

**EXPLANATORY MEMORANDUM TO:**

**THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS (ENGLAND)  
GENERAL REGULATIONS 2007 No. 3483**

**THE REMOVAL AND DISPOSAL OF VEHICLES (AMENDMENT) (ENGLAND)  
REGULATIONS 2007 No. 3484**

**THE CIVIL ENFORCEMENT OFFICERS (WEARING OF UNIFORMS) (ENGLAND)  
REGULATIONS 2007 No. 3485**

**THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS (APPROVED  
DEVICES) (ENGLAND) ORDER 2007 No. 3486**

**THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS (GUIDELINES ON  
LEVELS OF CHARGES) (ENGLAND) ORDER 2007 No. 3487**

**1.**

- 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. Description**

- 2.1 These three sets of Regulations and two Orders (all of which apply only to England) have been made and laid by the Secretary of State for Transport. They should be read together with the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 (S.I. 2007/3482) (“the Representations and Appeals Regulations”), which were subject to the affirmative procedure. This package of statutory instruments is designed to implement Part 6 of the Traffic Management Act 2004 in relation to the civil enforcement of parking controls by civil enforcement officers acting on behalf of local authorities, rather than under the criminal law by police officers or police traffic wardens.
- 2.2 The set of draft Regulations should be read as a whole, and with the Representation and Appeals Regulations. The draft Regulations set out procedures to improve national consistency by giving new powers to authorities outside London currently only held by those in London. The draft Regulations also set out new clamping procedures, camera enforcement, differential parking charges and certain increased discount periods.

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

- 3.1 The Joint Committee will note that regulation 13(4) and (5) requires an enforcement authority not to immobilise a vehicle in a parking place until the “appropriate period” has elapsed following the giving of a penalty charge notice (“PCN”, i.e. the parking ticket or notice informing the motorist that the local authority considers that a contravention has taken place and a penalty charge incurred). The “appropriate period” is 15 minutes in the case of a vehicle with three or more penalty charges outstanding (as defined by regulation 2(2) to (4)) and otherwise 30 minutes. Section 79(6) of the Traffic Management Act 2004, however, requires a period of 15 minutes. In including this provision the Department has acted on the views expressed following the public consultation and decided that 15 minutes is a minimum and that section 79(6) does not preclude the prescription of a longer period.

#### **4. Legislative Background**

- 4.1 Part 6 of the Traffic Management Act 2004 confers powers on the Lord Chancellor and “the appropriate national authority” (in England, the Secretary of State) to make regulations providing for a national legislative framework for the civil enforcement by local authorities of contraventions of parking and bus lane restrictions and some moving traffic contraventions, such as box junctions and banned turns. Part 6 and the regulations will replace existing provisions in the Road Traffic Act 1991 (with regard to parking), the Transport Act 2000 (with regard to bus lanes) and London local legislation.
- 4.2 The purpose of these instruments is to implement Part 6 of the Traffic Management Act 2004 so far as it relates to parking contraventions. They will in due course be followed by regulations to implement Part 6 in relation to bus lane and other moving vehicle contraventions.
- 4.3 The effect of the package of parking instruments will be to replace the present system of decriminalised parking enforcement under Part II and Schedule 3 of the Road Traffic Act 1991. The instruments will be supplemented by Statutory Guidance issued by the Secretary of State, to which local authorities will be required to have regard, although they will not be obliged to follow it.
- 4.4 The most important element of the package is the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (“the General Regulations”), to be made by the Lord Chancellor and the Secretary of State. The General Regulations and the Representations and Appeals Regulations should be read as a whole. It has been necessary for the subject matter to be split between two instruments because the powers to make regulations relating to Representations and Appeals are exercisable by statutory instrument subject to the affirmative procedure, whereas the General Regulations fall to be made under negative procedure powers. The other negative instruments contain provisions ancillary to the two principal sets of regulations.

- 4.5 The draft General Regulations cross-refer to the Representation and Appeals Regulations. A copy of the Representation and Appeals Regulations is attached so as to show the effect of the cross-references. All the instruments will be brought into force on 31<sup>st</sup> March 2008.

## **5. Territorial Extent and Application**

- 5.1 These instruments apply to England.
- 5.2 They do not replicate legislation which already exists in another part of the United Kingdom.

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

- 6.1 The Rt Hon Rosie Winterton, Minister of State Department for Transport, has made the following statement regarding Human Rights:

“In my view the provisions of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 are compatible with the Convention rights.”

- 6.2 As the other Instruments the subject of this Memorandum are subject to negative resolution procedure and do not amend primary legislation, no statement is required in respect of those instruments.

## **7. Policy background**

- 7.1 The first aim of the new framework will be to replace the unsatisfactory state of the statute law on the civil enforcement of parking. This has hitherto rested on Part II of the Road Traffic Act 1991 and the Road Traffic Regulation Act 1984 in relation to parking places in Greater London. A series of orders extended this legislation to other parking contraventions in designated “special parking” areas in London and to certain areas outside London designated by order in relation to all types of parking contravention. Each order, applying in London or elsewhere, contained modifications of both the 1991 and the 1984 Acts in their application to the designated area. Such modifications will no longer be necessary.
- 7.2 Secondly, although it is largely based on the old system of enforcement, the framework includes many changes of detail. Some of these derive from modifications to the Road Traffic Act 1991 made by London local legislation.
- 7.3 A public consultation (“Better Parking – Keeping Traffic Moving”) on the draft Statutory Guidance, draft Regulations and on the Partial RIA was conducted from 12th July 2006 to 25th September 2006. The consultation document set out the Government’s position on civil parking enforcement and sought views on 20 specific issues set out in the document.
- 7.4 The document was sent to all Local Authorities in England, 85 other organisations (including the key stakeholders, members of the working group and the Council on Tribunals), and specific individuals who requested the consultation. There

were 112 responses, 77 from Local Authorities, 13 from the public and motorists groups and 22 from businesses and other interested parties

- 7.5 Those who responded agreed with the lines taken in the consultation document on the vast majority of the issues and the policies on these will remain as suggested in the consultation.
- 7.6 There was widespread support for the Partial Regulatory Impact Assessment. 75% of respondents agreed that the Partial Regulatory Impact Assessment represented a fair analysis of the policy.
- 7.7 There was support for differential penalty charges whereby the more serious contraventions attract a higher penalty charge than the less serious ones. Some Local Authorities thought that there might be confusion among the public on this issue, but 70% of non-LA respondents did not believe that there will be confusion and that this policy is fairer. Differential charging is given effect in the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007. The contraventions which attract the higher level of penalty charge are described in the guidelines appended to the Order by reference to Version 6 of the “Standard PCN Codes”. These codes are in practice used by local authorities enforcing decriminalised parking for the purpose of issuing penalty charge notices and of classifying contraventions.
- 7.8 There was support for the 50% discount to be available for 21 days where the PCN was issued by post on the basis of camera evidence. This longer time was proposed to allow for the uncertainties of the post. Local authorities were concerned that the two tier discount period could lead to confusion. However, 87% of the public were in favour and overall support was positive.
- 7.9 Responses on three of the issues suggested that the proposals were not appropriate and the minister agreed that they should be revised. 82% of respondents said that a grievance unit should not be set up and the Secretary of State agreed that local authorities should not be asked to set up a new parking grievance/complaints unit. 74% of respondents said that the police should not be given the power to also enforce parking in areas where the local authorities have been given this power, and this was also agreed. Finally, it was agreed that the time before a vehicle in a parking place can be clamped or removed should be 30 minutes after the PCN is issued rather than the 60 minutes proposed. This was not a yes/no question, but the majority if those who responded thought 30 minutes was more appropriate. The appropriate period is still 15 minutes in the case of a vehicle with three or more penalty charges outstanding.
- 7.10 There have been a number of minor changes to the details of the Regulations. These changes cover points that weren't specifically consulted on. The main change is that local authorities will not be able to recover the money for all past PCNs from persistent evaders that are clamped or removed. The Minister took this decision in response to the 2nd London Local Authorities and Transport for London Bill. This Bill has proposed a system for tackling persistent evaders in London for which there is no primary legislative power in the rest of the country. After a trial in London the Minister will consider whether to implement the provisions in the rest of the country with new primary legislation.

7.11 More detailed responses to the questions can be seen on the departmental website: <http://www.dft.gov.uk/consultations/archive/2006/contma/pdfbetterparkingreport>

7.12 The main changes to the current parking enforcement system by this package of proposals are:

Changes in terminology:

- Decriminalised Parking Enforcement to be called Civil Parking Enforcement
- Parking Attendants to be called Civil Enforcement Officers
- Special Parking Areas and permitted Parking Areas to be called Civil Enforcement Areas

Changes to Regulations:

- Enforcement cameras (“approved devices”) to be certified by the Secretary of State;
- 21 day discount for PCNs sent by post with evidence from an approved device;
- Where authorities choose to clamp the current 15minute period before a vehicle in a parking place can be clamped or removed is changed to 30 minutes after the PCN is served. However, the vehicles of persistent evaders may be clamped after 15 minutes.
- Differential parking penalties to different contraventions depending on the seriousness of the contravention.
- Details of procedures for representations and appeals on PCN
- Place a 6 month time limit on authorities issuing a Notice to Owner.

New powers for authorities outside London currently only held by those in London

- Send PCNs by post with camera evidence or when the civil enforcement officer is prevented from serving it at the time by obstruction, violence (or the threat of it) or driving away;
- Enforce dropped footways;
- Enforce double parking;

7.13 Statutory Guidance and detailed Operational Guidance will be issued to local authorities and stakeholders in association with the Regulations. The Statutory Guidance will set out the policy framework for Civil Parking Enforcement, and how enforcement should be approached, undertaken and reviewed. Section 87 of the TMA stipulates that local authorities “must have regard” to the Statutory Guidance. The Operational Guidance is a detailed document which informs English local authorities who have not yet done so of the scope and procedure for taking over the enforcement of parking regulations from the police. It also advises all English local authorities of the procedures that the Government recommends they follow when enforcing parking restrictions, and provides the framework for a consistent nationwide approach to parking policy and enforcement and a point of reference for members of the public, as well as for the local authorities.

7.14 The main changes to the Statutory Guidance are:

- Authorities no longer need to be able to show that enforcement is self-funding to apply for powers
- Authorities should publish parking policies;
- Authorities should make and publish guidelines on the flexible use of discretion when a contravention has taken place but in mitigating circumstances.
- More emphasis on staff training;
- Authorities are encouraged to use CCTV or other photographs as additional evidence to the CEO's statement that the contravention occurred.
- Discouragement wheel clamping vehicles except those of persistent evaders;
- Where a vehicle is parked in contravention and in an obstructive manner the vehicle should be removed rather than clamped.
- Where an informal challenge made against a PCN within the 14 day 50% discount period is rejected, authorities should re-offer 14 day discount period.
- Need for monitoring.
- Authorities should review their parking policies on a regular basis in consultation with local stakeholders and, once finalised, these should be made publicly available.
- Authorities should publish certain financial and statistical data in an annual parking report.
- Authorities should make it clear that performance and rewards/penalties should never be based on the number of PCNs, clampings or removal.

## **8. Impact**

8.1 A Public Sector Regulatory Impact Assessment for this set of instruments is attached to this memorandum. The old Regulatory Impact Assessment format has been used rather than the new Impact Assessment format. This is because one Regulatory Impact Assessment was produced to cover both the affirmative resolution parking regulations (“the Representations and Appeals Regulations”) and the negative resolution parking regulations. The affirmative regulations were laid in Parliament in July 2007 when the old Regulatory Impact Assessment format was still in use. No significant financial implications have been identified for members for the public or the public sector.

8.2 A Regulatory Impact Assessment was prepared for the Traffic Management Bill as a whole and is available at <http://www.dft.gov.uk/consultations/aboutria/ria/thetrafficmanagementbillregu5592?version=1>

## **9. Contact**

Marilyn Waldron at the Department for Transport can answer any queries regarding the instrument. Telephone: 0207 944 2468. E-mail: [Marilyn.Waldron@dft.gsi.gov.uk](mailto:Marilyn.Waldron@dft.gsi.gov.uk)

11<sup>th</sup> December 2007

## Final Regulatory Impact Assessment (RIA)

### 1. Title of Proposal

1. Proposals to implement the parking provisions of Part 6 of the Traffic Management Act 2004.

### 2. Purpose and intended effect

#### Objectives

2. The Government's aim is to strengthen the existing system of Decriminalised Parking Enforcement (DPE), which will become known as Civil Parking Enforcement (CPE), by providing a regulatory framework, associated Statutory Guidance and detailed Operational Guidance to enforcement authorities. The objectives are to ensure that:
  - (i) There exists a common and harmonised regulatory framework for the enforcement of civil parking contraventions by enforcement authorities across England;
  - (ii) There is a high level of public understanding and acceptance for CPE
  - (iii) Enforcement authorities have the necessary enforcement powers to secure a high level of public compliance with traffic regulations, which should lead, in turn, to reductions in congestion and improvements in safety and network management; and
  - (iv) CPE powers are exercised in a fair and reasonable manner by enforcement authorities

#### Background

3. As the volume of traffic on the roads increases, the need for effective parking enforcement becomes critical to the successful management of congestion and road safety.
4. At present, all London authorities and 1771 enforcement authorities in England outside London operate Decriminalised Parking Enforcement (DPE). Under DPE, parking regulations are enforced by parking attendants employed, directly or indirectly, by enforcement authorities. This reflects the need for the police to concentrate on core policing priorities. As part of the system, parking attendants issue Penalty Charge Notices (PCNs) to the owners of vehicles they believe to be parked in contravention of traffic regulations. Representations against a PCN can be made to the issuing authority and if this is rejected there is a right of appeal to an independent adjudicator. The enforcement is funded by income from parking charges and penalty charges rather than the local or national taxpayer.
5. The Road Traffic Act 1991 and regulations made under the Act<sup>2</sup> supply the current national legislative framework for DPE. London local authorities have built on the 1991 Act using local legislation, taken additional enforcement powers and altered certain aspects of the enforcement process<sup>3</sup>. To support enforcement authorities in their exercise of DPE powers, non-Statutory Guidance was issued by the Department for Transport/Welsh Office<sup>4</sup>.

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<sup>1</sup> As at July 9<sup>th</sup> 2007

<sup>2</sup> The Road Traffic (Parking Adjudicators) (England and Wales) Regulations 1999 (S.I. No 1918).

<sup>3</sup> See the London Local Authorities Act 1995, the London Local Authorities Act 2000 and the London Local Authorities and Transport for London Act 2003.

<sup>4</sup> *Guidance on Decriminalised Parking Enforcement Outside London* (Local Authority Circular 1/95 and Welsh Office Circular 26/95) available from [www.dft.gov.uk](http://www.dft.gov.uk).

6. With the help of stakeholders and a working group of experts, the Government has reviewed the existing system of DPE to identify how it could be improved through the issue of Regulations, Statutory Guidance and Operational Guidance. A list of the stakeholder groups invited to attend a workshop and members of the Working Group are shown in annex A and B of the Regulatory Impact Assessment.
7. Part 6 of the TMA provides a single framework in England for the civil enforcement of parking, bus lanes, some moving traffic offences and the London lorry ban. The Government intends to implement the provisions in Part 6 in stages, beginning with parking. Under the TMA, Decriminalised Parking Enforcement will become known as Civil Parking Enforcement. Parking attendants will be known as Civil Enforcement Officers (CEOs).
8. To bring Part 6 into force, the Government will need to commence the relevant Sections of the TMA, make regulations that provide the detail of the legislative framework for Civil Parking Enforcement and issue accompanying Statutory Guidance. Once the TMA has been brought into force, Part 6 and the regulations will replace existing provisions in the Road Traffic Act 1991 (with regard to parking). Any actions that commenced under the RTA 1991 or local Acts will continue to be enforceable.
9. Statutory Guidance will be issued along with the Regulations. The Regulations and Statutory Guidance will cover England only and it is expected that the Welsh Assembly Government will make corresponding Regulations and issue Statutory Guidance for Wales. The Government will also publish non-statutory Operational Guidance for England and Wales. This will supersede the Department's Circular 1/95.
10. The Mayor of London will need to consider revising his Transport Strategy so that the parking aspects in it are consistent with the new Regulations and Guidance.

#### Rationale for Government Intervention

11. The existing legislative framework and supporting Guidance for DPE has been successful in helping authorities to better enforce their traffic regulations. Nevertheless, the experience of DPE so far has shown that there are some areas where it would be beneficial to amend the existing legislative framework. Some of the changes result from experience in London, where enforcement authorities have obtained additional powers from local legislation.
12. The new framework is also required because:
  - (i) There is evidence that there is scope for improving the public's understanding of and confidence in the DPE system. This could be achieved if enforcement authorities make information about their policies and operations available publicly; and
  - (ii) The Department of Transport/Welsh Office's Guidance on DPE for authorities outside of London has remained unaltered since it was originally issued in 1995. By updating this Operational Guidance it would be possible to strengthen areas where some enforcement authorities are not complying with their responsibilities correctly. It will also draw upon experience that has been gained since 1991 to improve the CPE system. This updated Operational Guidance, along with the Regulations and Statutory Guidance, will be published in 2007 to provide detailed information to enforcement authorities.



### **3. Consultation**

#### Within Government

13. The main elements of the Government's proposals to strengthen DPE were worked up during the preparation, and passage through Parliament, of the Traffic Management Bill. In the course of this work, the Department for Transport (DfT) worked closely with other relevant policy Departments including the Ministry of Justice, the Home Office and the Communities and Local Government. Colleagues in the Welsh Assembly Government and Scottish Executive were also consulted on these proposals as they were developed.

#### Public consultation

14. In 2002, DfT consulted local authorities and a number of representative organisations about proposals to give non-London local authorities the additional powers that had been taken by London authorities since the Road Traffic Act 1991. The responses showed clear support for this approach.

15. Following the successful passage of the Traffic Management Bill in 2004, the Government has given further consideration to proposals to strengthen DPE. DfT held a stakeholder workshop and a number of meetings of the working group involving representatives from a wide range of parking stakeholders, including local authorities. A full list of the organisations invited to participate in the workshop is at Annex A. Organisations represented at the Working Group are listed at Annex B. Preliminary consultation with these key parties took place before the full public consultation

16. A public consultation on the draft Statutory Guidance, draft Regulations and on the Partial RIA was conducted from 12<sup>th</sup> July 2006 to 25<sup>th</sup> September 2006. This consultation set out the Government's position on CPE and sought to establish views on 20 specific issues that were set out in the consultation document.

17. This was sent to all local authorities in England, 85 other organisations (including the key stakeholders and members of the working group), and specific individuals who requested the consultation. There were 112 responses, 77 from local authorities, 13 from the public and motorists groups and 22 from businesses and other interested parties

18. There was widespread support for the Partial Regulatory Impact Assessment and 75% of respondents agreed that it gave a fair analysis of the policy.

19. Those who responded agreed with the vast majority of the issues, and the policies on these will remain as proposed in the consultation.

20. Responses on three of the issues suggested that the policy was not appropriate and the minister agreed that the policy be revised in light of these points. 82% of respondents said that a separate parking grievance/complaints unit should not be set up and it was agreed that enforcement authorities should not be asked to do this. It was also agreed not to give to the police the power to also enforce parking in areas where the enforcement authorities have this power, as 74% of respondents said the police should not be given this power. Finally, it was agreed that the time before a vehicle can be clamped or removed in a parking place would be 30 minutes after the PCN is issued rather than the 60 minutes proposed in the consultation.

This was not a yes/no question, but the majority of those who responded thought 30 minutes was more appropriate.

21. There have been a number of minor changes to the details of the Regulations. These changes cover points of principle that weren't specifically consulted on. The main change is that enforcement authorities will not be able to recover the money for all past PCNs from persistent evaders that are clamped or removed. The Minister took the decision to remove this provision to protect innocent drivers and also in response to the 2<sup>nd</sup> London Local Authorities and Transport for London Bill. This Bill has proposed a system for tackling persistent evaders in London that is not possible to implement in the rest of the country at the present time because there is no power in primary legislation. After a trial in London the Minister will consider whether to implement the provisions in the rest of the country with new primary legislation.
22. The responses are too detailed to be set out in any great depth here. More detailed responses to the questions can be seen in the consultation summary on the departmental website.

#### **4. Options**

##### Option 1: Do nothing

23. This option assumes that the Government does not commence the parking provisions in Part 6 of the TMA and does not issue new Regulations or Statutory Guidance on CPE. As a result, the existing system of DPE would remain in force and would continue to garner relatively low public support, which may lead to increases in congestion and reductions in road safety.

##### Option 2: Replicate existing legislation and Guidance in Regulations and Guidance made under the TMA

24. This option involves commencing the parking provisions in the TMA, making Regulations that copy in their entirety the framework established by the Road Traffic Act 1991 and its associated Regulations, and putting existing Guidance on parking enforcement on a statutory footing. It is unlikely that this would improve public understanding and support.

##### Option 3: Issue Regulations and Statutory Guidance that build on the existing system of DPE

25. This option would also involve commencing the parking provisions in the TMA. It would entail making regulations that build upon and enhance the current legislative framework giving to enforcement authorities outside London the same powers as London local authorities, so that the enforcement framework is the same throughout England. It would also include issuing Statutory Guidance that would establish the key principles and minimum standards which all authorities would be expected to meet. Detailed Operational Guidance (in the form of an updated version of Local Authorities Circular 1/95) would also be issued. We believe that this option would improve the fairness and clarity of the system and encourage more authorities to take on the responsibility of enforcing, as well as making, parking policies and local regulations (as recommended by the House of Commons Transport Committee).

#### **5. Costs and Benefits**

##### Sectors and groups affected

26. All options would affect all enforcement authorities that currently operate DPE or intend to operate DPE in the future, and the firms who are contracted to carry out the on-street enforcement, or provide the tools to operate the system, as well as consumers who park on-street and in enforcement authority owned car parks within the authorities' boundaries. There would be no material differences in the impact on other businesses, voluntary organisations and charities or people in different social groups. However the operation of parking enforcement will have an impact on all individuals who use the road network.
27. Under option 3, the new powers will allow enforcement authorities outside London to provide enforcement with "approved devices" (these powers are already in place for local authorities inside London). The businesses that supply or design the equipment systems used for parking enforcement would be required to obtain certification from the Secretary of State before their equipment could be used. This certification is needed to ensure that devices provide correct and tamper proof evidence to a common standard. There would be no charge for this certification and the information that the Secretary of State is likely to require to support a request for certification (the details will be set out in the Operational Guidance) would be very much along the lines of tests that any reputable manufacturer/designer of a system would do to satisfy themselves that it meets the high standards required for law enforcement. Furthermore this will create a new market and therefore is a benefit to businesses.
28. There are existing requirements about the wearing of uniforms by parking attendants and it is likely that the provisions will be carried forward largely unchanged in all three options. So there will be no change in the impact that they would have on the businesses that currently supply uniforms for parking attendants.
29. The procedures to be carried out in connection with the removal and disposal of vehicles are likely to be very much the same in all three options and will to a large extent replicate what is already in place, so there will be no change in the impact that they would have on the businesses that operate these services on behalf of enforcement authorities. The discouragement of clamping and removal for vehicles except those of persistent evaders may reduce in the long term the number of vehicles clamped and removed on-street and in enforcement authority owned car parks. This could potentially have a negative effect on clamping companies and may lead to an increase in costs per unit. It should be noted that these Regulations and Guidance will make no change to wheel-clamping or removal of vehicles parked on private land, which is currently unregulated and causes a significant number of complaints from members of the public.

#### Race equality impact

30. There are no Race Equality impacts to any of these proposals

#### Environmental quality impact

31. It is unlikely that there will be any significant and quantifiable environmental impacts from any of the options. However, option 3 is designed to improve the system of civil parking enforcement. An efficient parking system may play a part in improving road safety and reducing traffic congestion and associated emissions and therefore we would expect some positive qualitative impacts.

#### Analysis of costs and benefits

## Option 1

32. As it would not involve changes to the existing DPE system, this option would not impose any new costs. But neither would it deliver any benefits over and above those derived from the existing DPE system. There are a number of disadvantages to this option.
33. By not implementing Part 6 of the TMA the changes would not be made that are necessary to ensure that authorities conduct their parking enforcement in a transparent, fair and proportionate manner. This would lead to continued press and public antipathy and accusations that parking enforcement is only about raising money rather than enforcing transport objectives. Furthermore authorities outside London currently lack certain powers that have been given to London authorities through local legislation. These are important to the efficient running of CPE and include the power to:
- (i) Serve a PCN by post where a CEO is prevented from fixing a PCN to a vehicle or handing it to the driver. This will tackle the problem in the current system of parking attendants being unable to serve a PCN as a result of a motorist driving away or making threats against the attendant.
  - (i) Issue a PCN on the basis of information provided by an “approved device” (currently a camera plus the associated system). This will help authorities target enforcement activity on sensitive areas (e.g. in “no stopping” areas such as red routes and clearways) and areas where there is a high level of short-stay contraventions such as dropping off children at school.
  - (ii) Ensure specified items of information appear on PCNs so that vehicle owners understand how they can go about paying a penalty charge, the process for enforcing a PCN and their right to appeal to an adjudicator;
  - (iii) Place a 6 month time limit on the issue of a Notice to Owner.

## Option 2

34. Authorities would face additional enforcement costs resulting from the exercise of the new powers conferred on them by the TMA. However, these costs could be funded from any additional parking income.
35. This option would deliver some benefits to road users in terms of improved traffic flow and safety. These would derive from the greater levels of compliance with traffic regulations that authorities’ additional enforcement powers could be expected to bring about.
36. However this legislation is out of date and is not built on the experience that has been garnered since the beginning of DPE. Since the RTA proposed decriminalised parking enforcement in 1991 much has been learnt about the most efficient ways to carry out enforcement and by simply replacing existing legislation with that made under the TMA, it would not update the system.
37. During the consultation on the Traffic Management Bill in 2002 it was established that key stakeholders supported the adoption of regulations under the TMA and that there should be a further process of consultation to establish how best to update decriminalised parking in the light of experience. There are no powers in RTA 1991 to make regulations that would allow these necessary changes to be made. Therefore option 2 would not fulfil our stakeholders’ requirements.

### Option 3

38. There is no requirement to take on CPE powers if an authority does not wish to. Enforcement authorities who opt into CPE would face the following additional costs under option 3:

39.

(i) Implementing costs:

a. Enforcement authorities who do not yet operate DPE:

- i. If an enforcement authority chooses to take on CPE powers then they will need to apply to DfT for these powers (as they have to at present for DPE powers). As with taking on DPE powers at present, an enforcement authority will need to cover the start up costs of taking on this power. However, an enforcement authority will not face any higher costs in bringing in CPE than they would have faced to bring in DPE.

b. Enforcement authorities who already have DPE powers (at present all London authorities and 177 enforcement authorities in England outside London):

- i. There will be some up front costs for the transition from DPE to CPE. These costs include training, IT, stationary, uniform and promotional costs. There are also costs involved in the time it will take to understand the implications of the Act and to change the processes and procedures.
- ii. Up front costs for the transition from DPE to CPE have been estimated for us by a number of enforcement authorities who would be affected by the new Regulations. Estimations vary from £8,000 to £54,000. These costs vary because large enforcement authorities with more employees will have more training costs for their employees, more uniforms to change for their CEOs, and may have a larger amount of stationary to replace. IT costs also varied from nothing (some enforcement authorities estimate that the IT changes will cost nothing or be very minimal since they could do these when they were due to have an IT upgrade) to £20,000.
- iii. However, these will be covered by the income the authority gets from the parking charges and parking penalty charges. Therefore, this is cost neutral to the authority.

(ii) Running costs:

a. Enforcement authorities that do not respond positively to the enhanced regime (either through pursuing over-zealous enforcement decisions, or through inefficiency) may face additional adjudication costs resulting from more appeals on the ground that there was procedural impropriety, or mitigating circumstances. This is unlikely to be the case for authorities that follow the Regulations and Guidance. As enforcement authorities improve their service and provide better trained staff to deal with appeals, the number of appeals to the adjudicators may decrease.

b. We are unable to quantify the exact additional costs that enforcement authorities will face because these will vary with between different authorities, and will depend on the size of the authority, whether urban or rural, the number of PCNs issued, the extent to which these are paid or challenged, and the efficiency with which the parking system is run.

c. However, under CPE (as with DPE) enforcement authorities will be able to cover the costs of their enforcement activity through income from parking charges and from any parking penalty charges. The Government's proposals would make

enforcement easier and we expect that, overall, this would reduce the costs of enforcement. The enforcing authority will be able to run CPE in a way that is at least cost neutral.

40. We expect that contracts would be varied to take account of any additional costs incurred by firms carrying out enforcement on behalf of enforcement authorities.
41. There would also be some very minimal administrative costs in amending the Traffic Enforcement Centre's procedure for processing statutory declarations.
42. There would also be benefits to enforcement authorities, some of which would mean a positive financial impact. The Government's proposals would make enforcement easier and we expect that, overall, this would reduce the costs of enforcement. This is because their objective is that the public will see civil enforcement as fair, and the levy of penalty charges for parking contraventions as more acceptable through changes such as limiting the use of clamping and encouraging authorities to be transparent. Changes such as allowing service of a PCN on the basis of camera evidence will facilitate the provision of robust evidence that will make it more difficult to dispute that a contravention took place. This will help to protect the motorist who has not committed a contravention.
43. This option would deliver a number of benefits for all road users within CPE authorities, especially those using parking facilities:
  - (i) Harmonising the powers available would improve levels of consistency between authorities using CPE and, through this, public understanding of the system;
  - (ii) The enhancements to authorities' enforcement powers should result in higher levels of compliance with traffic regulations and concomitant improvements to traffic flow and road safety;
  - (iii) Placing a 6 month time limit on the issue of a Notice to Owner would encourage authorities to follow up their PCNs in a prompt and efficient manner;
  - (iv) Introducing greater transparency into civil parking enforcement, for example by publishing polices and annual reports on CPE activities will improve public understanding and acceptance of CPE;
  - (v) CEOs undergoing independently assessed training and demonstrating a satisfactory level of competence will result in improved effectiveness and professionalism of civil enforcement;
  - (vi) The additional grounds of appeal to an adjudicator should help to ensure that authorities give proper consideration to representations made against PCNs on the basis of procedural impropriety or mitigating circumstances;
  - (vii) Clarifying issues where High Court judgements have changed the assumptions on which authorities have been enforcing for a number of years;
  - (viii) The principles and standards set out in the Statutory Guidance would help to ensure that enforcement authorities exercise their functions in a fair and reasonable manner, and in a way that increases public understanding and acceptance of CPE.
44. The Government considers that this option is the most effective way to strengthen the existing system of DPE and increase its acceptability to the public.

## **6. Small Firms Impact Test**

45. Small firms may be affected by these proposals in two ways. The first is as organisations who themselves, and whose customers, use the road network. None of the options would have a significant impact on small firms over and above the impacts of the existing DPE system. However the existing DPE system garners low public support and thus below maximum compliance and this has a potential cascading effect on trade (for example parking outside local shops). Some small shopkeepers might contend that option 3 would have a negative impact on their trade, but what option 3 would do is to enforce effectively what is already the law, rather than change it. The Guidance would emphasise the need to discuss parking restrictions with, among others, people who run small shops. This would help ensure that the parking restrictions put in place by enforcement authorities are consulted on properly and as far as is practicable, respond to the points made in those consultations
46. We are not aware of any instance where a small firm is a contractor to an enforcement authority to deliver their parking enforcement responsibilities. But if there are any, option 3 will benefit them in the same way as larger firms by helping to improve the respect given by members of the public to their on-street employees and the regulations they enforce. Option 3 also discourages clamping. This could potentially have a negative effect on clamping companies and may lead to an increase in costs per unit

## **7. Competition Assessment**

47. Many enforcement authorities contract out CPE functions following competitive tenders, but we have no information about how many. This means that the Government's proposals will affect private sector contractors who deliver public services. However, we believe that the changes would not have a competition impact because they will not favour one type of supplier or market.

## **8. Enforcement, Sanctions and Monitoring**

48. It will be for enforcement authorities and the parking adjudicator to exercise the additional functions provided for in the proposed Regulations. In addition, under the TMA enforcement authorities must have regard to Statutory Guidance on CPE issued by the relevant national authority.
49. There are a number of ways in which enforcement authorities can be held to account for the way in which they carry out their CPE functions:
- (i) Through representations to the authority itself;
  - (ii) Through an appeal to the parking adjudicator where those representations do not resolve a dispute;
  - (iii) Through a complaint to the Local Government Ombudsman;
  - (iv) Through Judicial Review of an authority's decisions or actions;
  - (v) Through the democratic process, the councillors are accountable at local elections. This should be made easier by the increased transparency in the CPE regime brought about as a result of the Government's proposals.

## **9. Implementation and Delivery Plan**

50. It is our intention that the affirmative Regulations will be laid before Parliament in mid 2007. Once these have been approved, all the negative resolution statutory instruments will be laid before Parliament.

51. Subject to Parliamentary scrutiny procedures, it is our intention that the Regulations will come into force in early 2008. This will allow an appropriate implementation period for enforcement authorities to prepare for the changes and adapt to the new requirements before the proposals take effect.

52. We will inform key stakeholders when the Regulations have been laid. We will publish Statutory Guidance for all enforcement authorities who are affected by the Regulations, and for the key stakeholders.

53. We will also publish detailed Operational Guidance and a communications toolkit. The Operational Guidance will offer enforcement authorities detailed information on how to implement the new proposals. The communications toolkit will offer user-friendly information and advice to enforcement authorities on how to communicate effectively with the public to explain what parking enforcement means and why it is important.

### 10. Post-Implementation review

54. Enforcement authorities will be encouraged to monitor the effectiveness of these Regulations. We may also produce a monitoring toolkit that would enable this to be done by enforcement authorities across the country on a consistent basis.

### 11. Summary and recommendation

<b>Option</b>	<b>Benefits</b>	<b>Costs</b>
Option 1: Do Nothing	<ul style="list-style-type: none"> <li>• No Benefits</li> </ul>	<ul style="list-style-type: none"> <li>• No economic costs</li> <li>• Potentially a worsening of congestion and road safety</li> <li>• Continued press and public antipathy</li> </ul>
Option 2: Replicate existing legislation and Guidance in Regulations and Guidance made under the TMA	<ul style="list-style-type: none"> <li>• Some benefits to road users in terms of improved traffic flow and safety</li> </ul>	<ul style="list-style-type: none"> <li>• Additional enforcement costs resulting from the exercise of the new powers conferred on them by the TMA. However, these costs could be funded from any additional parking income</li> <li>• Out of date legislation that is not built on recent experience</li> <li>• Will not fulfil stakeholder's requirements</li> </ul>



<p><u>Option 3: Issue Regulations and Statutory Guidance that build on the existing system of DPE</u></p>	<ul style="list-style-type: none"> <li>• Enforcement will be easier and overall, costs should reduce.</li> <li>• Increased public understanding and acceptance of CPE.</li> <li>• More robust evidence from cameras</li> <li>• Benefits for road users including consistency, improvements to traffic flow and road safety, more efficient dealings with PCNs and the issue of a Notice to Owner, greater transparency, improved effectiveness and professionalism of civil enforcement officers, clarification of procedures and powers following High Court decisions.</li> </ul>	<ul style="list-style-type: none"> <li>• Enforcement authorities that already have DPE powers would face additional up-front costs for the transition period to CPE.</li> <li>• Enforcement authorities who do not yet operate DPE would not face any higher costs in bringing in CPE than they would have faced to bring in DPE.</li> <li>• There are costs resulting from enforcement, which will vary depending on the size of the LA, the number of PCNs issued, and the efficiency. These costs will be covered through income from parking charges and parking penalty charges</li> <li>• Very minimal administrative costs in amending the Traffic Enforcement Centre's procedure</li> </ul>
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55. In view of the above, the Department recommends that option 3 be taken forward. This option is the most effective way to strengthen the existing system of DPE and increase its acceptability to the public. The benefits of improved parking enforcement resulting from publication of the Guidance and Regulations will more than outweigh any additional up-front costs. The Government's proposals should make enforcement easier and we expect that, overall, this would reduce the costs of enforcement.

### **11. Declaration and Publication**

56. I have read the Public Sector Regulatory Impact Assessment in the context of the Regulatory Impact Assessment associated with the Traffic Management Act and am satisfied that the benefits justify the costs.

**Rosie Winterton**

**Minister of State for Transport, Department for Transport**

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