

## EXPLANATORY MEMORANDUM TO

### THE CIVIL ENFORCEMENT OF MOVING TRAFFIC CONTRAVENTIONS DESIGNATIONS AND MISCELLANEOUS AMENDMENTS ORDER 2022

2022 No. 686

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

#### 2. Purpose of the instrument

- 2.1 This instrument enables Oxfordshire County Council, Bath & North East Somerset Council, Buckinghamshire Council, Derby City Council, Hampshire County Council, Reading Borough Council, Luton Borough Council, Surrey County Council, Kent County Council, Norfolk County Council, Durham County Council and Bedford Borough Council to enforce moving traffic contraventions within the specified area rather than the police and police traffic wardens.
- 2.2 It also amends two typographical errors in the existing civil enforcement area for parking contraventions within the area of Oxford City. It does so by amending the Civil Enforcement of Parking Contraventions Designation Order 2021 (S.I. 2021/1125) (“the Parking Designation Order”).
- 2.3 The instrument also amends the Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022 (S.I. 2022/71) (“the Civil Enforcement Regulations”) and the Removal and Disposal of Vehicles Regulations 1986 (S.I. 1986/183, as amended by S.I. 2007/3484 in respect of civil enforcement areas in England) (“the Removal of Vehicles Regulations”). The amendments are being made in response to concerns raised by the Joint Committee on Statutory Instruments (the JCSI).
- 2.4 This instrument is being issued free of charge to known recipients of the Parking Designation Order and of the Civil Enforcement Regulations. This is because this instrument amends errors in those regulations for the reasons set out in paragraphs 2.2 and 2.3.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 In its Twenty-Ninth Report of Session 2021–22, the JCSI raised concerns regarding the Civil Enforcement Regulations.
- 3.2 In response to those concerns, this instrument amends regulation 14(4) of the Civil Enforcement Regulations to provide that the minimum period that must elapse after a penalty charge notice being issued and before a vehicle can be immobilised will always be 15 minutes. As a result of this change, regulations 14(5) – 14(7) are no longer required so have been deleted.

- 3.3 The instrument also amends regulation 16 of the Civil Enforcement Regulations to remove an unused definition and paragraph 3 of Schedule 3 so that the correct term is used.
- 3.4 As a result of the amendment referred to in paragraph 3.2, this instrument also makes a consequential change to the Removal of Vehicles Regulations to provide that the minimum period that must elapse after a penalty charge notice being issued and before a vehicle can be removed will always be 15 minutes.

#### **4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

#### **5. European Convention on Human Rights**

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

#### **6. Legislative Context**

- 6.1 The regime for civil enforcement of moving traffic contraventions in England is set out in Part 6 of, and Schedule 8 to, the Traffic Management Act 2004 (“the 2004 Act”) together with instruments made under that Part of that Act. Those instruments are:

The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022 (S.I. 2022/71);

The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022 (S.I. 2022/576); and

The Traffic Management Act 2004 (Commencement No. 10 and Savings and Transitional Provisions) (England) Order 2022 (S.I. 2022/66).

- 6.2 The Removal of Vehicles Regulations supplement those instruments in relation to the removal of vehicles.
- 6.3 Under Schedule 8 to the 2004 Act, the Secretary of State has, provided certain conditions are met, powers to designate a local authority’s area as a civil enforcement area for parking contraventions and/or moving traffic contraventions.

#### **7. Policy background**

##### *What is being done and why?*

- 7.1 Historically, all road traffic violations were contraventions enforced by the police. However, to enable the police service to focus its resource on other priorities, several Acts have been introduced since the 1990s decriminalising some traffic contraventions, converting them to civil contraventions, and transferring enforcement to local traffic authorities.
- 7.2 Civil enforcement of parking and bus lane contraventions has become commonplace across England, and since 2003, civil enforcement of moving traffic contraventions has operated successfully in London under the London Local Authorities and Transport for London Act 2003. However, elsewhere in England the equivalent moving traffic enforcement powers under Part 6 of the 2004 Act were not

commenced, until 31<sup>st</sup> May 2022. These newly commenced powers, in part, empower this Order.

- 7.3 Before a local authority can begin enforcing moving traffic contraventions in practice, it must first apply to the Secretary of State for an Order designating it as a civil enforcement area for moving traffic contraventions.
- 7.4 Pursuant to this instrument the following areas will be designated as a civil enforcement area for moving traffic contraventions:
- 7.4.1 part of the area of Oxfordshire County Council;
  - 7.4.2 part of the of the area of Bath and North East Somerset Council;
  - 7.4.3 part of the of the area of Buckinghamshire Council;
  - 7.4.4 part of the of the area of Derby City Council;
  - 7.4.5 part of the of the area of Hampshire County Council;
  - 7.4.6 part of the of the area of Reading Borough Council;
  - 7.4.7 the whole of the Borough of Luton;
  - 7.4.8 part of the of the area of Surrey County Council;
  - 7.4.9 part of the of the area of Kent County Council;
  - 7.4.10 part of the of the area of Norfolk County Council;
  - 7.4.11 part of the of the area of Durham County Council; and
  - 7.4.12 part of the of the area of Bedford Borough Council.
- 7.5 This instrument amends the Parking Designation Order to reflect the changes set out in paragraph 2.2 above.
- 7.6 This instrument also amends the Civil Enforcement Regulations to make the changes referred to in paragraphs 3.2 and 3.3 above. It also corrects some other minor typographical errors in those Regulations.
- 7.7 The Removal of Vehicles Regulations cross-refer to regulation 14 of the Civil Enforcement Regulations. As a result of the change being made to regulation 14 (referred to in paragraph 3.2 above), a consequential change is required to the provisions in the Removal of Vehicles Regulations which deal with the removal of vehicles following a parking contravention. The provisions are being amended in a way which keeps them consistent with the equivalent provisions in the Civil Enforcement Regulations regarding the immobilisation of vehicles.

### ***Explanations***

#### *What did any law do before the changes to be made by this instrument?*

- 7.8 Outside London only the police had powers to enforce against moving traffic contraventions.

#### *Why is it being changed?*

- 7.9 The Government decided to implement the moving traffic enforcement powers, recognising the dual imperatives to improve air quality through reduced traffic congestion, and to encourage behavioural shift towards sustainable travel choices, by keeping junctions and cycle lanes clear of obstructing vehicles to improve bus

reliability and to promote cycling. This commitment was made by the Prime Minister in launching the Government's broader policy to further promote active travel choices, post Covid-19, in its policy document 'Gear Change: a bold vision for cycling and walking'. That document highlights the need for local authorities to have the necessary enforcement powers to improve traffic flow.

What will it now do?

- 7.10 This instrument allows Oxfordshire County Council, Bath & North East Somerset Council, Buckinghamshire Council, Derby City Council, Hampshire County Council, Reading Borough Council, Luton Borough Council, Surrey County Council, Kent County Council, Norfolk County Council, Durham County Council and Bedford Borough Council to enforce moving traffic contraventions as prescribed in Schedule 7 to the 2004 Act, including: ignoring no entry signs, performing banned turns, unlawful entry into box junctions, and driving in mandatory cycle lanes.

**8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union.

**9. Consolidation**

- 9.1 The issue of consolidation does not arise in this case.

**10. Consultation outcome**

- 10.1 The Secretary of State has a statutory obligation to consult the appropriate chief officers of police, in this case, of Thames Valley Police, Avon and Somerset Police, Derbyshire Constabulary, Hampshire Constabulary, Bedfordshire Police, Surrey Police, Kent Police, Norfolk Constabulary and Durham Constabulary before making an order, and has done so.
- 10.2 Thames Valley Police have no objections to the applications from Oxfordshire County Council, Buckinghamshire Council and Reading Borough Council.
- 10.3 Avon and Somerset Police have no objections to the application from Bath and North East Somerset Council.
- 10.4 Derbyshire Constabulary have no objections to the application from Derby City Council.
- 10.5 Hampshire Constabulary have no objections to the application from Hampshire County Council.
- 10.6 Bedfordshire Police have no objections to the applications from Luton Borough Council and Bedford Borough Council.
- 10.7 Surrey Police have no objections to the application from Surrey County Council.
- 10.8 Kent Police have no objections to the application from Kent County Council.
- 10.9 Norfolk Constabulary have no objections to the application from Norfolk County Council.
- 10.10 Durham Constabulary have no objections to the application from Durham County Council.

## **11. Guidance**

- 11.1 Statutory guidance was published on the Department for Transport website on 31st May 2022. The statutory guidance highlights the importance of ensuring citizens are properly consulted in advance of enforcement going live, and the need for appropriate traffic signs to be placed to ensure that the restrictions are clear to drivers.
- 11.2 To promote compliance by helping motorists understand the seriousness of moving traffic contraventions, the statutory guidance recommends that for a period of six months following implementation of enforcement of moving traffic contraventions, at each particular camera location, local authorities outside London should issue warning notices for first-time moving traffic contraventions. The warning notice will advise that any further moving traffic contravention would result in the issue of a Penalty Charge Notice.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities, or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because it does not impose additional moving traffic controls; it simply allows the local authority to enforce existing controls instead of the police.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is that each Council should keep the civil enforcement of moving traffic contraventions in their area under review.
- 14.2 The instrument does not include a statutory review clause.

## **15. Contact**

- 15.1 Richard Creese at the Department for Transport, telephone 07747 627256, email: [Richard.creese@dft.gov.uk](mailto:Richard.creese@dft.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Anthony Ferguson, Deputy Director for Traffic and Technology, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Parliamentary Under Secretary of State Baroness Vere of Norbiton at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.