

**2008 No. 757 (C. 35)**

**ROAD TRAFFIC, ENGLAND**

**The Traffic Management Act 2004 (Commencement No. 5 and Transitional Provisions) (England) (Amendment) Order 2008**

Made - - - -

17th March 2008

The Secretary of State for Transport makes the following Order, in exercise of the powers conferred by section 99(1), (2) and (4) of the Traffic Management Act 2004<sup>(a)</sup>.

**Citation and interpretation**

1. This Order may be cited as the Traffic Management Act 2004 (Commencement No. 5 and Transitional Provisions) (England) (Amendment) Order 2008.

**Preliminary**

2. The Traffic Management Act 2004 (Commencement No. 5 and Transitional Provisions) (England) Order 2007<sup>(b)</sup> shall be amended in accordance with the following provisions of this Order.

**Additional definition**

3. In article 1(2)—

- (a) “and” shall be omitted; and
- (b) for “31st March 2008.” there shall be substituted “31st March 2008; and”; and
- (c) the following definition shall be added at the end—

““the transitional period”, in relation to a provision modified by this Order, means the period beginning with the second appointed day and ending on the day on which the repeal of that provision comes into force.”

**Provisions not commenced on the second appointed day**

4.—(1) Article 3(2) shall be amended as follows.

(2) In subparagraph (h)—

- (a) in paragraph (i) “and (1B)” and “and (2A)” shall be omitted;
- (b) in paragraph (iv) “5,” shall be omitted;
- (c) in paragraph (vi) for “the definition of “special parking area” in section 3(1) and sections 4 to 14” there shall be substituted “sections 4, 5, 7 and 8”; and

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(a) 2004 c. 18.  
(b) S.I. 2007/2053 (C.78).

(d) for paragraph (vii) there shall be substituted—

“(vii) in the London Local Authorities and Transport for London Act 2003(a), section 15.”

### **Transitional modifications**

5. The following articles shall be added after article 4—

#### **“Transitional modifications of the London Local Authorities Act 1996**

5.—(1) The London Local Authorities Act 1996(b) shall, during the transitional period, apply as if it were subject to the following modifications.

(2) In section 3(1)—

- (a) the definition of “the Act of 1991” is omitted;
- (b) for “established under section 73 of the Act of 1991” in the definition of “Joint Committee” there is substituted “appointed pursuant to regulation 15 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007”(c).

(3) In section 6—

- (a) in subsection (1) for “parking adjudicators under section 73 of the Act of 1991” there is substituted “adjudicators under regulation 17 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007”;
- (b) for subsection (2) there is substituted—

“(2) The Road Traffic (Parking Adjudicators) (London) Regulations 1993(d) shall (despite the repeal of section 73(11) and (12) of the Road Traffic Act 1991 under which the Regulations were made) continue in force for the purpose of applying in relation to proceedings before traffic adjudicators under this Act, and for that purpose section 73(11) to (13) shall continue to have effect.”;

(c) for subsection (3) there is substituted—

“(3) Regulations 12(6) and (7) (reports by adjudicators and joint committee), 19 (power to require attendance and production of documents) and 25 (recovery of amount payable under an adjudication) of the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005(e) shall apply—

- (a) to traffic adjudicators as they apply to adjudicators appointed under those Regulations; and
- (b) to the Joint Committee as they apply to the Joint Committee appointed under those Regulations,

but regulation 25 of those Regulations shall not apply to a penalty charge under this Part of this Act which remains payable following an adjudication under paragraph 6 of Schedule 1 to this Act.”

(4) For section 8 there is substituted—

#### **“Setting the levels of penalty charges**

8. Part 2 of Schedule 9 (except paragraph 6) to the Traffic Management Act 2004 and regulation 24 of the Civil Enforcement of Parking Contraventions (England)

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(a) 2003 c. iii.

(b) 1996 c. ix.

(c) S.I. 2007/3483.

(d) S.I. 1993/1202, amended by S.I. 1999/1205, 2000/1547.

(e) S.I. 2005/2757.

General Regulations 2007 shall apply to the levels of charges under this Act as they apply to the levels of charges relating to parking contraventions under the 2004 Act.”

(5) In Schedule 1 for paragraph 9(3) there is substituted—

“(3) Sections 82 and 83 of the Traffic Management Act 2004 shall have effect as though an increased penalty charge recoverable under sub-paragraph (1) above were a traffic contravention debt for the purposes of those sections.”

### **Transitional modification of the Transport Act 2000**

6.—(1) The Transport Act 2000(a) shall, during the transitional period, apply as if it were subject to the following modification.

(2) In section 144(3) for paragraph (a) there is substituted—

“(a) an order designating the whole of any part of its area as a civil enforcement area for parking contraventions has been made under paragraph 8(1) of Schedule 8 to the Traffic Management Act 2004;”.

### **Transitional modifications of the London Local Authorities Act 2000**

7.—(1) The London Local Authorities Act 2000(b) shall, during the transitional period, apply as if it were subject to the following modifications.

(2) In section 3(1)—

(a) the definition of “the Act of 1991” is omitted;

(b) the following definitions are inserted at the appropriate places—

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

““the Parking General Regulations” means the Civil Enforcement of Parking Contraventions (England) General Regulations 2007;”

““the Parking Representations and Appeals Regulations” means the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007(c);”; and

(c) for the definitions of “parking adjudicator”, “parking attendant” and “special parking area” there are substituted—

““parking adjudicator” means an adjudicator appointed under regulation 17 of the Parking General Regulations by the London authorities as defined by section 92(1) of the 2004 Act;”

““parking attendant” means a person who is a civil enforcement officer in accordance with section 76 of the 2004 Act;”

““special parking area” means an area which is a civil enforcement area for parking contraventions in accordance with Schedule 8 to the 2004 Act.”

(3) In section 9—

(a) for “section 69 or 77 of the Act of 1991” there is substituted “regulation 12(1) of the Parking General Regulations”; and

(b) for paragraphs (b) and (c) there is substituted—

“(b) regulation 14(2)(a) or (b) of the Parking General Regulations.”

(4) For section 11(1) there is substituted—

“(1) The relevant person may make representations to the participating council—

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(a) 2000 c. 38.  
(b) 2000 c. vii.  
(c) S.I. 2007/3482.

- (a) in the case of a vehicle to which an immobilisation device has been fixed, on one or more of the grounds specified in regulation 8(5) of the Parking Representations and Appeals Regulations; or
- (b) in the case of a vehicle which has been removed, on one or more of the grounds specified in regulation 11(5) of those Regulations.”

(5) In section 11(7) for “Schedule 6 to the Act of 1991” there is substituted “regulation 4 of the Parking Representations and Appeals Regulations”.

(6) In section 14(1) for “Schedule 6 to the Act of 1991 (which provides, among other things, for parking penalties) shall not” there is substituted “Neither Part 5 of the Parking General Regulations nor Part 2 of the Parking Representations and Appeals Regulations shall apply”.

**Transitional modifications of the London Local Authorities and Transport for London Act 2003**

8.—(1) The London Local Authorities and Transport for London Act 2003 shall, during the transitional period, apply as if it were subject to the following modifications.

(2) In section 4—

- (a) in subsection (6)(b) for “section 77 of the Road Traffic Act 1991” there is substituted “regulation 4(b) of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007”;
- (b) in subsection (12), for the words from “sections 74” to the end there is substituted “Part 2 of Schedule 9 to the Traffic Management Act 2004 (c. 18) as it applies in relation to the levels of penalty charges under that Part of that Schedule”;
- (c) in subsection (13) for “section 74” there is substituted “Part 2 of Schedule 9”; and
- (d) in subsection (16) for “established under section 73 of the Road Traffic Act 1991” in the definition of “Joint Committee” there is substituted “appointed pursuant to regulation 15 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007”.

(3) In section 14(8) for the definition of “special parking area” there is substituted—

““special parking area” means an area which is a civil enforcement area for parking contraventions in accordance with Schedule 8 to the Traffic Management Act 2004 (c. 18);”.

(4) In Schedule 1—

(a) in paragraph 6 for sub-paragraph (3) there is substituted—

“(3) Sections 82 and 83 of the Traffic Management Act 2004 shall have effect as though an increased penalty charge recoverable under sub-paragraph (1) were a traffic contravention debt for the purposes of those sections.”

(b) in paragraph 10—

(i) in sub-paragraph (1) for “parking adjudicators under section 73 of the Road Traffic Act 1991 (c. 40)” there is substituted “adjudicators under regulation 17 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (S.I. 2007/3483)”;

(ii) for sub-paragraphs (2) and (3) there is substituted—

“(2) The Road Traffic (Parking Adjudicators) (London) Regulations 1993 shall (despite the repeal of section 73(11) and (12) of the Road Traffic Act 1991, under which the Regulations were made) continue in force for the purpose of applying to proceedings before traffic adjudicators under this Act, and for that purpose section 73(11) to (13) shall continue to have effect.

(3) Regulations 12(6) and (7) (reports by adjudicators and joint committee), 19 (power to require attendance and production of documents) and 25 (recovery of

amount payable under an adjudication) of the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005 shall apply—

- (a) to traffic adjudicators as they apply to adjudicators appointed under those Regulations; and
- (b) to the Joint Committee as they apply to the Joint Committee appointed pursuant to those Regulations,

but regulation 25 of those Regulations shall not apply to a penalty charge under section 4 of this Act which remains payable following an adjudication under this Schedule.””

Signed by authority of the Secretary of State for Transport

*Rosie Winterton*

Minister of State  
Department for Transport

17th March 2008

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Traffic Management Act 2004 (Commencement No. 5 and Transitional Provisions) (England) Order 2007 (“the Principal Order”) by postponing the commencement of particular repeals, which were due to come into force on the second appointed day (31st March 2008) under that Order, and by the insertion of transitional modifications of various provisions, whose repeal has not been commenced and which currently refer to provisions due to be repealed on 31st March 2008 (called “the second appointed day” in the Principal Order).

*Article 3* inserts a definition of “transitional period” into article 1(2) of the Principal Order. *Article 4* amends article 3(2) of the Principal Order which specifies provisions that are to come into force on the second appointed day. *Article 4* defers the commencement of the repeals of sections 8(1B) and 11(2A) of the Road Traffic Regulation Act 1984, of section 5 of the London Local Authorities Act 1995, of the definition of “special parking area” in section 3(1) of the London Local Authorities Act 2000, of sections 6 and 9 to 14 of the London Local Authorities Act 2000 and of section 14 of the London Local Authorities and Transport for London Act 2003. *Article 5* inserts into the Principal Order transitional modifications of various provisions to apply from the second appointed day until the provisions concerned are repealed.

### **NOTE AS TO EARLIER COMMENCEMENT ORDERS**

*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 to 12.	4th October 2004	2004/2380
Section 13, except subsection (2) of the inserted section 245A of the Highways Act 1980	4th October 2004	2004/2380
Sections 14 and 15.	4th October 2004	2004/2380
Sections 16 to 31.	4th January 2005	2004/3110
Section 32	1st December 2007	2007/3184
Section 33 to 36	1st April 2008	2007/3184
Section 37	1st December 2007	2007/3184

Section 38	1st April 2008	2007/3184
Section 39	1st December 2007	2007/3184
Section 40(1) and (2) (and accordingly Schedule 1).	4th October 2004	2004/2380
Section 40(3), except the words “or (4A)” in the substituted paragraph (a) of section 70(6) of the New Roads and Street Works Act 1991.	4th October 2004	2004/2380
Section 40(3), for the purpose of inserting the words “or (4A)” into the substituted paragraph (a) of section 70(6) of the New Roads and Street Works Act (duty of undertaker to reinstate).	1st April 2008	2007/1890
Section 40(4) and (5).	4th October 2004	2004/2380
Section 41(1) and (3) (and accordingly Schedule 3) for certain purposes.	29th June 2007	2007/1890
Section 41(1), (2) and (3) (and accordingly Schedules 2 and 3) for all other purposes.	12th May 2008	2007/1890
Section 42 for certain purposes.	29th June 2007	2007/1890
Section 43(1), (2) and (4).	4th January 2005	2004/3110
Section 43(3).	1st April 2008	2007/1890
Section 44 for certain purposes.	29th June 2007	2007/1890
Section 44 for all other purposes.	1st April 2008	2007/1890
Section 49 for certain purposes.	29th June 2007	2007/1890
Section 49 for all other purposes.	1st April 2008	2007/1890
Section 51(1), (2), (3), (5), (7), (8), and (9) for certain purposes.	29th June 2007	2007/1890
Section 51(1), (2), (3), (5), (7), (8), and (9) for all other purposes.	1st April 2008	2007/1890
Section 51(4).	29th June 2007	2007/1890
Section 51(6).	1st April 2008	2007/1890
Section 52(1), (2), (4), and (5) (and accordingly Schedule 4) for certain purposes.	29th June 2007	2007/1890
Section 52(1), (2), (4), and (5) (and accordingly Schedule 4) for all other purposes.	1st April 2008	2007/1890
Section 52(3), (6) and (7).	1st April 2008	2007/1890
Section 54 for certain purposes.	29th June 2007	2007/1890
Section 54 for all other purposes.	1st April 2008	2007/1890
Sections 60 to 63.	4th October 2004	2004/2380
Section 72.	23rd July 2007	2007/2053
Section 73 and accordingly Schedule 7.	23rd July 2007	2007/2053
Section 74 so far as it relates to Schedule 8, paragraphs 1 to 3 and 8.	31st March 2008	2007/2053
Section 75.	31st March 2008	2007/2053
Section 76.	23rd July 2007	2007/2053
Section 77 and accordingly Schedule 9.	23rd July 2007	2007/2053
Sections 78 to 83.	23rd July 2007	2007/2053
Sections 84 (and accordingly Schedule 10), 85 and 86.	31st March 2008	2007/2053
Section 91 so far as it relates to Schedule 11, paragraph 3 to the extent that it inserts section 101B into the Road Traffic Regulation Act 1984(4).	23rd July 2007	2007/2053

Section 91 so far as it relates to Schedule 11, paragraphs 1, 2, 3 (except so far as it has not already been brought into force) 4, 5, 6 and 7.	31st March 2008	2007/2053
Sections 92 and 93.	23rd July 2007	2007/2053
Section 94.	29th September 2006	2006/1736
Section 95.	4th October 2004	2004/2380
Section 96.	29th June 2007	2007/1890
Section 97.	4th October 2004	2004/2380
Section 98 so far as it relates to Part 2 of Schedule 12 (and accordingly Part 2 of Schedule 12).	4th October 2004	2004/2380
Section 98 so far as it relates to the repeals of certain enactments specified in Part 1 of Schedule 12.	31st March 2008	2007/2053
In Schedule 8, paragraphs 1 to 3 and 8	31st March 2008	2007/2053
In Schedule 11, paragraph 3 to the extent that it inserts section 101B into the Road Traffic Regulation Act 1984.	23rd July 2007	2007/2053
In Schedule 11, paragraphs 1, 2, 3 (except so far as it has not already been brought into force) 4, 5, 6 and 7.	31st March 2008	2007/2053
In Schedule 12, Part 1 so far as it relates to the repeal of certain enactments	31st March 2008	2007/2053

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