



Department
for Transport

Simplifying the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007

Technical Changes

January 2016

The Department for Transport has actively considered the needs of blind and partially sighted people in accessing this document. The text will be made available in full on the Department's website. The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats. If you have other needs in this regard please contact the Department.

Department for Transport
Great Minster House
33 Horseferry Road
London SW1P 4DR
Telephone 0300 330 3000
General enquiries <https://forms.dft.gov.uk>
Website www.gov.uk/dft

OGL

© Crown copyright 2016

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos or third-party material) free of charge in any format or medium, under the terms of the Open Government Licence v3.0. To view this licence visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

Contents

1. Purpose of the Consultation	4
2. How to respond	5
Freedom of Information	5
3. The proposals	7
SCRAPPING THE LOWER RATE BAND	7
REVISING CONTRAVENTION CODES	9
4. What will happen next	14
Consultation principles	15

1. Purpose of the Consultation

- 1.1 The purpose of this consultation is essentially a technical updating which is unlikely to have any material adverse impact on the motorist. Every civil parking contravention has a code and description. These are used throughout the process, from the issue of the penalty charge notice (PCN) through to the final stage of appeal. The codes and descriptions used by local authorities outside London for higher level contraventions are set out in the schedule to the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (“the 2007 Order”), under powers derived from paragraph 8 of Schedule 9 to the Traffic Management Act 2004.
- 1.2 The use of codes to indicate types of contravention has facilitated automation and nationwide standardisation in the administration of civil parking contraventions. However, it has become apparent that the codes in the 2007 Order are now outdated and do not reflect the full range of contraventions. The Order needs to be updated to reflect this. However we want to avoid the need to have to make a new Order every time a variation to the codes becomes necessary. This consultation seeks views on a proposal that will enable the codes to be amended in future without the need for a new Order. We would like to know if you think the proposal will meet the needs of local authority parking operators and, if not, for your ideas on an alternative system.
- 1.3 Secondly, the 2007 Order includes two penalty charge bands – a higher and lower band – and local authorities are free to use either. Within each band there are two fixed penalty charge levels, for higher and lower level contravention types. In practice, we understand that local authorities tend to use the higher band. Therefore, this consultation seeks views on a proposal for scrapping the rarely used lower band but allowing local authorities to set their penalty charges below the current fixed values. Note that this consultation does not invite consultees to propose alterations to the current higher band or the current maximum level of charges.

2. How to respond

2.1 The consultation period began on 19 January 2016 and will run until 16 February 2016 . Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at <https://www.gov.uk/dft#consultations> or you can contact Vida Browne-Campbell if you need an alternative format (Braille, audio CD, etc).

2.2 Please respond by completing the consultation response form at Annex A and emailing it back to: parking.consultation@dft.gsi.gov.uk Alternatively send your response to:

Vida Browne-Campbell

Traffic Division

Dept for Transport

Zone 3/27

Great Minster House

33 Horseferry Road

London SW1P 4DR

0207 944 2486

Vida.Browne-Campbell@dft.gsi.gov.uk

2.3 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Freedom of Information

2.4 Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

2.5 If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public

authorities must comply and which deals, amongst other things, with obligations of confidence.

- 2.6 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 2.7 The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

3. The proposals

SCRAPPING THE LOWER RATE BAND

The current situation

3.1 Local authorities currently set their penalty charges according to different charge “bands” as laid out in the 2007 Order and detailed in Table 1 below. It is for the local authority to choose whether to adopt Band 1 or Band 2 in their area. As shown in the table, the penalty charge is discounted by 50% if paid within 14 days, and a surcharge of 50% is applied if the payment is not made within 28 days following receipt of the Charge Certificate.

Table 1 - Current parking penalty charge levels:

Band	Higher level penalty charge	Lower level penalty charge	Higher level penalty charge paid early	Lower level penalty charge paid early	Higher level penalty charge paid after service of charge certificate	Lower level penalty charge paid after service of charge certificate
1	£60	£40	£30	£20	£90	£60
2	£70	£50	£35	£25	£105	£75

3.2 Within each band, the higher and lower penalty charges reflect the seriousness of the contravention, with the higher charges generally applicable to contraventions where a vehicle should not park (e.g. on a double yellow line or parked in a disabled bay without displaying a valid badge), and lower charges where, for example, a vehicle overstays in a parking bay.

The proposal

3.3 Although penalty charge levels for parking contraventions have not risen for a number of years, we are not proposing to raise them at this time. However, as local authorities tend to select the higher charge band, we are proposing to scrap the rarely used lower band. This was one of our Red Tape Challenge commitments and will simplify the system for local authorities and motorists alike. It would mean that Band 2 (above) would be the only band. We also believe that the levels that would apply for higher and lower contraventions - £70 & £50 – should be caps rather than

fixed values. Therefore, if authorities wanted to charge a lower amount, they would still be free to do so. We propose to keep the differential (e.g. 70/50) as this accounts for the severity of contravention – overstaying in a permitted parking place should not be penalised as heavily as parking in a restricted area.

Question 1

Do you agree that the current two-band system should be dispensed with, by removing the existing lower level Band 1? If not, please explain why and offer any alternative suggestion you may have.

Yes

No

Comments

Question 2

Do you agree the higher and lower penalty levels in Band 2 – £70 & £50 – should be maximum levels rather than fixed values? If not, why?

Yes

No

Comments

REVISING CONTRAVENTION CODES

The current situation

- 3.4 Every civil parking contravention has a code and description. These are used throughout the process, from the issue of the PCN through to the final stage of appeal. The use of codes to indicate types of contravention has facilitated automation and nationwide standardisation in the administration of civil parking contraventions.
- 3.5 The codes and descriptions used by local authorities in London are set by London Councils and need to be approved by the Mayor. Outside London, higher level contraventions are set by the Secretary of State in the schedule to the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (“the 2007 Order”), under powers derived from paragraph 8 of Schedule 9 to the Traffic Management Act 2004. This ensures that differential penalty charging works and that only the more serious contraventions are charged at the higher rate. Without this level of control, a local authority could charge the maximum penalty (£70) for any contravention e.g. even a short overstay in a permitted parking place. The lower level codes are left to local authorities to decide (and they tend to adopt the codes set by London Councils).

The problem

- 3.6 It has become apparent that the codes in the 2007 Order are now outdated and do not reflect the full range of contraventions. By way of example, London uses a higher level contravention code for “Parked in an electric vehicles’ charging place during restricted hours without charging”. This is not included in the 2007 Order as the contravention was not foreseen at the time. There are other examples. The effect is that where none of the higher rate codes in the 2007 Order reflect a particular contravention scenario an authority would be unable to issue a higher rate penalty. It is clear that the list of codes needs updating. However if we do no more than update the existing codes by making a new Order, the problem is likely to recur and making Orders is not a simple, speedy exercise. So we need to change the codes in a way that allows for further, simple updates in future.

The proposal

- 3.7 It has been suggested that the practice of describing the higher level contraventions in an Order should be ended altogether and that the Department should instead list them in guidance only. The drawback of this is that it would have no legal force and local authorities could in theory ignore the guidance and penalise any contravention at the higher rate.

- 3.8 It has also been suggested that the codes should be removed from the Order and that local authorities outside London merely adopt the codes used by London (as happens in practice for lower level contraventions). It has been argued that this will ensure nationwide consistency. Whilst attractive on the face of it, it would mean that local authorities outside London could still ignore the London codes and decide that any contravention might be penalised at the higher rate. Furthermore there could come a time when the London arrangements do not suit councils outside London. Indeed, theoretically, each local authority would be free to construct their own system, so it would not ensure consistency.
- 3.9 What we propose to do is adopt an arrangement similar to that currently operating in Wales. In Wales, the Civil Enforcement of Road Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013 lists the higher level contraventions by general descriptions derived from Schedule 7 to the Traffic Management Act 2004. However the Order does not include specific contravention codes; the codes are listed in guidance, which can be amended quickly and easily, as required. This approach has proved to be more flexible and responsive to future developments in parking technologies and contraventions.
- 3.10 By retaining a general description of higher level contraventions in the Order we would ensure that other types of contravention could only be penalised at the lower rate. We propose to list the specific codes in operational or statutory parking guidance. In practice, we would propose to align the list with the London Councils list, for consistency, unless there was good reason to deviate. Ultimately, however, the list in the guidance would be subject to the approval of the Secretary of State.
- 3.11 Based on the Wales Order we propose to include the following higher level contraventions in a new Order (specific contravention codes derived from this list will be published in guidance):

Table 2 - Proposed higher level contraventions for inclusion in an Order

LIST OF HIGHER LEVEL CONTRAVENTIONS

1. A contravention involving the commission of an offence of the kind referred to in paragraph 4(2)(b) (waiting and loading restrictions) of Schedule 7 to the Traffic Management Act 2004 (“the 2004 Act”).
2. A contravention involving the leaving of a vehicle in an on-street parking place otherwise than as authorised by or under any order relating to the parking place in any of the following cases—
 - (a) without displaying a valid permit, badge, voucher or pay and display ticket;
 - (b) in a place where parking has been suspended;
 - (c) where the vehicle is used in connection with the sale of goods or the offering or exposure of goods for sale;
 - (d) where the vehicle does not fall within the class of vehicle permitted to park there;
 - (e) where the vehicle is not used in accordance with the conditions on which the parking place may be used.
3. A contravention of the prohibition imposed by section 85 (double parking etc.) of the 2004 Act.
4. A contravention of the prohibition imposed by section 86 (dropped footways) of the 2004 Act.
5. A contravention consisting of the commission of an offence of the kind referred to in paragraph 4(2)(h) of Schedule 7 to the 2004 Act (offences relating to cycle tracks).
6. A contravention consisting of an offence of the kind referred to in paragraph 4(2)(g) of Schedule 7 to the 2004 Act (parking of HGVs on verges, central reservations or footways).
7. A contravention consisting of an offence of the kind referred to in paragraph 4(2)(c) (stopping vehicles on or near pedestrian crossings) or 4(2)(i)(i) (zig-zag lines near crossings) of Schedule 7 to the 2004 Act.
8. A contravention consisting of an offence of the kind referred to in paragraph 4(2)(i)(ii) of Schedule 7 to the 2004 Act (bus stop or bus stand markings).
9. A contravention involving an offence of the kind referred to in paragraph 4(2)(e) of Schedule 7 to the 2004 Act (parking in loading areas).
10. A contravention of the kind referred to in paragraph 4(2)(a) of Schedule 7 to the 2004 Act (stopping on a hackney carriage stand).
11. A contravention involving an offence of the kind referred to in paragraph 4(2)(d) of Schedule 7 to the 2004 Act relating to an off-street parking place and consisting of any of the following where prohibited by an order relating to the parking place—
 - (a) using a vehicle in connection with the sale of goods or the offering or exposure of goods for sale;
 - (b) parking in a restricted area;
 - (c) parking in a permit bay without displaying a permit;
 - (d) parking in a disabled person’s parking place without correctly displaying a valid disabled person’s badge;
 - (e) parking a vehicle in a place where the vehicle does not fall within the class of vehicle permitted to park in that place.
 - (f) where the vehicle is not used in accordance with the conditions on which the parking place may be used.

Question 3

Do you agree that the specific codes should no longer be set out in an Order? If not, why?

Yes

No

Comments

Question 4

Do you agree in principle that England should adopt Wales' approach to setting contravention codes? If not, please explain why and offer your ideas for an alternative system.

Yes

No

Comments

Question 5

If you answered yes to Q.4, would the list of codes in Table 2 meet the needs of local authority parking operators or do you have suggestions for an amended list?

[Note: It is proposed that 2(d)&(e) and 11(e)&(f) would include amongst other situations, on-street and off-street respectively, where a non-electric vehicle is parked in an electric vehicles charging bay or an electric vehicle is parked but not charging]

Yes

No

Comments

Question 6

If you do not agree with England adopting Wales' approach, please explain why.

Yes

No

Comments

4. What will happen next

- 4.1 A summary of responses, including the next steps, will be published within three months of the consultation closing on <https://www.gov.uk/dft#consultations>. Paper copies will be available on request.

Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available on the Better Regulation Executive website at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator
Department for Transport
Zone 1/29 Great Minster House
London SW1P 4DR
Email consultation@dft.gsi.gov.uk

Please do not send consultation responses to this address.