WELSH STATUTORY INSTRUMENTS

2004 No. 1608 (W.167)

ROAD TRAFFIC, WALES

The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Denbighshire) Order 2004

Made - - - -	*23 June 2004*
Coming into force - -	*1 July 2004*

WHEREAS the Council of the County of Denbighshire has applied to the National Assembly for Wales ("the National Assembly") for an Order to be made under paragraphs 1(1) and 2(1) of Schedule 3 to the Road Traffic Act 1991(**1**) with respect to that County and the National Assembly has consulted the Chief Constable of the North Wales Police in accordance with the requirements of paragraphs 1(3) and 2(3) of that Schedule and the Council on Tribunals in accordance with the requirements of section 8 of the Tribunals and Inquiries Act 1992(**2**);

NOW, THEREFORE, the National Assembly, in exercise of the powers conferred by paragraphs 1(1), 2(1) and 3(3) of Schedule 3 to the Road Traffic Act 1991 and of all other powers enabling it in that behalf(**3**), hereby makes the following Order:

Citation and commencement

1. This Order, which may be cited as the Road Traffic (Permitted Parking Area and Special Parking Area) (County of Denbighshire) Order 2004, comes into force on the 1 July 2004.

Interpretation

2. In this Order:—

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

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

(**1**) 1991 c. 40. Schedule 3 was amended by the Road Traffic Act 1991(Amendment of Schedule 3) (England and Wales) Order 1996 (S.I.1996/500), by the Local Government (Wales) Act 1994 (c. 19), Schedule 7, paragraph 43 and the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 171.

(**2**) 1992 c. 53.

(**3**) The powers were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).

(**4**) 1984 c. 27. Section 32(4)(a) was amended, and section 45(1) was substituted, by the New Roads and Street Works Act 1991 (c. 22), Schedule 8, paragraphs 39 and 44. Sections 46(1A), 63A and 101(4A) and (5A) were inserted by the Road Traffic Act 1991, sections 64(2), 44(1) and 67(4) and (6). Section 102(8) was amended by the Road Traffic Act 1991, section 68(3).

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

Application

3. This Order applies to the whole of the county of Denbighshire except the entire length of the A55, including its on and off slip roads, within the county.

Designation of permitted parking area and special parking area

4. The National Assembly hereby designates the area to which this Order applies as—

(a) a permitted parking area; and

(b) a special parking area.

Modification and application of Part II of the 1991 Act

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

Modification of the 1984 Act

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

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**5**)

D. Elis-Thomas
The Presiding Officer of the National Assembly

23 June 2004

(**5**) 1998 c. 38.

SCHEDULE 1

Article 5

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

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

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

(3) Subsection (2) is omitted.

(4) In subsection (3)—

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

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

(5) Subsection (4) is omitted.

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

"(b) the parking authority.".

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

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

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

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

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

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

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

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

"(4) The grounds are—

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

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

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

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

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

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

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

"(1) The functions conferred on the parking authority by this section must be discharged by it through a joint committee ("the Joint Committee") which has been set up in pursuance of arrangements entered into under section 101(5) of the Local Government Act 1972(**6**) and of which the parking authority and at least two other local authorities are constituent authorities.

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

(3) The parking authority must—

(a) with the consent of the Lord Chancellor appoint persons to act as parking adjudicators for the purposes of this Part of this Act in relation to the parking area;

(b) provide or secure the provision of accommodation and administrative staff for parking adjudicators so appointed; and

(c) determine the places at which such parking adjudicators are to sit.".

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

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

(5) In subsection (11) for the words "The Secretary of State" there is substituted "The National Assembly for Wales".

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

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

(7) In subsection (18) for the words "the Secretary of State" there is substituted "the National Assembly for Wales".

5. For section 74 there is substituted the following—

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

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

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

(4) Guidance given by the National Assembly for Wales under subsection (3) above may be varied at any time by the National Assembly for Wales.

(5) The parking authority must publish, in such manner as the National Assembly for Wales determines, the levels of additional parking charges which have been set under this section.

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

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

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

(**6**) 1972 c. 70.