

Civil Moving Traffic Enforcement

(England, outside of London)

Bitesize Training

Liz Davison
May 2022

Contents

- Background/context to the TMA 2004 changes
- Who will it affect?
- Actions for local authorities to consider:
 - Parking Enforcement
 - Continue bus lane enforce for existing locations
 - TROs
 - Questions
- Moving Traffic Enforcement (MTE)
 - Benefits of MTE
 - Actions for local authorities to consider
 - Consultation
 - Questions
- Other considerations & more information
- Questions & Answers

Background/context to the TMA 2004 changes

- In January this year The Government laid down the powers of moving traffic enforcement under Part 6 of the TMA 2004;
- Local authorities outside London will have the opportunity to apply for a Designation Order to enforce other moving traffic offences e.g. Yellow box junctions, pedestrian zones, no entries, etc.
- Consolidates enabling powers, under TMA 2004 - the civil enforcement of bus lane contraventions for outside of London and the parking contraventions. Will all now be in one set of enabling regulations
- The effects of this will be effective from 31 May 2022;

Who will it affect?

- May affect local authorities only doing parking enforcement (amend any reference to enabling regulations);
- Local authorities currently enforcing bus lanes under the Transport Act 2000;
- Provides the opportunity for local authorities outside London to apply for a Designation Order for MTE;

Actions for local authorities to consider:

- Parking enforcement:
 - Local authorities who have referenced enabling regulations in their PCNs, statutory notices, letters, communications etc will need to amend them as in the table below (for penalties issued from 31 May 2022).
 - Do you need to reference regulations in your statutory notices etc.?

(1) Existing regulations:	(1) To be replaced with:
The Civil Enforcement of Parking Contraventions (England) General Regulations 2007	The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022
The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007	
The Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007	
The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007	The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022
The Civil Enforcement Officers (Wearing of Uniforms) (England) Regulations 2007	Any such reference must remain unchanged

Actions for local authorities to consider:

- Bus Lane Enforcement:
 - Local authorities who have referenced enabling regulations in their statutory notices etc. will need to amend them as in the table below (for penalties issued from 31 May 2022).
 - Do you need to reference regulations in your statutory notices etc.?
 - Change in penalty rate (now £60/£70) & paying discount rate within 21 days instead of 14 days

(1) Existing regulations:	(1) To be replaced with:
The Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005	The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022
The Bus Lanes (Approved Devices) (England) Order 2005	The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022

Actions for local authorities to consider:

- Summary of changes in regulation that may need to be reflected in statutory documents, etc.:

Enforcement Type:	Existing regulations:	To be replaced with:
Parking Enforcement	<p>The Civil Enforcement of Parking Contraventions (England) General Regulations 2007</p> <p>The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007</p> <p>The Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007</p>	The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022
Bus Lane Enforcement	<p>The Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005</p> <p>The Bus Lanes (Approved Devices) (England) Order 2005</p>	
Appeals (both)	<p>The Tribunals and Inquiries (Bus Lane Adjudicators) (England) Order 2005</p> <p>The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007</p>	The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022

Actions for local authorities to consider:

- Traffic Orders (TROs):

- ❖ As long as not changing the terms of the order and just updating the regulations, this could be done through a consolidation or amendment to update the regulation references for 2022;
- ❖ There is suggestion that referencing the enabling regulations in the order is not necessary;
- ❖ Many local authorities do not reference the enabling regulations in their orders;
- ❖ If opting to just remove the enabling regulations, this can be carried out before the commencement date, but the usual TRO amendment process would need to take place;
- ❖ If wanting to update the enabling referencing in the orders this would need to be timed to coincide with the change in enforcement – i.e. after 31 May 2022.

NOTE: local authorities will need to seek confirmation of this through their legal team

Any questions?

Benefits of MTE:

- Ability to enforce locations that the police have not been able to enforce
- Possible improvement of compliance
- Improve safety, congestion and air quality, through compliance
- Improve public transport times
- Introduces the right to appeal
- On-going monitoring and review of locations
- Regulations are simplified and combined

Actions for local authorities to consider:

- Moving Traffic Enforcement (Part 1):
 - Local authorities outside London will have the opportunity to apply for a Designation Order to enforce other moving traffic contraventions;
 - Consider your principles for choosing locations, e.g. improve safety, improve congestion, public transport, the environment, etc.
 - Preliminary identify the locations and measures to enforce (consult with the police, neighboring authorities);
 - Report to Cabinet/committee on the implications, costs (implementing, maintaining, etc.), pros and cons, as well as resources required;
 - Engage with enforcement contractors and enforcement technology (Vehicle Certification Agency Certified?) – resourcing & capabilities
 - Advise DfT of your intention to apply

Actions for local authorities to consider:

- Moving Traffic Enforcement (Part 2):
 - Assess suitability of each locations, e.g.:

- ❖ Safety records
- ❖ Poor compliance
- ❖ Are there any other measures that could taken, e.g. change the road layout, improve signage

- ❖ Is it necessary? Is there really a problem?
- ❖ Traffic congestion
- ❖ Environmental issues
- ❖ Consider camera locations

- Report

Actions for local authorities to consider:

- Moving Traffic Enforcement (Part 3):
 - Review signage and markings in place – include sign clutter and redundant signage;
 - Review TROs – do they need amending, consolidating, etc?
 - Establish consultation methods with the public, e.g.

- ❖ Leaflets
- ❖ Drop-in sessions
- ❖ On-line based presentation with opportunity for Q&A
- ❖ Webpages
- ❖ Publicity
- ❖ Text – reasons, benefits, assessment process, timescales, etc

Actions for local authorities to consider:

- Moving Traffic Enforcement (Part 4):
 - Analyse consultation and publish consultation outcome
 - Complete DO application and submit to DfT.

Timescales – allow approximately 6 months, depending on resources, programme dependencies and governance. First tranche of applications closes on 20 May 2022, the next tranche is expected to be towards the end of the year, but the date has not been announced yet

Consultation

- DfT expects a meaningful consultation on the locations
- This is not a consultation about implementing MTE or on existing TROs
- The consultation must be at least 6 weeks
- Intended to communicate the reasons for introducing MTE, outline the benefits and to raise concerns they may have
- Consider the undoubted issue raised about ‘money making exercise’ and pre-empt
- Include what the penalty rate will be (£60/£70)
- Explain how the effects of enforcement will be monitored and reviewed, as well as action should compliance be high
- Consider reviewing the need for the locations going ahead
- No requirement to advertise in the press

Any questions?

Other considerations & more information

- Warning notices must be issued for first 6 months for all locations and any subsequent locations
- Period for accepting the reduced amount 50% of the initial charge is being extended from 14 days to 21 days for both Bus Lanes and MTE
- Change in the grounds for representations
- <https://www.britishparking.co.uk/MTE-FAQ>
- [Moving Traffic Regulation Enforcement - Implementing Part 6 of the Traffic Management Act 2004 – YouTube](#)
- Kent Council (consultation approach)
- Bath and North East Somerset (consultation approach)

Any questions?

2022 regulations grounds for representation

(a) the alleged contravention did not occur;

(b) the recipient—

(i) never was the owner of the vehicle in question,

(ii) had ceased to be its owner before the alleged contravention occurred, or

(iii) became its owner after the alleged contravention occurred;

(c) at the time that the alleged contravention occurred, the vehicle in question was in the control of a person who did not have the consent of the owner;

(d) the recipient is a vehicle-hire firm and—

(i) the vehicle in question was at the material time hired from that firm under a hiring agreement, and

(ii) the person hiring it had signed a statement of liability acknowledging their liability in respect of any penalty charge notice served in respect of any relevant road traffic contravention involving the vehicle during the currency of the hiring agreement;

(e) the penalty charge exceeded the amount applicable in the circumstances of the case;

(f) there has been a procedural impropriety on the part of the enforcement authority;

(g) the order which is alleged to have been contravened in relation to the vehicle concerned, except where it is an order to which Part 6 of Schedule 9 to the RTRA 1984 applies, is invalid;

(h) if a regulation 10 penalty charge notice is served under regulation 10(2)(b) or (c) of the 2022 General Regulations, no person prevented a civil enforcement officer from—

(i) fixing a regulation 9 penalty charge notice to the vehicle concerned, or

(ii) handing such a notice to the owner or person in charge of the vehicle;

(i) the enforcement notice should not have been served because—

(i) the penalty charge has already been paid in full, or

(ii) the penalty charge has been paid, reduced by the amount of any discount set in accordance with Schedule 9 to the TMA 2004, by the applicable date as specified in paragraph 1(3) of Schedule 3 to the 2022 General Regulations.