

EXPLANATORY MEMORANDUM TO
THE TRANSPORT FOR LONDON (CONSEQUENTIAL PROVISIONS)
ORDER 2005

2005 No.56

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 The Order modifies provisions of the London Local Authorities Acts 1995 and 2000, which confer on London borough councils certain powers in relation to parking enforcement, so as to apply them to Transport for London.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 The power to amend the London Local Authorities Acts 1995 and 2000 is conferred by section 405(2) of the Greater London Authority Act 1999, as it applies to section 406 of that Act. The power extends to “any enactment contained in an Act passed before the relevant day or in the Session in which that day falls”: see Greater London Authority Act 1999 section 405(1)(a). In accordance with section 405(4) the “relevant day” means the earliest day on which the Greater London Authority and its functional bodies are in existence and London Regional Transport and the Receiver for the Metropolitan Police District have ceased to exist. Since London Regional Transport remained in existence until 16th July 2003, both the London Local Authorities Act 1995 and the London Local Authorities Act 2000 were passed before the “relevant day”.
4. **Legislative Background**
 - 4.1 The Order is made under powers conferred by sections 405(2), 406 and 420 of the Greater London Authority Act 1999.
 - 4.2 In many areas the police are no longer able to devote the resources to traffic policing that are necessary to encourage observance of traffic restrictions and prohibitions on the conduct of road traffic. This problem has been addressed in respect of parking offences by the Road Traffic Act 1991, which provides for the decriminalisation and civil enforcement of non-endorsable stationary vehicle restrictions within designated areas.

- 4.3 Part II of the 1991 Act creates a regime for the civil enforcement of parking contraventions in London. Section 76 provides for the designation by Order of special parking areas in London within which certain types of parking offence, such as those committed by parking in contravention of restrictions indicated by yellow or red lines, are decriminalised.
- 4.4 The Road Traffic (Special Parking Area) (GLA Roads and GLA Side Roads) Order 2004 (S.I. No. 2684), which came into force on 15 November 2004, designated, with two exemptions, all GLA roads and GLA side roads - the Transport for London Road Network (TLRN)- as a special parking area for which Transport for London would take over direct responsibility for the enforcement of parking from the police. As a consequence of S.I. 2004/2684 a further order is required to give Transport for London, in relation to TLRN, exactly the same powers that London boroughs have to enforce decriminalised parking.

5. Extent

- 5.1 This instrument applies to England.

6. European Convention on Human Rights

The Minister, Charlotte Atkins, has made the following statement regarding human rights:

“In my view the provisions of the Transport for London (Consequential Provisions) Order 2005 are compatible with Convention rights.”

7. Policy background

- 7.1 Effective traffic regulation requires effective enforcement of traffic restriction and prohibition orders, otherwise they may be abused or ignored. This has been addressed in relation to parking by the Road Traffic Act 1991. That Act enables the creation of "special parking areas" in which responsibility for enforcing parking restrictions is transferred from the police and police traffic wardens to parking attendants employed by local traffic authorities. An example of such contraventions is unlawful parking on yellow or red lines. Special parking areas have been designated for each London borough but these areas exclude the roads and lengths of road which now constitute the TLRN - London's main strategic routes based on the priority "red routes" designated under the provisions of Part II of the Road Traffic Act 1991.
- 7.2 Government policy is to encourage traffic authorities to take on decriminalised parking enforcement powers. An authority is then able to target enforcement effort to support their local traffic management policies. An increased level of enforcement helps reduce parking

problems and congestion and improve safety. Although parking enforcement on borough roads in London was decriminalised in 1994, enforcement of the strategic red routes remained with the police. In the light of changing traffic management responsibilities, it was concluded by Transport for London that they should take over direct responsibility for the enforcement of parking on their road network.

- 7.3 Pursuant to the Road Traffic (Special Parking Area) (GLA Roads and GLA Side Roads) Order 2004 (S.I. 2004/2684), the TLRN, with the exception of the lengths of road specified in article 3, was designated as a special parking area with enforcement to be undertaken by Transport for London. This, in turn, necessitated the current order to amend certain London local legislation so that Transport for London would have exactly the same powers as London boroughs in enforcing decriminalised parking.
- 7.4 Schedule 1 to the Order modifies and applies to Transport for London certain provisions of the London Local Authorities Act 1995. Paragraph 2 allows Transport for London to receive notification from the relevant Commissioner of Police when a motorist is to be prosecuted for parking within the limits of a pedestrian crossing. Paragraph 3 adds Transport for London to those authorities which may impose temporary waiting restrictions on a road or part of a road in connection with special events.
- 7.5 Schedule 2 to the Order modifies and applies to Transport for London certain provisions of the London Local Authorities Act 2000. Paragraphs 2 and 3 permit Transport for London to issue penalty charge notices on the basis of information provided by a camera or other device and to issue a penalty charge notice on the owner of a vehicle where a parking attendant is prevented from doing so by any person. Paragraph 4 amends section 6 of the 2000 Act so as to apply to Transport for London a modified version of section 5 of the London Local Authorities Act 1995. This prohibits parking within contiguous zones, adjacent to or outside designated parking places in special parking areas. Paragraphs 5 and 6 apply to Transport for London a time limit for the issue of a Notice to Owner to 6 months after the issue of the penalty charge notice so as to permit the service of notices by electronic means.
- 7.6 Paragraphs 7 to 11 of Schedule 2 apply to Transport for London provisions of the London Local Authorities Act 2000 relating to the issues of: unpaid charges on the release from a clamp or removal of a vehicle from a car pound; a motorist's right to receive, in writing, information about making representations to the appropriate authority about the clamping or removal of their vehicle; the grounds on which representations may be made to the authority and the way the authority must respond; the right of a motorist to appeal to an independent parking adjudicator about the authority's decision and allowing the

service of a charge certificate, which increases the amount of a penalty charge by 50% if it remains unpaid.

- 7.7 Paragraph 12 of Schedule 2 permits a Transport for London authorised officer to enter a vehicle, which has been removed by that authority, for the purposes of removing anything in it in the interests of safety or for the prevention of damage to or loss of the vehicle or any of its contents.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Roy Martin at the Department for Transport, Tel: 020 7944 8692 or e-mail: roy.martin@dft.gsi.gov.uk, can answer any queries regarding the instrument.