

Business and Regulatory Impact Assessment (BRIA)

Title of Proposal

The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

Purpose and intended effect

Background

The Scottish Government has been working to improve parking legislation in Scotland in order to tackle the impact of inconsiderate and obstructive parking and ensure that our roads and pavements are accessible for all.

As part of this work, the Transport (Scotland) Act 2019 bans pavement parking, double parking and parking at dropped kerbs, and gives local authorities the relevant powers to enforce these new prohibitions. Section 58(1) of the Act provides that contravention of a parking prohibition will give rise to a penalty charge.

Section 59(1) of the Act allows Scottish Ministers to make provision, by way of regulations, for or in connection with the enforcement of the prohibitions. These regulations are needed to ensure the operability of the new legislation and provide for procedural consistency on certain key elements of the process. The Act and these Regulations together give local authorities the tools they need to be able to tackle the issues of inconsiderate and obstructive parking.

Objective

The purpose of the Regulations made under Section 59 of the Act is to provide a procedure for local authorities to follow to enforce the ban on pavement parking, double parking and parking at dropped kerbs.

Rationale for Government Intervention

Parking forms an essential part of a local authority's transport strategy to help reduce congestion and improve safety for all road users. The national pavement, dropped kerb, and double parking prohibitions are vital in ensuring people can get about their day to day business safely.

Consultation

Within Government

For these Regulations we have consulted with the Courts & Tribunals team within the Scottish Government's Directorate for Justice. This consultation was required due to a section of the regulations giving those who have received a penalty charge for one of the new prohibitions the right to an appeal to the First-tier Tribunal. The Courts & Tribunals team are responsible for the changes required to

the powers of the First-tier Tribunal in connection with the new parking prohibitions.

Public Consultation

We undertook a public consultation on the Regulations which ran for a period of 8 weeks from 2 June 2023 to 28 July 2023. The consultation was published on both Transport Scotland's website and the Scottish Government's Citizen Space website.

The final number of responses received was 462. Of these, 16 were submitted by local authorities and 3 by Community Councils. 14 other respondents also identified their organisation, and 429 were listed as individuals.

Business

Throughout the consultation we regularly engaged with key stakeholders from all 32 local authorities. A number of these local authorities also provided a response to the public consultation.

Options

Option 1 – Proceed with The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

Option 2 – Do Nothing.

Sectors and groups affected

All of the options have impacts for the following sectors and groups:

- Local Authorities
- The Scottish Government
- Individuals, motorists and pedestrians

Option 1 – Proceed with The Pavement Parking Prohibition (Enforcement) (Scotland) Regulations 2023

Benefits

The benefits of proceeding with the above regulations are:

- Follows the primary legislation (Section 59(1)) of the Transport (Scotland) Act 2019
- Gives local authorities a procedure to follow to enforce the ban of pavement parking, double parking and parking at dropped kerbs.

Costs

The full costs of enforcement is not yet known. There may be an initial cost to local authorities who do not currently have decriminalised parking enforcement (DPE) powers to create the necessary systems to be able to enforce the parking prohibitions. However, Section 64 of the Transport (Scotland) Act 2019 provides powers for local authorities to make arrangements with others to carry out the enforcement on their behalf, which may go some way to mitigating that initial cost.

Option 2 – Do Nothing

Benefits

N/A – There are no benefits to doing nothing as we would not be providing a procedure for local authorities to use the powers given to them by primary legislation (Transport (Scotland) Act 2019) to enforce the parking prohibitions.

Costs

N/A

Scottish Firms Impact Test

We do not believe there will be any notable impact on businesses, international trade or investment as the Regulations do not place a financial burden upon them.

Competition Assessment

As explained above, we do not envisage any impact on businesses or firms. This includes competition between firms. Local authorities will be responsible for enforcing the parking prohibitions. This will not relate to any businesses or firms.

- Will the measure directly or indirectly limit the number or range of suppliers? – No
- Will the measure limit the ability of suppliers to compete? – No
- Will the measure limit suppliers' incentives to compete vigorously? – No
- Will the measure limit the choices and information available to consumers? – No

Consumer Assessment

Similarly to the above, we do not envisage any impacts on consumers as this legislation is not related to the quality, availability or price of goods or services in a market.

- Does the policy affect the quality, availability or price of any goods or services in a market? – No
- Does the policy affect the essential services market, such as energy or water? – No
- Does the policy involve storage or increased use of consumer data? – No
- Does the policy increase opportunities for unscrupulous suppliers to target consumers? – No
- Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these? – No

- Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues? – No

Test run of business forms

This legislation will not require any new forms to be completed by businesses.

Digital Impact Test

We are proposing that the enforcement process will mirror the process for issuing PCNs, which local authorities with DPE powers will already have in place. These local authorities are generally content with the process they have in place. Most allow for online payments but payments can also be accepted by cheque, postal order or a cash payment at an office.

Local authorities without DPE powers will need to consider creating a process to allow for the enforcement of the parking prohibitions. However, as noted above, the Act enables local authorities to make arrangements with others to carry out enforcement on their behalf.

- Does the measure take account of changing digital technologies and markets? – Yes, see above.
- Will the measure be applicable in a digital/online context? – Yes, see above.
- Is there a possibility the measures could be circumvented by digital / online transactions? – No
- Alternatively will the measure only be applicable in a digital context and therefore may have an adverse impact on traditional or offline businesses? – No
- If the measure can be applied in an offline and online environment will this in itself have any adverse impact on incumbent operators? – No

Legal Aid Impact Test

We are proposing that the recipient of a PCN may make written representations to the local authority against the decision to issue the PCN on specific grounds set out in regulations.

If the review is rejected by the relevant local authority, the recipient may request an appeal to be heard by the First-tier Tribunal, on the same grounds as those for a review.

The Access to Justice team have confirmed they are content that there will be little to no impact on the level of use that an individual makes to access justice through legal aid or on the possible expenditure from the legal aid fund.

Enforcement, sanctions and monitoring

These Regulations give local authorities the power to enforce the new parking prohibitions included in the Transport (Scotland) Act 2019.

Currently, local authorities with DPE powers send an annual report to Scottish Ministers detailing the number of PCNs issued for that financial year as well as their income and expenditure information for the same year. If a local authority has made a surplus, they are required to detail what the surplus will be used for in their local authority area.

Our proposal for the publication of local authority accounts in relation to the enforcement of the parking prohibitions would be to follow a similar method detailed above and have the information submitted to Scottish Ministers and published.

Implementation and delivery plan

The Regulations will be laid in draft on 2 October 2023 and come into force on 11 December 2023.

Post-implementation review

We will continue to work with relevant stakeholders as part of a Parking Standards Group to further develop the Parking Standards Guidance which will go in hand with the Regulations, giving local authorities the necessary information on how to carry out enforcement of the new parking prohibitions. As part of that work we will continue to evaluate how the new regulations are working and if anything needs changed in the future.

Summary and recommendation

Option 1 – Proceed with The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023. This option is being recommended to allow for the effective operation of the primary legislation (Transport (Scotland) Act 2019). The full costs of implementing enforcement are not yet known. There may be initial costs to local authorities who do not currently have DPE powers to create processes for enforcing the parking prohibitions. However, Section 64 of the Transport (Scotland) Act 2019 provides powers for local authorities to make arrangements with other local authorities or potentially third party companies to carry out the enforcement on their behalf, which will go some way to mitigating those costs.

• **Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
Option 1 – Proceed with The Parking Prohibitions(Enforcement and Accounts) (Scotland) Regulations 2023	To ensure our roads and pavements are accessible to all.	The cost of enforcement of the prohibitions will depend on whether a local authority already has DPE powers. Costs may be slightly higher for

		non-DPE authorities but there are also opportunities to share back office set ups with other authorities.

Declaration and publication

The Cabinet Secretary or Minister responsible for the policy (or the Chief Executive of non-departmental public bodies and other agencies if appropriate) is required to sign off all BRIAs prior to publication.

• Sign-off for Partial BRIAs:

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Fiona Hyslop

Date: 28 September 2023

**Fiona Hyslop MSP
Minister for Transport**

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