

**EXPLANATORY MEMORANDUM TO**  
**THE CIVIL ENFORCEMENT OF ROAD TRAFFIC CONTRAVENTIONS**  
**(APPROVED DEVICES, CHARGING GUIDELINES AND GENERAL**  
**PROVISIONS) (ENGLAND) REGULATIONS 2022**

**2022 No. 71**

**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.

**2. Purpose of the instrument**

- 2.1 These Regulations (“the General Provisions Regulations”) and the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022 (“the Appeals Regulations”) have been laid by the Secretary of State for Transport on behalf of the Lord Chancellor. Together with the Appeals Regulations (which are subject to the affirmative procedure) and the Traffic Management Act 2004 (Commencement No. 10 and Savings and Transitional Provisions) (England) Order 2022 (“the Commencement Order”), these Regulations are designed to extend enforcement by civil enforcement officers acting on behalf of local authorities, rather than police officers or police traffic wardens.
- 2.2 This instrument will enable those local authorities in England (outside London) with existing experience of carrying out civil parking enforcement (a requirement of the Traffic Management Act 2004 (“the 2004 Act”)) to enforce contraventions of moving traffic restrictions prescribed in Schedule 7 to the 2004 Act including: ignoring no entry signs, performing banned turns, waiting on box junctions and driving in mandatory cycle lanes. Although similar powers have been available to London local authorities since 2003, those local authorities will now be able to also enforce access prohibitions for buses and the contravention of driving in mandatory cycle lanes for the first time.
- 2.3 This instrument also brings together the existing civil enforcement regimes for parking and bus lane contraventions outside London. The instrument provides for continued parking enforcement to be carried out by civil enforcement officers acting on behalf of local authorities, rather than under the criminal law by police officers or police traffic wardens. Provision is also made for continued bus lane enforcement and (for the first time) moving traffic enforcement, in both cases to be carried out using approved camera equipment. The previous bus lane enforcement regime outside London, introduced in 2005 under the Transport Act 2000 (“the 2000 Act”), has been revoked.
- 2.4 This instrument also sets out procedures for a uniform regime of differential penalty charges, and certain discount and surcharge periods, which applies to parking, bus lane and moving traffic enforcement regimes.

**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 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 The Parliamentary Under Secretary of State, Baroness Vere of Norbiton has made the following statement regarding Human Rights:  
“In my view the provisions of the Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022 are compatible with the Convention rights.”

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

- 6.1 Part 6 of the 2004 Act confers powers on the Lord Chancellor and “the appropriate national authority” (in England, the Secretary of State) to make statutory instruments providing for a national legislative framework for the civil enforcement by local authorities of contraventions of parking, bus lane, and certain moving traffic restrictions such as ignoring no entry signs, waiting on box junctions and performing banned turns. This instrument makes provisions with regard to the civil enforcement of these contraventions.
- 6.2 The 2004 Act also confers powers on the Lord Chancellor to make regulations dealing with the notification and enforcement of penalty charges, representations to the enforcement authority, appeals to an adjudicator by those on whom penalties are imposed and the appointment of adjudicators. A separate explanatory memorandum has been prepared for the instrument dealing with the representations and appeals processes, which is subject to the affirmative procedure.

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

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

- 7.1 The General Provisions Regulations are part of a statutory instrument package that introduces powers to allow local authorities outside London to enforce moving traffic contraventions. The package also brings together (with the moving traffic contraventions) existing civil enforcement powers for parking and bus lane contraventions outside London; and aligns penalty charges across all three contravention categories.
- 7.2 The complete list of instruments comprising the package is—  
The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022;  
The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provision) (England) Regulations 2022; and  
The Traffic Management Act 2004 (Commencement No. 10 and Savings and Transitional Provisions) (England) Order 2022.
- 7.3 It has been necessary for the subject matter to be split between two main instruments because the powers to make regulations relating to the Appeals Regulations are exercisable by statutory instrument subject to the affirmative procedure, whereas the

General Provisions Regulations fall to be made under negative procedure powers. No formal Parliamentary procedure applies to the Commencement Order.

- 7.4 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.
- 7.5 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 (“the 2003 Act”). However, elsewhere in England the equivalent moving traffic enforcement powers under Part 6 of the 2004 Act were never commenced.
- 7.6 The Commencement Order will give those local authorities in England outside London with existing civil parking enforcement powers, the ability to apply to the Secretary of State for an order designating all or part of their network as a civil enforcement area for moving traffic contraventions.

#### ***Explanations***

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

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

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

- 7.8 This Government has 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?*

- 7.9 This instrument provides powers to allow local authorities outside London to enforce moving traffic contraventions as prescribed in Schedule 7 to the 2004 Act, including: ignoring no entry signs, performing banned turns, waiting on box junctions, and driving in mandatory cycle lanes. The instrument also brings together with the new moving traffic contraventions, existing civil enforcement powers for parking and bus lane contraventions outside London; and aligns penalty charges across all three contravention categories. Local authorities inside London will, for the first time, have powers to enforce against contraventions of the ‘buses prohibited’ restriction, and the prohibition on driving in mandatory cycle lanes.
- 7.10 The legislative opportunity has also been taken to transfer the bus lane enforcement regime outside London from the 2000 Act and supporting SIs to the bus lane enforcement provisions in Schedule 8 Part 2 of the 2004 Act. This reflects the original

intention when the 2004 Act was introduced. Bringing bus lane powers under the 2004 Act also enables Ministers to include bus lane enforcement in the statutory guidance to local authorities which will support this instrument, which local authorities must have regard to. This provides an opportunity to set out best practice in how bus lane enforcement powers should be exercised.

- 7.11 This instrument also meets a Department for Transport commitment in 2018 to remove the specific higher-level parking contravention codes applying outside London (two-digit identifiers facilitating digital processing of penalties) from the Schedule to the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 and instead publish them in statutory guidance. The instrument now prescribes more generic descriptors of higher-level parking contraventions outside London to ensure that less serious parking contraventions are not charged at the higher level.
- 7.12 Enabling the above-mentioned two-digit contravention codes to be updated without the need to amend legislation will improve responsiveness to any future parking developments, for instance through emerging digital technology.

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

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

## **9. Consolidation**

- 9.1 This legislative opportunity has been taken to consolidate the existing civil enforcement regimes for parking and bus lane contraventions alongside the new regime for moving traffic enforcement. In addition, the lists of prescribed traffic signs in the 2003 Act and the 2004 Act (for inside and outside London respectively) have been aligned with each other by the addition of signs for mandatory cycle lanes and the ‘buses prohibited’ sign in the 2003 Act, and the addition of the ‘no stopping on school entrance’ road marking in the 2004 Act.

## **10. Consultation outcome**

- 10.1 The principle of providing civil enforcement powers for moving traffic contraventions outside London was approved by Parliament as part of its consideration of the 2004 Act. The decision to commence these powers was announced by the Prime Minister in the July 2020 policy statement ‘Gear Change: a bold vision for cycling and walking’. The development of detailed statutory guidance has reflected input secured through engagement with a range of key stakeholders, including: motoring groups (The AA, RAC and RAC Foundation), local government (Local Government Association and London Councils), active travel groups (including Sustrans, British Cycling, Living Streets), the British Parking Association and the Traffic Penalty Tribunal.

## **11. Guidance**

- 11.1 Section 87 of the 2004 Act allows for the Secretary of State to publish statutory guidance for civil enforcement of traffic contraventions, to which local authorities must have regard, in conjunction with the regulations. Draft statutory guidance has been developed, informed by the stakeholder engagement referred to above, and will be published on the Department for Transport website on the date these regulations come into force. 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.
- 11.3 Within London, where moving traffic contraventions have been enforced for many years, local authorities will be expected to issue warning notices for first-time contraventions of the new cycle lane and 'buses prohibited' contraventions (civilly enforceable in London for the first time) when they occur within six months from when enforcement commences.

## **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 An Impact Assessment has not been prepared for this instrument because compliance with existing road traffic restrictions subject to police enforcement does not create an impact on business. The instrument merely extends enforcement powers to local authorities as a civil matter. Instead, a De Minimis Assessment has been carried out.

## **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 the Department for Transport will work with local authorities to review the impact on local roads of the powers to enforce moving traffic contraventions after five years following the instrument coming into force. The intended outcome of the instrument is a reduction of moving traffic contraventions over time.
- 14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 The Parliamentary Under Secretary of State Baroness Vere of Norbiton has made the following statement:

“There is no, or no significant, impact on business, charities or voluntary bodies associated with this instrument, and the annual cost to the public sector is unlikely to exceed £5 million. However, the Department for Transport will work with local authorities to review the impact on local roads of the powers to enforce moving traffic contraventions after five years following the instrument coming into force.”

## **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.