

EXPLANATORY MEMORANDUM TO
THE LOCAL AUTHORITIES' TRAFFIC ORDERS (PROCEDURE) (ENGLAND AND WALES) (AMENDMENT) (ENGLAND) REGULATIONS

2009 No. 1116

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

2. Purpose of the instrument

2.1. The purpose of these Regulations is to amend regulation 18 of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 to make clear that there is no requirement for local authorities to place and maintain traffic signs to indicate the effects of prohibitions on parking more than 50cm from the edge of the carriageway ("double parking etc") and parking at dropped or raised footways ("parking at dropped footways etc") in special enforcement areas in England. It is prohibited to double park or park at a dropped or raised footway in a special enforcement area under sections 85 and 86 of the Traffic Management Act 2004 ("the TMA").

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None.

4. Legislative Context

4.1. Part 6 of the TMA sets out a framework for the civil enforcement of traffic contraventions. The Act, and the Regulations made under it, replace existing provisions in the Road Traffic Act 1991 (with regard to parking, and will in due course replace section 144 of the Transport Act 2000 (with regard to bus lanes) and London local legislation (see further paragraph 4.3 below).

4.2. Sections 85 and 86 of the TMA prohibit parking alongside dropped footways (i.e. kerbs) etc. or raised carriageways or more than 50 cm from the kerb, except in the circumstances set out in the legislation, in special enforcement areas. The prohibitions are enforceable as if they were imposed by way of a Traffic Regulation Order under the Road Traffic Regulation Act 1984 (which, in combination with the TMA, enables local authorities to serve Penalty Charge Notices to motorists who do not comply with the prohibition). Special enforcement areas are designated by Order by the Secretary of State (as respects England) under powers in section 84 of, and Schedule 10 to, the TMA.

4.3. The provisions in the TMA were designed to mirror provisions already existing in London. Local authorities in Greater London could already enforce these prohibitions under the London Local Authorities Acts of 2000 and 2003. However, the provisions of the TMA have one significant difference to the provisions of the London Acts – it did not expressly exempt authorities from the general requirement in regulation 18 of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations

1996 (S.I. 2006/2489) that parking restrictions made under Traffic Regulation Orders be indicated with traffic signs.

5. Territorial Extent and Application

5.1. These Regulations apply to special enforcement areas in England.

5.2. Aside from in respect of London (see paragraph 4.3 above), the Regulations do not replicate legislation which already exists in another part of the United Kingdom.

6. European Convention on Human Rights

6.1. As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1. The amendment to the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 is to expressly provide that local authorities are not required to place or maintain traffic signs in respect of the dropped kerb and double parking prohibitions in respect of special enforcement areas in England.

7.2. As far as the Department is aware, the "no signs" regime in respect of Greater London is working well whilst at the same time contributing to the de-cluttering of traffic signs and providing savings in costs to the authorities in relation to provision of signage for enforcement purposes. The policy intention is to establish consistency for the enforcement of dropped kerbs and double parking throughout England which these regulations will help to achieve.

8. Consultation outcome

8.1. Consultation took place between July 2008 and November 2008. The consultation was widespread and covered all key stakeholders and those we had identified with an interest. Responses to the consultation showed clear overall support for these amendment Regulations, with 77% support, including from both the public and private sectors. A summary of the consultation has been posted on the Department's website (www.dft.gov.uk).

9. Guidance

9.1. The Department for Transport has informed the local authorities concerned that the Instrument has been made and of its effect. The operational guidance to local authorities on parking policy and enforcement has been updated and the relevant section from it has been copied to local authorities. The revised version of the document is on the Department's website and is available for purchase from The Stationery Office.

10. Impact

10.1. There is no significant impact on the cost to business, charity or the voluntary sector.

10.2. Similarly, the impact on the public sector is nil. There are no costs associated with the introduction of these regulations for local authorities with civil parking enforcement powers. In fact responses to the consultation clearly indicated that there would be significant savings for the majority of the authorities that responded in costs for the introduction of signs and markings and their maintenance.

10.3. An impact assessment has not been prepared for these Regulations.

11. Regulating small business

11.1. This legislation does not apply to small business.

12. Monitoring & review

12.1. The criteria for success are that enforcement authorities understand what they may and may not do and use their powers to ensure that motorists that have parked in contravention of the prohibitions pay a financial penalty. The Department will monitor the effects of the Regulations through its regular contacts with enforcement authorities as a group and individually, as well as with other stakeholders.

13. Contact

13.1. Clint D'Souza at the Department for Transport can answer any queries regarding the instrument. Telephone: 020 7944 2976. E-mail: clint.d'souza@dft.gsi.gov.uk