

EXPLANATORY MEMORANDUM TO

THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS DESIGNATION (NO. 2) (WEST SUSSEX) (CHICHESTER AND CRAWLEY) (AMENDMENT) AND THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS DESIGNATION ORDER 2023

2023 No. 1256

1. Introduction

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

2. Purpose of the instrument

- 2.1 This instrument extends the civil enforcement area and special enforcement area of Cambridgeshire County Council (in the District of South Cambridgeshire) to enforce parking contraventions within that area rather than Police and Police Traffic Wardens. The instrument specifies that motorways and major trunk roads, which are on the Strategic Highways Network, and Ministry of Defence owned or operated roads are excluded from enforcement by South Cambridgeshire District Council. This instrument also amends the existing designation within the area of West Sussex County Council to permit civil enforcement on some of the roads previously excluded.

3. Matters of special interest to Parliament

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

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) 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 of civil enforcement of parking contraventions in England is set out in Part 6 of the Traffic Management Act 2004 (“the 2004 Act”) together with instruments made under that Part of that Act. These instruments are:

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

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

The Civil Enforcement Officers (Wearing of Uniforms) (England) Regulations 2007 (S.I. 2007/3485).

A further instrument, the Removal and Disposal of Vehicles Regulations 1986 (S.I. 1986/183, as amended by S.I. 2007/3484, S.I. 2022/71, and S.I. 2022/686) applies in respect of civil enforcement areas in England.

- 6.2 This instrument amends the Civil Enforcement of Parking Contraventions Designation (No. 2) (West Sussex) (Chichester and Crawley) Order 2010 (S.I. 2010/689).

7. Policy background

What is being done and why?

- 7.1 Effective traffic regulation requires a robust enforcement of traffic restriction and prohibition orders to promote safety and traffic flow, and to deal with abuses of the system. This has been addressed in relation to parking by the 2004 Act. The 2004 Act enables the creation of "civil enforcement areas" and "special enforcement areas" in which responsibility for enforcing parking restrictions is transferred from the Police and Police Traffic Wardens to Civil Enforcement Officers employed by local authorities.
- 7.2 When an area is designated as a civil enforcement area, the effect is that certain specified parking offences are enforced by the local authority. Where such a designation is in place, a special enforcement area may also be created; the effect of creating a special enforcement area is that two additional parking prohibitions are enforced by the local authority (double parking and parking at dropped footways).
- 7.3 Civil parking enforcement should contribute to the authority's transport objectives by improving road safety, the local environment, the accessibility of public transport, and helping to meet the needs of people with disabilities. A good civil parking enforcement regime is one that uses quality-based standards that the public understands, and which are enforced fairly.
- 7.4 Enforcement authorities should aim to increase compliance with parking restrictions through clear, well designed, legal, and enforced parking controls. Civil parking enforcement provides a means by which an authority can effectively deliver wider transport strategies and objectives. Enforcement authorities should not view it in isolation or as a way of raising revenue.

Explanations

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

- 7.5 In the local authority areas set out in paragraph 2.1 above, only the Police had powers to enforce against parking contraventions, although, parking enforcement had generally become a lower priority due to other pressures on police time.

Why is it being changed?

- 7.6 It is Government policy to encourage local authorities in England to take the power to enforce parking contraventions civilly. Currently 98% of local authorities (an online copy of civil parking enforcement in England can be found here: <https://www.gov.uk/government/publications/list-of-local-authorities-with-civil->

[parking-enforcement-powers](https://www.gov.uk/government/publications/civil-traffic-enforcement-certification-of-approved-devices)) in England have applied for, and received, civil parking enforcement powers (an online copy of civil traffic enforcement can be found here: <https://www.gov.uk/government/publications/civil-traffic-enforcement-certification-of-approved-devices>).

What will it now do?

- 7.7 This instrument will allow Cambridgeshire County Council and West Sussex County Council to enforce parking contraventions as prescribed in Schedule 7 of the 2004 Act in the designated areas.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union/trigger the statement requirements under the European Union (Withdrawal) Act.

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 the Police, in this case, of Cambridgeshire Constabulary and Sussex Police before making an order and did so in July 2023. No objections were raised to either of the Councils' applications.
- 10.2 Cambridgeshire County Council and West Sussex County Council also conducted additional consultation with their relevant Police forces, National Highways, the Ministry of Defence, Driver and Vehicle Licensing Agency, the Traffic Enforcement Centre, the Adjudication Service, and neighbouring local authorities. An application would not proceed unless any objections have been resolved.
- 10.3 Cambridgeshire County Council's application, on behalf of South Cambridgeshire District Council was supported by Essex County Council, Hertfordshire County Council, Suffolk County Council, Central Bedfordshire Council, East Cambridgeshire District Council, Huntingdonshire District Council, Cambridge City Council, Cambridgeshire Constabulary, Cambridgeshire Fire & Rescue Service, DVLA, the Traffic Penalty Tribunal, and the Traffic Enforcement Centre and no objections were raised. No response was received from the Ministry of Defence, Ambulance Service, Logistics UK, Road Haulage Association, Traffic Commissioner, West Suffolk District Council, Uttlesford District Council, Braintree District Council, and North Hertfordshire District Council.
- 10.4 West Sussex County Council's application was supported by Chichester District Council and Sussex Police.

11. Guidance

- 11.1 The Secretary of State's 'Statutory Guidance for Local Authorities in England on civil enforcement of parking contraventions' (2022) ("the Statutory Guidance") sets out the policy framework for civil parking enforcement and explains how local authorities should approach, carry out, and review their parking enforcement activities. An online copy of this guidance can be found here: [Statutory guidance for local authorities in England on civil enforcement of parking contraventions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/statutory-guidance-for-local-authorities-in-england-on-civil-enforcement-of-parking-contraventions). A

hard copy can be requested by contacting Emily Kenning at the Department for Transport, telephone: 07977360659, and email: ParkingQueries@dft.gov.uk.

- 11.2 With regard to the financing of local authorities' civil parking enforcement operations, the Statutory Guidance provides that enforcement authorities should run their civil parking enforcement operations efficiently, effectively, and economically. The purpose of penalty charges is to dissuade motorists from breaking parking restrictions. The objective of civil parking enforcement should be 100 per cent compliance, with no penalty charges. Parking charges and penalty charges should be proportionate, so authorities should not set them at unreasonable levels.
- 11.3 Section 55 (financial provisions relating to designation orders) of the Road Traffic Regulation Act 1984 (as modified by regulation 27 of the 2022 Regulations) restricts the use of income from civil parking enforcement. Any surplus made on parking enforcement operations must be directed towards funding within the following categories: enforcement costs; costs incurred by the local authority of other schemes to improve local transport and the environment, including local public transport schemes, highway, and road improvement projects; and improvement measures to reduce environmental pollution.
- 11.4 The Statutory Guidance also provides that local authority parking enforcement should be self-financing as soon as practicable. However, compliant applications for civil parking enforcement will be granted without the scheme being immediately self-financing. The Statutory Guidance reminds local authorities that if their scheme is not self-financing, then they need to be certain that they can afford to pay for it from within existing funding.

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 this instrument does not impose additional parking 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 parking in their area under review. They are required to prepare an Annual Parking Report to assess performance against their own targets, and standards achieved by neighbouring authorities. They must also, under section 55 of the Road Traffic Regulation Act 1984, keep an account of all income and expenditure in respect of designated (i.e., on-street) parking places which are not in a civil enforcement area, designated parking spaces which are in a civil enforcement area and their functions as an enforcement authority. In accordance with the Statutory Guidance, each Council is obliged to report statistics annually to the Department for Transport.
- 14.2 The instrument does not include a statutory review clause.

15. Contact

- 15.1 Emily Kenning at the Department for Transport. Telephone: 07977360659 or email: parking.queries@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 Guy Opperman MP, Parliamentary Under Secretary of State, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.