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WELSH STATUTORY INSTRUMENTS

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**2008 No. 226 (W.28)**

**ROAD TRAFFIC, WALES**

**The Road Traffic (Permitted Parking Area and Special Parking Area) (County Borough of Wrexham) Order 2008**

<i>Made</i>	- - - -	<i>5 February 2008</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>6 February 2008</i>
<i>Coming into force</i>	- -	<i>1 March 2008</i>

The Council of the County Borough of Wrexham has applied to the Welsh Ministers for an Order to be made under paragraphs 1(1) and 2(1) of Schedule 3 to the Road Traffic Act 1991 (1) with respect to that County Borough and the Welsh Ministers have consulted the Chief Constable of the North Wales Police in accordance with the requirements of paragraphs 1(3) and 2(3) of that Schedule and the Council on Tribunals in accordance with the requirements of section 8 of the Tribunals and Inquiries Act 1992(2);

The Welsh Ministers, in exercise of the powers conferred by paragraphs 1(1), 2(1) and 3(3) of Schedule 3 to the Road Traffic Act 1991(3), hereby make the following Order:

**Citation and commencement**

1. This Order, which may be cited as the Road Traffic (Permitted Parking Area and Special Parking Area) (County Borough of Wrexham) Order 2008, comes into force on the 1 March 2008.

**Interpretation**

2. In this Order:

“the 1984 Act” (“*Deddf 1984*”) means the Road Traffic Regulation Act 1984(4);

“the 1991 Act” (“*Deddf 1991*”) means the Road Traffic Act 1991; and

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- (1) 1991 c. 40. Schedule 3 was amended by the Road Traffic Act 1991 (Amendment of Schedule 3) (England and Wales) Order 1996 (S.I.1996/500) by the Local Government (Wales) Act 1994 (c. 19), Schedule 7, paragraph 43 and the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 171.
- (2) 1992 c. 53.
- (3) The powers were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The powers are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (4) 1984 c. 27. Section 32(4) (a) was amended, and section 45(1) was substituted, by the New Roads and Street Works Act 1991 (c. 22), Schedule 8, paragraphs 39 and 44. Sections 46(1A), 63A and 101(4A) and (5A) were inserted by the Road Traffic Act 1991, sections 64(2), 44(1) and 67(4) and (6). Section 102(8) was amended by the Road Traffic Act 1991, section 68(3).

“the parking area” (“*yr ardal barcio*”) means the area designated as a permitted parking area and special parking area by article 4 of this Order.

### **Application**

3. This Order applies to the whole of the county borough of Wrexham except—
  - (a) the entire length of the A483, including its on and off slip roads, within the county borough;
  - (b) the A5 from its junction with the A483 in a southerly direction as far as the county boundary with Shropshire; and
  - (c) the A5 from its junction with the A483 in a westerly direction to its junction with the B5070.

### **Designation of permitted parking area and special parking area**

4. The Welsh Ministers hereby designate the area to which this Order applies as—
  - (a) a permitted parking area; and
  - (b) a special parking area.

### **Modification and application of Part II of the 1991 Act**

5. Sections 66, 69 to 74, 78, 79 and 82 of, and Schedule 6 to, the 1991 Act apply in relation to the parking area and as so applied have effect subject to the modifications specified in Schedule 1 to this Order.

### **Modification of the 1984 Act**

6. The 1984 Act is modified in relation to the parking area as specified in Schedule 2 to this Order.

*Ieuan Wyn Jones*  
Minister for the Economy and Transport, one of  
the Welsh Ministers

8 February 2008

SCHEDULE 1

Article 5

MODIFICATIONS OF PROVISIONS OF PART II OF THE ROAD  
TRAFFIC ACT 1991 APPLIED IN RELATION TO THE PARKING AREA

1.—(1) Section 66 is modified as follows.

(2) In subsection (1) the words “in a designated parking place” are omitted.

(3) Subsection (2) is omitted.

(4) In subsection (3)—

(a) in paragraph (d) for the words “the specified proportion” there is substituted “one half”;  
and

(b) in paragraph (e) for the words “the London authority” there is substituted “the parking authority”.

(5) Subsection (4) is omitted.

(6) In subsection (5) for paragraph (b) there is substituted—

“(b) the parking authority.”.

2.—(1) Section 69 is modified as follows.

(2) For subsection (1) there is substituted—

“(1) Where, in the case of a stationary vehicle, a parking attendant has reason to believe that it has been allowed to remain at rest in any of the circumstances in which a penalty charge is payable, the parking attendant or another person acting under the direction of the parking attendant may fix an immobilisation device to the vehicle.”.

(3) For subsection (8) there is substituted—

“(8) In this section “relevant authority” means the parking authority.”.

3.—(1) Section 71 is modified as follows.

(2) In subsection (1) for the words “a London authority” there is substituted “the parking authority”.

(3) For subsection (4) there is substituted—

“(4) The grounds are—

(a) that there were no reasonable grounds for the parking attendant concerned to believe that the vehicle had been permitted to remain at rest in the parking area in circumstances in which a penalty charge was payable;

(b) that the vehicle had been permitted to remain at rest in the place where it was by a person who was in control of the vehicle without the consent of the owner;

(c) that the place where the vehicle was at rest was not in the parking area;

(d) in a case within subsection (1)(d) above, that, by virtue of an exemption given by section 70 of this Act, section 69 did not apply to the vehicle at the time in question; or

(e) that the penalty or other charge in question exceeded the amount applicable in the circumstances of the case.”.

4.—(1) Section 73 is modified as follows.

(2) For subsections (1) to (3) there is substituted—

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“(1) The functions conferred on the parking authority by this section must be discharged by it through a joint committee (“the Joint Committee”) which has been set up in pursuance of arrangements entered into under section 101(5) of the Local Government Act 1972(5) and of which the parking authority and at least two other local authorities are constituent authorities.

(2) In subsection (1) “local authorities” means authorities which are county or county borough councils in Wales or county or district councils in England in whose areas permitted parking areas or special parking areas have been designated under Schedule 3 to this Act.

(3) The parking authority must—

- (a) with the consent of the Lord Chancellor appoint persons to act as parking adjudicators for the purposes of this Part of this Act in relation to the parking area;
- (b) provide or secure the provision of accommodation and administrative staff for parking adjudicators so appointed; and
- (c) determine the places at which such parking adjudicators are to sit.”

(3) In subsection (5) for the words “the appointing authorities” there is substituted “the parking authority”.

(4) Subsections (8) to (10) are omitted.

(5) In subsection (11) for the words “The Secretary of State” there is substituted “The Welsh Ministers”.

(6) After subsection (12) the following subsection is inserted—

“(12A) The Road Traffic (Parking Adjudicators) (England and Wales) Regulations 1999 have effect as if made by the Welsh Ministers and apply to the parking area as they apply to the areas designated by the Orders listed in the Schedule to those Regulations.”.

(7) In subsection (18) for the words “the Secretary of State” there is substituted “the Welsh Ministers”.

5. For section 74 there is substituted the following—

(1) It is the duty of the parking authority to set the levels of additional parking charges to apply in the parking area.

(2) Different levels may be set for different parts of the parking area.

(3) In assessing the levels of additional parking charges to be set by the parking authority under this section the parking authority must have regard to the guidance given by the Welsh Ministers whether such guidance is given specifically to the parking authority or to local authorities in Wales generally.

(4) Guidance given by the Welsh Ministers under subsection (3) above may be varied at any time by the Welsh Ministers.

(5) The parking authority must publish, in such manner as the Welsh Ministers determine, the levels of additional parking charges which have been set under this section.

(6) In this section “additional parking charges” means penalty charges, charges made by the parking authority for the removal, storage and disposal of vehicles and charges for the release of vehicles from immobilisation devices fixed under section 69 of this Act.”.

6.—(1) Section 78 is modified as follows.

(2) After subsection (7) the following subsection is inserted:

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(5) 1972 c. 70.

“(8) Any order made under subsection (2), and any regulations made under subsection (4), of this section apply with necessary modifications, including in particular the substitution for references to a London authority of references to the parking authority, in relation to the recovery of Part II debts payable in relation to the parking area.”.

7.—(1) Section 82 is modified as follows.

(2) For subsection (1) there is substituted—

“(1) In this section and sections 66, 69 to 74, 78 and 79 of, and Schedule 6 to, this Act—  
“immobilisation device” has the same meaning as in section 104(9) of the Road Traffic Regulation Act 1984;

“the Joint Committee” has the meaning given by section 73(1) of this Act;

“the parking area” means the area designated as a permitted parking area and as a special parking area by the Road Traffic (Permitted Parking Area and Special Parking Area) (County Borough of Wrexham) Order 2008<sup>(6)</sup>;

“parking attendant” has the same meaning as in section 63A of the Road Traffic Regulation Act 1984;

“parking authority” means the Council of the County Borough of Wrexham;

“penalty charge” means a penalty charge which is payable by virtue of paragraph 3(1) and (2) of Schedule 3 to this Act;

“prescribe” and “prescribed” mean prescribe or, as the case may be, prescribed, by regulations made by the Welsh Ministers; and

“vehicle hiring agreement” and “vehicle hire firm” have the same meanings as in section 66 of the Road Traffic Offenders Act 1988<sup>(7)</sup> (hired vehicles).”.

(3) Subsections (1A), (1B) and (1C) are omitted.

(4) In subsection (5) for the words “the London authority concerned” there is substituted “the parking authority”.

(5) In subsection (6) the words “on a Minister of the Crown” are omitted.

(6) In subsection (7) the words “by the Lord Chancellor” are inserted after the words “Any statutory instrument made”.

8.—(1) Schedule 6 is modified as follows.

(2) In paragraph 1(1) for the words “the London authority concerned” there is substituted “the parking authority”.

(3) In paragraph 1(3) for the words “The Secretary of State” there is substituted “The Welsh Ministers”.

(4) In paragraph 2—

(a) in sub-paragraph (1) for the words “the London authority who served the notice on him” there is substituted “the parking authority”;

(b) in sub-paragraph (2) for the words from “in such form as” to the end of the sub-paragraph there is substituted “in writing”;

(c) in sub-paragraph (3) for the words “The authority” there is substituted “The parking authority”;

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<sup>(6)</sup> S.I. 2008/.

<sup>(7)</sup> 1988 c. 53.

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- (d) in sub-paragraph (4)(c) for the words “the parking place” there is substituted “the place where it was”;
  - (e) in sub-paragraph (4)(d) for the words “relevant designation order” there is substituted “any relevant designation order”;
  - (f) in sub-paragraph (7) for the words “an authority to whom representations are duly made” there is substituted “the parking authority when representations are duly made to it”.
- (5) In paragraph 3 for the words “the London authority concerned” in both places where they occur there is substituted “the parking authority”.
- (6) In paragraph 4 for the words “the London authority concerned” and for the words “the authority” there is substituted “the parking authority”.
- (7) In paragraph 5—
- (a) in sub-paragraph (1) for the words “an authority” there is substituted “the parking authority” and for the words “the authority’s decision” there is substituted “the parking authority’s decision”;
  - (b) in sub-paragraph (2) for the words “the London authority concerned” there is substituted “the parking authority”; and
  - (c) for sub-paragraph (3) there is substituted—  
“(3) It is the duty of the parking authority to comply with any direction given to it under sub-paragraph (2) above forthwith.”.
- (8) In paragraph 6—
- (a) in sub-paragraph (1) for the words “the authority serving the notice” there is substituted “the parking authority”; and
  - (b) in sub-paragraph (2)(b)(ii) for the words “the authority concerned” there is substituted “the parking authority”.
- (9) In paragraph 7 for the words “the authority concerned” there is substituted “the parking authority”.
- (10) In paragraph 8—
- (a) in sub-paragraphs (2)(b) and (5)(d) for the words “the London authority concerned” there is substituted “the parking authority”; and
  - (b) in sub-paragraphs (6) and (7) for the words “the London authority” there is substituted “the parking authority”.

## SCHEDULE 2

Article 6

### MODIFICATIONS OF THE ROAD TRAFFIC REGULATION ACT 1984

- 1.—(1) Section 46 is modified as follows.
- (2) Subsection (1) is omitted.
  - (3) In subsection (1A) for “Greater London” there is substituted “the parking area”.
- 2.—(1) Section 55 is amended as follows.
- (2) For subsection (1) there is substituted—  
“(1) A local authority must keep an account of—

- (a) their income and expenditure in respect of designated parking places for which they are the local authority and which are in the permitted parking area; and
- (b) their income from additional parking charges (within the meaning of section 74(6) of the Road Traffic Act 1991) received by them in respect of vehicles found within the special parking area and the expenditure incurred by them in relation to that area by virtue of any provision of Part II of the Road Traffic Act 1991 as it applies in relation to that area.

(1A) As soon as reasonably possible after the end of each financial year the local authority must forward to the Welsh Ministers a copy of the account for that year.”.

(3) Subsections (3A) and (3B) are omitted.

**3.** In section 63A(4)—

- (a) for the words “in Greater London” there is substituted “in the parking area”; and
- (b) for the words “Greater London Authority” there is substituted “Welsh Ministers”.

**4.**—(1) Section 101 is modified as follows.

(2) Subsection (4) is omitted.

(3) In subsection (4A) for the words “Greater London” there is substituted “the parking area”.

(4) Subsection (5) is omitted.

(5) In subsection (5A) for the words “Greater London” there is substituted “the parking area”.

**5.**—(1) Section 102 is modified as follows.

(2) For subsection (1) there is substituted—

“(1) If a vehicle is removed from the parking area in circumstances in which an offence would have been committed but for the provisions of paragraph 1(4) or 2(4) of Schedule 3 to the Road Traffic Act 1991, the local authority shall be entitled to recover from any person responsible, such charges in respect of the removal, storage and disposal of the vehicle, as they may require.”.

(3) Subsection (2) is omitted.

(4) For subsection (4) there is substituted—

“(4) Without prejudice to subsection (3) above, where by virtue of subsection (1) above any sum is recoverable in respect of a vehicle by a local authority in whose custody the vehicle is, the local authority shall be entitled to retain custody of it until that sum has been paid.”.

(5) Subsection (7) is omitted.

(6) In subsection (8) the definition of “appropriate authority” is omitted.

(7) Subsection (9) is omitted.

**6.** In section 142(1) before the definition of “parking device” there is inserted—

““parking area” means the area designated as a permitted parking area and as a special parking area by the Road Traffic (Permitted Parking Area and Special Parking Area) (County Borough of Wrexham) Order 2008 and “permitted parking area” and “special parking area” are to be read accordingly;”.

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## EXPLANATORY NOTE

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

Schedule 3 to the Road Traffic Act 1991 makes provision for the designation of permitted parking areas and special parking areas. Paragraph 1(1) gives the Welsh Ministers the power to designate the whole or any part of the area of a county council or county borough council in Wales as a permitted parking area following an application by the local authority. Paragraph 2(1) gives a similar power in relation to special parking areas.

This Order is made following an application by the Council of the County Borough of Wrexham (“the local authority”) and statutory consultation with the Chief Constable of North Wales Police and the Council on Tribunals.

The effect of this Order is to designate as a permitted parking area and a special parking area the whole of the county borough of Wrexham except the entire length of the A483 within the county borough, including its on and off slip roads, and except also the A5 from its junction with the A483 in a southerly direction to the county boundary with Shropshire and the A5 from its junction with the A483 in a westerly direction to its junction with the B5070 (“the parking area”). Once the Order is in force, parking attendants employed by the local authority (or employed as parking attendants by a person with whom the local authority has made arrangements) are given the power to place penalty charge notices on vehicles contravening parking regulations and may, in appropriate cases, authorise the towing away or immobilisation of vehicles.

By virtue of the Order, penalty charges in the parking area are to be set by the local authority having regard to guidance given by the Welsh Ministers. They are recoverable by the local authority as civil debts. Provision is made for the making of representations to the local authority in the event of the imposition of a penalty charge or the towing away or immobilisation of a vehicle. Adjudication in the event of disputes is to be dealt with by parking adjudicators appointed by a joint committee set up in pursuance of arrangements entered into under section 101(5) of the Local Government Act 1972.