

Explanatory Memorandum to the Civil Enforcement of Parking Contraventions (City and County of Cardiff) Designation Order 2010

This Explanatory Memorandum has been prepared by the Transport, Housing and Regeneration Group and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Civil Enforcement of Parking Contraventions (City and County of Cardiff) Designation Order 2010. I am satisfied that the benefits outweigh any costs.

Ieuan Wyn Jones

Minister for the Economy and Transport

19 May 2010

1. Description

The Order will enable the City and County of Cardiff Council (“the Council”) to enforce civil parking restrictions within the City and County of Cardiff. It will apply to all public highways except those listed in Annex A hereto. Non-endorsable offences, such as parking on double yellow lines, would become civil enforcement matters for the local authority as opposed to being enforced by the Police as criminal offences. The enforcement duty would in practice pass from the South Wales Police to the Council and from traffic wardens to civil enforcement officers employed by the Council.

2. Matters of special interest to the Constitutional Affairs Committee

None

3. Legislative Background

The power enabling this instrument to be made is paragraph 8(1) of Schedule 8 and paragraph 3(1) of Schedule 10 to the Traffic Management Act 2004. This gives a local authority the power to enforce parking restrictions within their area under a civil regime set out in the Act. This power has been transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

This instrument follows the negative procedure.

4. Purpose and intended effect of the legislation

Currently in the City and County of Cardiff the South Wales Police enforce parking restrictions. This takes time that could be better utilised tackling criminal activities. This Order will allow for the enforcement responsibility to pass from the Police to the Council thus enabling the Council to enforce civil parking restrictions within the City and County. Under this system non-endorsable offences would become the subject of civil recovery procedures. The Council would be able to issue penalty charge notices where, for example, a vehicle has been parked on double yellow lines or has not paid a parking charge in contravention of a traffic order. Reduced charges will apply where payment is made within a prescribed period. The Council would like to set their penalty charge at £70 for higher level contraventions and £50 for all other contraventions, discounted to £35 and £25 respectively for early payment. The Council would also be able to immobilise such a vehicle, although it has stated that these powers will be held in reserve and they have no plans to use them at the start of civil enforcement. The Council will undertake this function which is currently carried out by the South Wales Police.

The Council has also requested camera enforcement of bus lanes and moving contravention powers. They understand that these powers will not be exercisable until the Bus Lanes and Moving Contravention

Regulations have been introduced in Wales, which is not expected to be until after the Designation Order comes into force. They are aware that they will have to make a further application for these powers at that time.

If the legislation were to be annulled the Council would be unable to implement the power to enforce civil parking restrictions. They have requested these powers with the full support of the Police. Their implementation will relieve the local police from these duties thus freeing up valuable police time and resources to tackle other criminal activities. There could be criticism for using police time and resources for parking offences when they could be better utilised dealing with criminal matters.

This Instrument has a coming into force date of 5 July 2010 as requested by the Council. The self-financing nature of this scheme should mean that the Council can devote more resources to parking enforcement than the Police, with their many other more pressing duties, have often been unable to achieve. Better enforcement reduces congestion caused by drivers searching for on-street parking places, and results in better turnover of on-street spaces, as drivers become less willing to overstay as the risk of getting a ticket increases. In addition, greater enforcement of on-street parking restrictions should lead to increased usage of paid for parking, particularly off-street.

5. Consultation

The Council consulted with all the relevant stakeholders on 6 July 2009. A list of the consultees and responses is at Annex B. Full details of the consultation are included in paragraph 8 of the Regulatory Impact Assessment.

REGULATORY IMPACT ASSESSMENT

6. Options

Option 1: Do Nothing. If the legislation were not made the Council would be unable to implement the power to enforce civil parking restrictions in 2010. The Council has requested these powers with the full support of the Police. Their introduction will relieve the local police from these duties thus freeing up valuable police time and resources to tackle other criminal activities. There could be criticism for using police resources for parking offences when they could be better utilised dealing with criminal activities.

Option 2: Implement the provisions with effect from 5 July 2010.

Making the legislation would allow the Council to implement the power to enforce civil parking restrictions thereby freeing up the police to deal with criminal matters. Full consultation as described below will ensure that no specific group will be discriminated against by the legislation.

7. Costs and benefits

a) Costs

Option 1 – Do Nothing

If the provisions are not implemented the costs will remain with the South Wales Police.

Option 2 – Implement the provisions from 5 July 2010

The costs of the scheme will be borne by the Council. The results of financial analysis modelling show that within the operating scenarios modelled, the on street enforcement account will be in deficit in the early years of the scheme and will be balanced from the parking account, which, after the changeover, is expected to show a surplus overall. This is based on an expression of costs and income for the first full year of operation of the scheme to reflect full enforcement resource costs and includes for repayment of setup costs over the first 5 years of the scheme. A separate analysis of the ongoing yearly position has also been undertaken and this indicates that the same pattern is followed, and therefore that the scheme is viable over an extended timescale.

The Council would like to set their penalty charge at £70 for higher level contraventions and £50 for all other contraventions, discounted to £35 and £25 respectively for early payment. Drivers receiving a penalty charge notice from a parking attendant will be able to challenge it by making representations to the Council. Independent adjudication must be available to drivers who remain unhappy with the Council's decision. The Traffic Penalty Tribunal will provide this service.

There are no financial implications for the Welsh Assembly Government or other local authorities.

b) Benefits

We have identified the benefits for each option as follows:

Option 1 – Do Nothing

There are no benefits

Option 2 – implement the provisions from 5 July 2010

The growth in traffic levels and the limited scope for building new roads mean that traffic engineers must look to make more efficient use of the urban road network. Parking may have to be reduced on heavily used roads. Different types of use, such as buses, increasingly expect preferential treatment and such measures do not work without effective enforcement.

The self-financing nature of this scheme should mean that the local authority can devote more resources to parking enforcement than the

police, with their many other more pressing duties have been able to achieve. Better enforcement reduces congestion caused by drivers searching for on-street parking places and results in better turnover of on-street places, as drivers become less willing to overstay as the risk of getting a ticket increases. In addition, greater enforcement of on-street parking restrictions should lead to increased usage of paid for parking, particularly off-street.

This is considered to be a radical, logical area where the responsibility for parking enforcement for civil parking can be clearly and completely handed over from one agency to another.

8. Consultation

In accordance with the relevant guidelines, before submitting their application the Council consulted with all the relevant stakeholders on 6 July 2009. A list of the consultees and responses is at Annex B. There is no requirement to consult with other such groups who have the opportunity to comment on the Council's individual traffic regulations orders before such parking restrictions are/were introduced. They have however additionally consulted tourism, business and access bodies such as Capital Region Tourism, Cardiff Hoteliers and Cardiff and Vale Coalition of Disabled People who are generally supportive of the scheme. The Council is committed to fully informing the public of the proposed changes to the parking enforcement and they will be launching a comprehensive publicity programme prior to the proposed commencement date. This will include continuing regular contact with the local print and broadcast media, use of the Capital Times newsletter to all Cardiff residents, the Council's website and presentations to key stakeholder groups. They will also carry out a widespread distribution of leaflets to households and visitors explaining the scheme.

On receipt of the Council's application, and in accordance with the relevant legislation, the Welsh Assembly Government consulted with the South Wales Police, the Administrative Justice and Tribunals Council and the Traffic Penalties Tribunal, all of whom indicated that they are content.

9. Post implementation review

The effect of the Order will be monitored by way of an annual return from the Council to the Welsh Assembly Government and the Home Office. This will include the financial results of civil parking enforcement and any action the Council will take in respect of any deficit on the on-street parking account.

10. Summary

The Council will bear the costs of the proposals, which should become self-financing as detailed in the Costs paragraph 7a) above. The powers will enable the Council to adopt a more thorough and visible

enforcement of parking contraventions. By relieving the local Police from such responsibilities this will free up their time to devote themselves to dealing with more criminal activities. The implementation of the Order is consistent with applications made by other local authorities throughout England and Wales who have already achieved such powers.

ANNEX A

This Order applies to the whole of the city and county of Cardiff with the exception of —

- (a) the M4 Motorway and its slip roads, including the northern and southern slip roads to Junction 32 and the gyratory carriageway (A4054) around Junction 32;
- (b) the A470, including its slip roads, from the boundary with the county borough of Rhondda Cynon Taff at a point approximately 240 metres north of the B4262 Ynys Bridge roundabout to its junction with Pantmawr Road;
- (c) the A48(M) and A48 from the boundary with the city of Newport at a point approximately 800 metres east of the St Mellons junction over-bridge to the Radyr Place over-bridge 470 metres west of Gabalfa Interchange, including all slip roads and the circulatory carriageways at Pentwyn Link interchange (A4232) and Llanedeyrn interchange (A4161);
- (d) the A4232 from Junction 30 of the M4, including its circulatory carriageway, to its junction with the A48;
- (e) the A4161 from its junction with the A48 Pentwyn interchange to its junction with the A4232, including its slip roads to the Newport Road roundabout;
- (f) the A4232 from its junction with the A4161 to its junction with the Lamby Way/ Rover Way roundabout;
- (g) the A4232, including its slip roads, from Junction 33 of the M4 (including its circulatory carriageway) to its junction with the A4234, including the Queens Gate roundabout circulatory carriageway and the link to the roundabout at the County Hall Spur;
- (h) the A4234 from its junction with Adam Street to its junction with the County Hall roundabout, including the intermediate roundabout junction with the A4232 and the County Hall Spur; and
- (i) the A4055 from, and including, the circulatory carriageway of the A4232 Ferry Road interchange southwards and westwards for a

distance of approximately 575 metres to the boundary with the county borough of the Vale of Glamorgan.

ANNEX B

SCHEDULE OF CONSULTATION

Blaenau Gwent County Borough Council	Support for the scheme
Bridgend County Borough Council	No response
Caerphilly County Borough Council	No response
Capitol Region Tourism	No response
Cardiff & Co	No Comment
Cardiff & Vale Coalition of Disabled People	Support for the scheme
Cardiff & Vale NHS Trust	No response
Cardiff Chamber of Commerce Trade and Industry	No response
Cardiff Bus	Support for the scheme
Cardiff Cycle Campaign	No response
Cardiff Harbour Authority	Support for the scheme
Cardiff Hoteliers	Support for the scheme
Cardiff International Arena	No response
Cardiff Retail Partnership	No response
Cardiff University	No response
City Centre Churches	No response
City Centre Management	No response
City Sightseeing Ltd	No response
Coach Travel Wales	No response
Cyclists Touring Club	No response
Easyway Minicoach Ltd	No response
EST Coaches	No response
Federation of Small Businesses	No response
First Cymru	No response
Freight Transport Association	No response
Islwyn Borough Transport	No response
Licensees Forum	No response
Living Streets	No response
Merthyr Tydfil County Borough Council	No response
Millennium Stadium	No comment
Monmouthshire County Council	No response
National Express	Support for the scheme
New Theatre	No response
Newport City Council	No comment
Newport Transport Ltd	No response
Rhondda Cynon Taff County	No response

Borough Council	
Road Haulage Association	Support for the scheme
SCOID Traffic Management Unit	No response
Sixty Sixty Coaches	No response
South Wales Fire and Rescue Service	No response
South Wales Police	Support for the scheme
St David's Centre	No response
St David's Hall	No response
Stadium Events Liaison Group	Support for the scheme
Stagecoach Buses	No response
Torfaen County Borough Council	No objection
Traffic Enforcement Centre	Acceptance of scheme
Traffic Penalty Tribunal	Acceptance of scheme
UWIC	Welcomed scheme
Vale of Glamorgan Council	Supportive
Veolia Transport	No response
Welsh Ambulance Service NHS Trust	No response
DVLA	Acceptance of scheme