POLICY NOTE

THE ROAD TRAFFIC (PERMITTED PARKING AREA AND SPECIAL PARKING AREA) (FALKIRK COUNCIL) DESIGNATION ORDER 2018

SSI 2018/279

THE PARKING ATTENDANTS (WEARING OF UNIFORMS) (FALKIRK COUNCIL PARKING AREA) REGULATIONS 2018

SSI 2018/280

AND

THE ROAD TRAFFIC (PARKING ADJUDICATORS) (FALKIRK COUNCIL) REGULATIONS 2018

SSI 2018/281

1. The above instruments were made in exercise of powers conferred by Schedule 3 of the Road Traffic Act 1991, sections 73(11) and (12) of the Road Traffic Act 1991, and section 63A of the Road Traffic Regulation Act 1984 respectively. The instruments are subject to the negative procedure before the Scottish Parliament.

Policy Objectives and background

2. The purpose of the three Scottish Statutory Instruments is to introduce a decriminalised parking regime within the Falkirk Council area.

3. The Road Traffic Act 1991 introduced provisions enabling the decriminalisation of most non-endorsable parking offences in London and permitted similar arrangements to be introduced elsewhere in the UK. Decriminalised Parking Enforcement (DPE) is a regime which enables a local authority to administer its own parking penalty schemes, including the issuing of Penalty Charge Notices (PCNs) to motorists breaching parking controls in specific areas. DPE seeks to ensure compliance with parking controls through transparent, effective enforcement aimed at dissuading motorists from breaching parking controls and achieving 100% compliance with such controls.

4. To date, 20 Scottish local authorities have now introduced DPE within their areas. Under these arrangements, local authorities are allowed to retain the penalties collected. However, section 55 of the Road Traffic Regulation Act 1984 requires that any surplus accrued by local authorities from their DPE regimes should be ring-fenced and may only be used for certain transport-related provisions, including the provision and maintenance of off-street parking, the provision or operation of (or facilities for) public passenger transport services or for road improvement projects in the local authority area.

5. Previously, and continuing for authorities that have not introduced DPE, income generated from fines arising from parking infringements accrue to the Exchequer as these are non-endorsable criminal offences. Under DPE, enforcement powers no longer rest with the police but are implemented by parking attendants employed either directly by, or under contract to,

the local authority. As such, a breach of parking rules within an area where DPE is in force requires payment to the local authority of a penalty charge.

The Road Traffic (Permitted Parking Area and Special Parking Area) (Falkirk Council) Designation Order 2018 (SSI. 2018/279)

6. The SSI defines the area within Falkirk where DPE can be enforced. This area covers all roads in Falkirk, except such lengths of the M80, M876, M9, A876 and the A985 trunk roads as fall within the Falkirk Council area (see schedule 1 of the Order). The trunk roads excluded from the DPE regime will continue to be the responsibility of Police Scotland, following agreement with the Council that they are best equipped to enforce this section.

The Parking Attendants (Wearing of Uniforms) (Falkirk Council) Regulations 2018 (SSI. 2018/280)

7. This SSI stipulates that a parking attendant must be wearing an identifiable uniform when carrying out the duties associated with a parking attendant.

The Road Traffic (Parking Adjudicators) (Falkirk Council) Regulations 2018 (SSI. 2018/281)

8. This SSI provides for the adjudication process to be followed where a motorist believes that a penalty charge notice has been incorrectly issued.

Consultation

9. All statutory requirements regarding the consultation for these three Scottish Statutory Instruments have been carried out. We received a response from the Scottish Traffic Commissioner's office in relation to Falkirk Council's draft SSIs, indicating that they were content with the proposals. Police Scotland have also formally confirmed to Falkirk Council their support for the Council's plans.

Business and Regulatory Impact Assessment

10. As the draft regulations relate to the enforcement of existing parking restrictions and do not therefore constitute an additional burden on business a Business and Regulatory Impact Assessment is not required. The enforcement costs incurred by Falkirk Council are expected to be absorbed by income from parking penalties.

Financial Effects

11. These SSIs will have no financial effect on the Scottish Government.

Roads Policy Team
Transport Scotland
19 September 2018