(a) in a case falling within paragraph (5)(a), for a period of six months beginning with the appropriate date; or

(b) in a case falling within paragraph (5)(b) or (c), for a period of 4 weeks beginning with the appropriate date.

(7) In this regulation—

(a) "the appropriate date" means—

(i) in a case falling within paragraph (5)(a), the date referred to in paragraph (4);

(ii) in a case falling within paragraph (5)(b), the date on which the district judge serves notice in accordance with regulation 23(5)(d); or

(iii) in a case falling within paragraph (5)(c) the date on which the previous regulation 10 penalty charge notice was cancelled; and

(b) "relevant particulars" means particulars relating to the identity of the keeper of the vehicle contained in the register of mechanically propelled vehicles maintained by the Secretary of State under the Vehicle Excise and Registration Act 1994.

Removal of or interference with a penalty charge notice

15.—(1) A penalty charge notice fixed to a vehicle in accordance with regulation 9(a) shall not be removed or interfered with except by or under the authority of—

(a) the owner or person in charge of the vehicle; or

(b) the enforcement authority.

(2) A person contravening paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

PART 3

IMMOBILISATION OF VEHICLES

Power to immobilise vehicles

16.—(1) Subject to regulation 13 (limitations on the power to immobilise vehicles), where a penalty charge notice has been served in accordance with regulation 9, a civil enforcement officer or a person acting under his direction may fix an immobilisation device to the vehicle concerned while it remains in the place where it was found.

(2) On any occasion when an immobilisation device is fixed to a vehicle in accordance with this regulation, the person fixing the device shall also fix to the vehicle a notice—

(a) indicating that such a device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from that device;

(b) specifying the steps to be taken in order to secure its release; and

(c) warning that unlawful removal of an immobilisation device is an offence.

(3) A notice fixed to a vehicle in accordance with this regulation shall not be removed or interfered with except by or under the authority of—

(a) the owner, or person in charge, of the vehicle; or

(b) the enforcement authority.

(4) A person contravening paragraph (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) Any person who, without being authorised to do so in accordance with these Regulations, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with this regulation shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Limitations on the power to immobilise vehicles

17.—(1) An immobilisation device must not be fixed to a vehicle if there is displayed on the vehicle—

(a) a current disabled person's badge; or

(b) a current recognised badge.

(2) If, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (1)(a), the vehicle was not being used—

(a) in accordance with regulations under section 21 of the Chronically Sick and Disabled Persons Act 1970(**a**); and

(b) in circumstances falling within section 117(1)(b) of the Road Traffic Regulation Act 1984(**b**) (use where a disabled persons' concession would be available),

the person in charge of the vehicle shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (1)(b), the vehicle was not being used—

(a) in accordance with regulations under section 21A of the Chronically Sick and Disabled Persons Act 1970(**c**); and

(b) in circumstances falling within section 117(1A)(b) of the Road Traffic Regulation Act 1984(**d**) (use where a disabled person's concession would be available by virtue of displaying a non-GB badge),

the person in charge of the vehicle shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) An immobilisation device must not be fixed to a vehicle which is in a parking place in respect of a contravention consisting of, or arising out of, a failure—

(a) to pay a parking charge with respect to the vehicle;

(b) properly to display a ticket or parking device; or

(c) to remove the vehicle from a parking place by the end of the period for which the appropriate charge was paid,

until the appropriate period has elapsed since the service of a penalty charge notice under regulation 9 in respect of the contravention.

(5) For the purposes of paragraph (4) the appropriate period is—

(a) in the case of a vehicle as respects which there are 3 or more penalty charges outstanding, 15 minutes;

(b) in any other case 30 minutes.

(**a**) 1970 c. 44; in relation to England, section 21 was amended by the Local Government Act 1972 (c. 70), Schedule 30, by the Transport Act 1982 (c. 49) section 68, by the Road Traffic Regulation Act 1984 (c. 27), Schedule 13, by the Local Government Act 1985 (c. 51), Schedule 5, paragraph 1, by the Road Traffic Act 1991 (c. 40), section 35(2)—(5), Schedule 8, by the Traffic Management Act 2004 section 94 (1)—(4) and by the Disability Discrimination Act 2005 (c. 13) Schedule 1, paragraph 41.

(**b**) 1984 c. 27; in relation to England section 117(1) was substituted by the Road Traffic Act 1991 section 35(6) and amended by the Disability Discrimination Act 2005, Schedule 1, paragraph 44(1), (2) and by the Traffic Management Act 2004 section 94(5).

(**c**) Section 21A was inserted by the Disability Discrimination Act 2005, section 9.

(**d**) Subsection (1A) was inserted by the Disability Discrimination Act 2005, Schedule 1, paragraph 44.

Release of immobilised vehicles

18.—(1) A vehicle to which an immobilisation device has been fixed in accordance with regulation 12 may only be released from that device by or under the direction of a person authorised by the enforcement authority to give such a direction.

(2) Subject to paragraph (1), such a vehicle shall be released from the device on payment in any manner specified in the notice fixed to the vehicle under regulation 12(2) of—

(a) the penalty charge payable in respect of the parking contravention; and

(b) such charge in respect of the release as may be required by the enforcement authority.

PART 4

ADJUDICATORS

Discharge of functions relating to adjudicators in Greater London

19.—(1) The functions of the London local authorities and Transport for London relating to adjudicators under section 81 of the 2004 Act and under regulations 17 and 18 shall be discharged jointly, under arrangements made under section 101(5) of the Local Government Act 1972(**a**), by a single joint committee appointed by those authorities and Transport for London under section 102(4) of that Act.

(2) The arrangements for the discharge of functions by a single joint committee under section 73 of the Road Traffic Act 1991(**b**) which were—

(a) made between the London local authorities and Transport for London; and

(b) subsisting immediately before the coming into force of these Regulations,

shall continue in force and have effect as if made under this regulation, until such time as they are varied or replaced.

Discharge of functions relating to adjudicators outside Greater London

20.—(1) The functions of the non-London enforcement authorities relating to adjudicators under section 81 of the 2004 Act and under regulations 17 and 18 shall be discharged jointly, under arrangements made under section 101(5) of the Local Government Act 1972, by a joint committee or joint committees appointed under section 102(4) of that Act of which at least three of the non-London enforcement authorities are constituent authorities.

(2) The constituent authorities of a joint committee may include county or county borough councils in Wales.

(3) Any arrangements for the discharge of functions by a joint committee under section 73 of the Road Traffic Act 1991(**c**), as that section was applied to local authorities outside Greater London, which were—

(a) made between local authorities outside Greater London; and

(b) subsisting immediately before the coming into force of these Regulations,

shall continue in force and shall have effect as if made under this regulation, until such time as those arrangements are varied or replaced.

Appointment of adjudicators

21.—(1) The relevant enforcement authorities shall appoint such number of adjudicators for the purposes of Part 6 of the 2004 Act on such terms as they may decide.

(**a**) 1972 c. 70.
(**b**) Section 73 was amended by the Greater London Authority Act 1999 (c. 29), section 283.
(**c**) Section 73 of the Road Traffic Act 1991 has been applied with modifications to permitted and special parking areas outside London by individual orders designating such areas under Schedule 3 to that Act.

(2) Any decision by those authorities to appoint a person as an adjudicator shall not have effect without the consent of the Lord Chancellor.

(3) Any decision by those authorities—

(a) not to re-appoint a person as an adjudicator; or

(b) to remove a person from his office as an adjudicator,

shall not have effect without the consent of the Lord Chancellor and of the Lord Chief Justice.

(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005(**a**)) to exercise his functions under paragraph (3).

(5) Adjudicators who—

(a) were appointed under section 73 of the Road Traffic Act 1991, whether by the London local authorities and Transport for London or by local authorities outside Greater London; and

(b) held office immediately before the coming into force of this regulation,

shall be treated as having been appointed under this regulation on the same terms as those on which they held office at that time.

(6) Each adjudicator shall make an annual report to the relevant enforcement authorities in accordance with such requirements as may be imposed by those authorities.

(7) The relevant authorities shall make and publish an annual report to the Secretary of State on the discharge by the adjudicators of their functions.

Expenses of the relevant authorities

22.—(1) In default of a decision by any of the enforcement authorities under section 81(9)(a) of the 2004 Act as to the proportions in which their expenses under section 81 of that Act are to be defrayed, the authorities concerned shall refer the issue to an arbitrator nominated by the Chartered Institute of Arbitrators for him to determine.

(2) Where the Secretary of State is satisfied that there has been a failure on the part of any of the relevant enforcement authorities to agree those proportions, he may give to the relevant joint committee such directions as are in his opinion necessary to secure that the issue is referred to arbitration in accordance with paragraph (1).

(3) In this regulation "the relevant joint committee" means the joint committee constituted under regulation 15 or 16 of which the enforcement authorities in default are constituent authorities.

PART 5

ENFORCEMENT OF PENALTY CHARGES

The notice to owner

23.—(1) Subject to regulation 20, where—

(a) a penalty charge notice has been served with respect to a vehicle under regulation 9; and

(b) the period of 28 days specified in the penalty charge notice as the period within which the penalty charge is to be paid has expired without that charge being paid,

the enforcement authority concerned may serve a notice ("a notice to owner") on the person who appears to them to have been the owner of the vehicle when the alleged contravention occurred.

(2) A notice to owner served under paragraph (1) must, in addition to the matters required to be included in it under regulation 3(3) of the Representations and Appeals Regulations, state—

(a) the date of the notice, which must be the date on which the notice is posted;

(**a**) 2005 c. 4.

(b) the name of the enforcement authority serving the notice;

(c) the amount of the penalty charge payable;

(d) the date on which the penalty charge notice was served;

(e) the grounds on which the civil enforcement officer who served the penalty charge notice under regulation 9 believed that a penalty charge was payable with respect to the vehicle;

(f) that the penalty charge, if not already paid, must be paid within "the payment period" as defined by regulation 3(3)(a) of the Representations and Appeals Regulations;

(g) that if, after the payment period has expired, no representations have been made under regulation 4 of the Representations and Appeals Regulations and the penalty charge has not been paid, the enforcement authority may increase the penalty charge by the applicable surcharge; and

(h) the amount of the increased penalty charge.

Time limit for service of a notice to owner

24.—(1) A notice to owner may not be served after the expiry of the period of 6 months beginning with the relevant date.

(2) The relevant date—

(a) in a case where a notice to owner has been cancelled under regulation 23(5)(c) of these Regulations, is the date on which the district judge serves notice in accordance with regulation 23(5)(d);

(b) in case where a notice to owner has been cancelled under regulation 5 of the Representations and Appeals Regulations, is the date of such cancellation;

(c) in a case where payment of the penalty charge was made, or had purportedly been made, before the expiry of the period mentioned in paragraph (1) but the payment or purported payment had been cancelled or withdrawn, is the date on which the enforcement authority is notified that the payment or purported payment has been cancelled or withdrawn;

(d) in any other case, is the date on which the relevant penalty charge notice was served under regulation 9.

Charge certificates

25.—(1) Where a notice to owner is served on any person and the penalty charge to which it relates is not paid before the end of the relevant period, the authority serving the notice may serve on that person a statement (a "charge certificate") to the effect that the penalty charge in question is increased by the amount of the applicable surcharge.

(2) The relevant period, in relation to a notice to owner, is the period of 28 days beginning—

(a) where no representations are made under regulation 4 of the Representations and Appeals Regulations, with the date on which the notice to owner is served;

(b) where—

(i) such representations are made;

(ii) a notice of rejection is served by the authority concerned; and

(iii) no appeal against the notice of rejection is made,

with the date on which the notice of rejection is served;

(c) where an adjudicator has, under regulation 7(4) of the Representations and Appeals Regulations, recommended the enforcement authority to cancel the notice to owner, with the date on which the enforcement authority notifies the appellant under regulation 7(5) of those Regulations that it does not accept the recommendation; or

(d) in a case not falling within subparagraph (c) where there has been an unsuccessful appeal to an adjudicator under the Representations and Appeals Regulations against a notice of

rejection, with the date on which notice of the adjudicator's decision is served on the appellant.

(3) Where an appeal against a notice of rejection is made but is withdrawn before the adjudicator serves notice of his decision, the relevant period in relation to a notice to owner is the period of 14 days beginning with the date on which the appeal is withdrawn.

(4) In this regulation—

(a) references to a "notice to owner" include a regulation 10 penalty charge notice; and

(b) "notice of rejection" has the meaning given by regulation 2 of the Representations and Appeals Regulations.

Enforcement of charge certificate

26. Where a charge certificate has been served on any person and the increased penalty charge provided for in the certificate is not paid before the end of the period of 14 days beginning with the date on which the certificate is served, the enforcement authority may, if a county court so orders, recover the increased charge as if it were payable under a county court order.

Invalid notices

27.—(1) This regulation applies where—

(a) a county court makes an order under regulation 22;

(b) the person against whom it is made makes a witness statement complying with paragraph (2); and

(c) that statement is served on the county court which made the order, before the end of—

(i) the period of 21 days beginning with the date on which notice of the county court's order is served on him; or

(ii) such longer period as may be allowed under paragraph (4).

(2) The witness statement must state one and only one of the following—

(a) that the person making it did not receive the notice to owner in question;

(b) that he made representations to the enforcement authority under regulation 4 of the Representations and Appeals Regulations but did not receive from that authority a notice of rejection in accordance with regulation 6 of those Regulations;

(c) that he appealed to an adjudicator under regulation 7 of those Regulations against the rejection by the enforcement authority of representations made by him under regulation 4 of those Regulations but—

(i) he had no response to the appeal;

(ii) the appeal had not been determined by the time that the charge certificate had been served; or

(iii) the appeal was determined in his favour; or

(d) that he has paid the penalty charge to which the charge certificate relates.

(3) Paragraph (4) applies where it appears to a district judge, on the application of a person on whom a charge certificate has been served, that it would be unreasonable in the circumstances of his case to insist on his serving his witness statement within the period of 21 days allowed for by paragraph (1).

(4) Where this paragraph applies, the district judge may allow such longer period for service of the witness statement as he considers appropriate.

(5) Where a witness statement is served under paragraph (1)(c)—

(a) the order of the court shall be deemed to have been revoked;

(b) the charge certificate shall be deemed to have been cancelled;

(c) in the case of a statement under paragraph (2)(a), the notice to owner to which the charge certificate relates shall be deemed to have been cancelled; and

(d) the district judge shall serve written notice of the effect of service of the statement on the person making it and on the enforcement authority concerned.

(6) Subject to regulation 20, service of a witness statement under paragraph (2)(a) shall not prevent the enforcement authority from serving a fresh notice to owner.

(7) Where a witness statement has been served under paragraph (2)(b), (c) or (d), the enforcement authority shall refer the case to the adjudicator who may give such directions as he considers appropriate and the parties shall comply with those directions.

(8) A witness statement under this regulation may be served on the county court by email in accordance with Section I of Practice Direction 5B in Part 5 of the Civil Procedure Rules 1998(**a**).

(9) In this regulation—

(a) references to a "notice to owner" include a regulation 10 penalty charge notice; and

(b) "witness statement" means a statement which is a witness statement for the purposes of the Civil Procedure Rules 1998 and which is supported by a statement of truth in accordance with Part 22 of those Rules.

PART 6

FINANCIAL PROVISIONS

Setting the levels of charges applicable in Greater London

28.—(1) The functions conferred on the London local authorities by Part 2 of Schedule 9 to the 2004 Act (charges applicable in Greater London) in relation to parking contraventions shall be exercised by those authorities jointly by means of the single joint committee set up in pursuance of regulation 15 ("the Joint Committee").

(2) No person who represents Transport for London on that joint committee shall take any part in any proceedings of the Joint Committee so far as they relate to the discharge by the Joint Committee of functions conferred on the London local authorities by Part 2 of Schedule 9 to the 2004 Act.

(3) Any arrangements in force immediately before the coming into force of these Regulations for the discharge of functions under sections 74 and 74A of the Road Traffic Act 1991 by means of the joint committee set up under section 73 of that Act shall continue in force and have effect as if made under this regulation, until such time as they are varied or replaced.

Modification of section 55 of the Road Traffic Regulation Act 1984

29.—(1) Section 55 of the Road Traffic Regulation Act 1984(**b**) shall apply in relation to the income and expenditure of enforcement authorities in connection with their functions under Part 6 of the 2004 Act in relation to parking contraventions, subject to the following modifications.

(2) For subsection (1) there shall be substituted—

"(1) An enforcement authority which is a London authority shall keep an account—

(a) of their income and expenditure (otherwise than as an enforcement authority) in respect of designated parking places;

(**a**) S.I. 1998/3132, to which there are amendments not relevant to these Regulations.

(**b**) In relation to England, section 55 was amended by the Local Government Act 1985, Schedule 5, paragraph 4(22), Schedule 17, by the Local Government Finance Act 1988 (c. 41), Schedule 12, paragraph 42, by the New Roads and Street Works Act 1991 (c. 22), Schedule 8, paragraph 46, by the Road Traffic Act 1991, Schedule 7, paragraph 5, Schedule 8 by the Greater London Authority Act 1999 (c.29), section 282, Schedule 34 and by the Traffic Management Act 2004, section 95.

(b) of their income and expenditure in connection with their functions as an enforcement authority in relation to parking contraventions within paragraph 2 of Schedule 7 to the 2004 Act (contraventions in relation to parking places); and

(c) of their income and expenditure as an enforcement authority in relation to parking contraventions within paragraph 3 of Schedule 7 to the 2004 Act (other parking contraventions).

(1A) A local authority which is not a London authority but is an enforcement authority shall keep an account—

(a) of their income and expenditure in respect of any designated parking places in their area which are not in a civil enforcement area;

(b) of their income and expenditure (otherwise than as an enforcement authority) in respect of designated parking places in their area which are in a civil enforcement area; and

(c) of their income and expenditure in connection with their functions as an enforcement authority in relation to parking contraventions within paragraph 4 of Schedule 7 to the 2004 Act (parking contraventions outside London).”

(3) For subsection (3A) there shall be substituted—

“(3A) Transport for London, the council of each London borough and the Common Council of the City of London shall, after each financial year—

(a) send copies of the account kept under subsection (1) to the Mayor of London and the Secretary of State; and

(b) report to the Mayor of London on any action taken by them, pursuant to subsection (2) or (3) above, in respect of any deficit or surplus in their account for the year.”

(4) After subsection (3A) there shall be inserted—

“(3AA) A local authority which is not a London authority but is an enforcement authority shall after the end of each financial year send a copy of the account kept under subsection (1A) to the Secretary of State.”

(5) In subsection (3B)—

(a) for “The report under subsection (3A) above” there shall be substituted “A report under subsection (3A) or (3AA) above”;

(b) for “the end of” there shall be substituted “the conclusion of the audit of the accounts of the body concerned for”.

(6) In subsection (10) after “in this section—” there shall be inserted—

““the 2004 Act” means the Traffic Management Act 2004;

“enforcement authority” means an authority which is an enforcement authority for the purposes of Part 6 of the 2004 Act (see paragraphs 1(2), 2(5) and 8(5) of Schedule 8) and references to the functions of an authority as an enforcement authority are to their functions under that Part of that Act;”.

Surpluses to be carried forward

30. Where, immediately before the coming into force of these Regulations there is a surplus in an account which is—

(a) kept under section 55 of the Road Traffic Regulation Act 1984 as modified in relation to that authority by an order made under Schedule 3 to the Road Traffic Act 1991(**a**); and

(b) kept by a local authority which is not a London authority,

the surplus shall be carried forward and treated as a surplus arising under section 55 as it is modified by regulation 25.

(**a**) In relation to England, Schedule 3 was amended by S.I. 1996/500, 2003/859.

Signed by authority of the Lord Chancellor

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Name
Parliamentary Under Secretary of State,
Ministry of Justice

2007

Signed by authority of the Secretary of State

Name
Minister of State,
Department for Transport

2007

SCHEDULE

Regulation 8

PENALTY CHARGES NOTICES

Contents of a penalty charge notice served under regulation 9

1. A penalty charge notice served under regulation 9 must, in addition to the matters required to be included in it by regulation 3(2) of the Representations and Appeals Regulations, state—

(a) the date on which the notice is served;

(b) the name of the enforcement authority;

(c) the registration mark of the vehicle involved in the alleged contravention;

(d) the date and the time at which the alleged contravention occurred;

(e) the grounds on which the civil enforcement officer serving the notice believes that a penalty charge is payable;

(f) the amount of the penalty charge;

(g) that the penalty charge must be paid not later than the last day (which must be specified in the notice) of the period of 28 days beginning with the date on which the penalty charge notice was served;

(h) that if the penalty charge is paid not later than the last day (which must be specified in the notice) of the period of 14 days beginning with the date on which the notice is served, the penalty charge will be reduced by the amount of any applicable discount;

(i) the manner in which the penalty charge must be paid; and

(j) that if the penalty charge is not paid before the end of the period of 28 days referred to in subparagraph (g), a notice to owner may be served by the enforcement authority on the owner of the vehicle.

Contents of a regulation 10 penalty charge notice

2. A regulation 10 penalty charge notice, in addition to the matters required to be included in it by regulation 3(4) of the Representations and Appeals Regulations, must state—

(a) the date of the notice, which must be the date on which it is posted;

(b) the matters specified in paragraphs 1(b), (c), (d), (f) and (i);

(c) the grounds on which the enforcement authority believes that a penalty charge is payable;

(d) that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the penalty charge notice is served;

(e) that if the penalty charge is paid not later than the applicable date (which must be specified in the notice), the penalty charge will be reduced by the amount of any applicable discount;

(f) that if after the date referred to in subparagraph (d)—

(i) no representations have been made in accordance with regulation 4 of the Representations and Appeals Regulations; and

(ii) the penalty charge has not been paid,

the enforcement authority may increase the penalty charge by the amount of any applicable surcharge and take steps to enforce payment of the charge as so increased; and

(g) that the penalty charge notice is being served by post for whichever of the following reasons applies—

(i) that the penalty charge notice is being served by post on the basis of a record produced by an approved device;

(ii) that it is being so served, because a civil enforcement officer attempted to serve a penalty charge notice by affixing it to the vehicle or giving it to the person in charge of the vehicle but was prevented from doing so by some person; or

(iii) that it is being so served because a civil enforcement officer had begun to prepare a penalty charge notice for service in accordance with regulation 9, but the vehicle was driven away from the place in which it was stationary before the civil enforcement officer had finished preparing the penalty charge notice or had served it in accordance with regulation 9.

3. In paragraph 2 for the purposes of subparagraph (e) the "applicable date" is—

(a) in the case of a penalty charge notice served by virtue of regulation 10(1)(a) (on the basis of a record produced by an approved device), the last day of the period of 21 days beginning with the date on which the notice is in accordance with regulation 3(2) to be taken, in the absence of evidence to the contrary, to have been served;

(b) in any other case, the last day of the period of 14 days beginning with that date.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, together with the Civil Enforcement of Parking (Representations and Appeals) (England) Regulations 2007 (S.I. 2007/0000), provide for the civil enforcement of parking contraventions in England (including Greater London) in accordance with Part 6 of the Traffic Management Act 2004. Part 6 and the two sets of Regulations accordingly supersede the provisions of Part II and Schedule 3 of the Road Traffic Act 1991.

Part 1 of these Regulations makes provision for preliminary matters including the citation, commencement and application of the Regulations *(regulation 1)*, their interpretation *(regulation 2)*, including in particular when a penalty charge is to be treated as "outstanding" for the purposes of these Regulations (see regulation 13(5)(a)), and the service of documents by post *(regulation 3)*. Nothing in *regulation 3* applies to the service of any notice or order made by a county court.

Part 2 relates to penalty charges. *Regulation 4* enables penalty charges to be imposed for parking contraventions. A penalty charge is payable by the owner of the vehicle concerned *(regulation 5(1))*, except that *regulation 5(2) to (4)* makes special provision with respect to hired vehicles. In accordance with *regulation 6*, a penalty charge is not to be imposed except on the basis of a record produced by an "approved device" *(see section 92(1) of the Traffic Management Act 2004* and *the Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007 (S.I. 2007/0000))* or information given by a civil enforcement officer as to conduct observed by him. *Regulation 7* prohibits criminal proceedings and fixed penalty notices under the Road Traffic Offenders Act 1988 in respect of parking contraventions in civil enforcement areas; but an exception is made for pedestrian crossing contraventions. Where such a contravention is the subject of criminal proceedings or of a fixed penalty notice, the issue of a penalty charge notice under the Regulations is prohibited and any penalty charge which has been paid must be refunded.

Regulation 8 defines a penalty charge notice and introduces *the Schedule* which makes detailed provision as to such notices including their content. *Regulation 9* enables a civil enforcement officer, where he has reason to believe that a penalty charge is payable for a stationary vehicle in a civil enforcement area, to fix a penalty charge notice to the vehicle or hand one to the person appearing to him to be in charge of it. *Regulation 10* makes provision for the service of a penalty charge notice by post, on the basis of the evidence of an approved device or where a civil enforcement officer has been prevented by some person from serving one in accordance with regulation 9 or had begun to prepare a penalty charge notice in accordance with regulation 9, but the vehicle was driven away before it had been served under regulation 9, and for the time limits applicable to notices served by post. *Regulation 11* makes it an offence to interfere with a penalty charge notice served by its being fixed to a vehicle, except by or under the authority of the owner or person in charge of the vehicle or the enforcement authority.

Provision is made by *Part 3* as to the immobilisation of vehicles. *Regulation 12* defines the circumstances in which an immobilisation device may be fixed to a vehicle, requires a notice to be fixed to the vehicle at the time of immobilisation and creates the offences of interfering with the notice or the immobilisation device. *Regulation 13* specifies exceptions to the general power to immobilise and *regulation 14* specifies the pre-requisites for the release of a vehicle from an immobilisation device.

Part 4 provides for the appointment of adjudicators by enforcement authorities and for the functions of those authorities relating to adjudicators to be discharged through joint committees. By *regulation 15* the London authorities are required to discharge these functions through a single joint committee and provision is made for the arrangements for the joint discharge of functions under the Road Traffic Act 1991 by those authorities to be continued in force under the new legislation until superseded. *Regulation 16* requires the non-London English authorities to act through one or more joint committees (with a minimum membership of 3 authorities each) and also provides for arrangements under the 1991 Act to be continued as between English enforcement authorities until superseded. Enforcement authorities are required by *regulation 17* to appoint a sufficient number of adjudicators and provision is made for parking adjudicators holding office under the 1991 Act immediately before the coming into force of these Regulations to continue in office.

Part 5 is concerned with the enforcement of penalty charges. *Regulations 19 and 20* provide for the service of a notice to owner by an enforcement authority in respect of an unpaid penalty charge and specify the contents of a notice to owner and the time limit for service. Provision is made by *regulations 21, 22 and 23* for the service of charge certificates in respect of unpaid penalty charges (where a notice to owner or penalty charge notice under regulation 10 has been served and the avenues of appeal have not been pursued or have been pursued unsuccessfully), for charge certificates to be enforced through a county court and for county court orders to be set aside where the respondent serves a witness statement stating one of the matters mentioned in *regulation 23(2)*.

In *Part 6*, *regulation 24* requires the function of setting the levels of charges under Schedule 9 to the Traffic Management Act 2004 to be discharged by the London local authorities through a joint committee. *Regulation 25* applies section 55 of the Road Traffic Regulation Act 1984, with modifications, to the income and expenditure of enforcement authorities under Part 6 of the Traffic Management Act 2004 and *regulation 26* provides for the carrying forward of the surpluses of non-London authorities in accounts kept under section 55 as that section applied to those authorities under orders made under Schedule 3 to the Road Traffic Act 1991.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Traffic Management Division, Department for Transport, 1/06 Great Minster House, 76 Marsham Street, London SWIP 4DR (telephone 020 7944 8693) and can be found on the website of the Department for Transport at www.dft.gov.uk/.

DRAFT

STATUTORY INSTRUMENTS

2007 No. 0000

ROAD TRAFFIC, ENGLAND

The Removal and Disposal of Vehicles (Amendment) (England) Regulations 2007

Made - - - -	*2007*
Laid before Parliament	*2007*
Coming into force - -	*31st March 2008*

The Secretary of State for Transport makes these Regulations in exercise of the powers conferred by sections 99(1) and (2) of the Road Traffic Regulation Act 1984(**a**) and after consultation with representative organisations in accordance with section 134(2) of that Act.

Citation and commencement

1. These Regulations may be cited as the Removal and Disposal of Vehicles (Amendment) (England) Regulations 2007 and shall come into force on 31st March 2008.

Preliminary

2. The Removal and Disposal of Vehicles Regulations 1986(**b**) shall be further amended in accordance with the following provisions of these Regulations.

Removal of vehicles from roads in England by civil enforcement officer

3. The following regulation shall be inserted after regulation 5B—

"Power of civil enforcement officers to remove vehicles in a civil enforcement area in England

5C.—(1) Paragraph (2) applies where—

(a) a vehicle has been permitted to remain at rest on a road in a civil enforcement area in England; and

(b) a civil enforcement officer has, in accordance with regulation 9 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007(**c**), fixed a penalty charge notice to the vehicle or handed such a notice to the person appearing to him to be in charge of the vehicle.

(**a**) 1984 c. 27; section 99(2) was amended by the Road Traffic Act 1991 (c. 27), Schedule 8.
(**b**) S.I. 1986/183; relevant amending instrument is S.I. 1998/2019.
(**c**) S.I. 2007/0000.

(2) Where this paragraph applies, a civil enforcement officer or a person acting under his direction may subject to paragraph (3) remove the vehicle concerned—

(a) to another position on the road where it is found;

(b) to another road; or

(c) to a place which is not on a road.

(3) The power conferred by paragraph (2) is not exercisable where the vehicle concerned is in a parking place and a penalty charge notice has been served as mentioned in paragraph (1)(b) in respect of a contravention consisting of, or arising out of, a failure—

(a) to pay a parking charge with respect to the vehicle;

(b) properly to display a ticket or parking device; or

(c) to remove the vehicle from the parking place by the end of the period for which the appropriate charge was paid,

until the appropriate period has elapsed since the giving of that penalty charge notice in respect of the contravention.

(4) In this regulation—

"the appropriate period" means—

(a) in the case of a vehicle as respects which there are 3 or more penalty charges outstanding, 15 minutes;

(b) in any other case 30 minutes;

"civil enforcement area" and "civil enforcement officer" have the same meanings as in the Traffic Management Act 2004 (see Schedule 8 and section 92 of that Act);

"outstanding" in relation to a penalty charge has the same meaning as in the Civil Enforcement of Parking Contraventions (England) General Regulations 2007(**a**) (see regulation 2(2), (3) and (4) of those Regulations);

"parking place" has the meaning given by section 79(7) of the Traffic Management Act 2004; and

"penalty charge notice" has the same meaning as in the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (see regulation 8(1) of those Regulations)."

Signed by authority of the Secretary of State

Name
Minister of State,
Department for Transport

2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Removal and Disposal of Vehicles Regulations 1986 by the insertion of a new regulation 5C. The new regulation empowers a civil enforcement officer (as defined in Part 6 of the Traffic Management Act 2004) to remove a vehicle found in a civil enforcement area (as so defined) in respect of which he has given a penalty charge notice for a parking contravention in accordance with regulation 9 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007. By virtue of paragraph (3) of the inserted regulation 5C, where a vehicle is in a parking place, the power of removal under that regulation does not arise until the expiry of "the appropriate period" as defined by paragraph (4).

(**a**) S.I. 2007/0000.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Traffic Management Division, Department for Transport, 1/06 Great Minster House, 76 Marsham Street, London SWIP 4DR (telephone 020 7944 8693) and can be found on the website of the Department for Transport at www.dft.gov.uk/.