

Net Zero, Energy and Transport Committee
Tuesday 12 November 2024
33rd Meeting, 2024 (Session 6)

Note by the Clerk on two negative SSIs

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instruments (SSI), which are each subject to annulment by resolution of the Parliament until 27 November 2024:
2. The Committee is invited to consider the instruments and decide what, if any, recommendations to make.
3. More information about the instruments is summarised below:

Title of instrument: [The Road Traffic \(Permitted Parking Area and Special Parking Area\) \(West Dunbartonshire Council\) Designation Order 2024 \(2024/270\)](#)

Laid under: schedule 3 of the [Road Traffic Act 1991](#)

Laid on: 3 October 2024

Procedure: Negative

Deadline for committee consideration: 25 November 2024 (Advisory deadline for any committee report to be published)

Deadline for Chamber consideration: 27 November 2024 (Statutory 40-day deadline for any decision whether to annul the instrument)

Commencement: 28 November 2024

Title of instrument: [Parking Attendants \(Wearing of Uniforms\) \(West Dunbartonshire Council\) Regulations 2024 \(2024/271\)](#)

Laid under: Section 63A(4) of the [Road Traffic Regulation Act 1984](#)

Laid on: 3 October 2024

Procedure: Negative

Deadline for committee consideration: 25 November 2024 (Advisory deadline for any committee report to be published)

Deadline for Chamber consideration: 27 November 2024 (Statutory 40-day deadline for any decision whether to annul the instrument)

Commencement: 28 November 2024

Procedure

4. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
5. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
6. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).
7. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Delegated Powers and Law Reform Committee consideration

8. The DPLR Committee considered these instruments on 29 October and reported on it in its [61st Report 2024](#). The DPLR Committee made no recommendations in relation to either of the instruments.

Purpose of the instrument

9. One policy note has been provided for both instruments (see annexe). This states that the purpose of the two SSIs is “to introduce a decriminalised parking regime within the West Dunbartonshire Council area”. The explanation below of what each instrument does is drawn largely from the explanatory note accompanying each instrument. The policy note provides some background information on “Decriminalised Parking Enforcement regimes”.
10. [The Road Traffic \(Permitted Parking Area and Special Parking Area\) \(West Dunbartonshire Council\) Designation Order 2024 \(2024/270\)](#) designates West Dunbartonshire Council area (with a specified exception) as a permitted parking area and as a special parking area in accordance with Schedule 3 of the Road Traffic Act 1991. This means that certain specified offences will be decriminalised: for example, in the case of the permitted parking area, breaches of orders relating to on-street parking places and, in the case of the special parking area, orders prohibiting or restricting waiting, loading and unloading. This creates a “Decriminalised Parking Enforcement (DPE) regime”.
11. Creating a DPE regime enables a local authority to administer its own parking penalty schemes, including the issuing of Penalty Charge Notices (PCNs) to motorists breaching parking controls in specific areas. Enforcement powers under

a DPE regime no longer rest with the Police but are implemented by parking attendants employed either directly by, or under contract to, the local authority.

12. Penalty charges under a DPE regime are paid to the local authority. Local authorities are allowed to retain the penalties collected but any surplus must be ring-fenced for certain transport-related provisions, including the provision and maintenance of off-street parking, the provision or operation of (or facilities for) public passenger transport services or for road improvement projects in the local authority area.
13. DPEs are already in place in Edinburgh, Glasgow, Perth and Kinross, Aberdeen, Dundee, South Lanarkshire, Renfrewshire, East Ayrshire, South Ayrshire, East Renfrewshire, Fife, East Dunbartonshire, Argyll and Bute, Inverclyde, Highland, East Lothian, Angus, Stirling, North Lanarkshire, Midlothian, Falkirk and North Ayrshire local government areas as well as in London and certain other areas in England.
14. [The Parking Attendants \(Wearing of Uniforms\) \(West Dunbartonshire Council\) Regulations 2024 \(2024/271\)](#) specifies, in respect of West Dunbartonshire Council, the prescribed functions which a parking attendant must wear a uniform when exercising.
15. The requirement to wear a uniform when carrying out prescribed functions is contained in section 63A(4) of the [Road Traffic Regulation Act 1984](#). Section 63A is applied to West Dunbartonshire Council by virtue of [the Road Traffic \(Permitted Parking Area and Special Parking Area\) \(West Dunbartonshire Council\) Designation Order 2024](#) (the order outlined above). This second instrument specifies what these “prescribed functions” are – all functions conferred by or under:
 - section 99 of the Road Traffic Regulation Act 1984 (removal of vehicles),
 - section 66(1) of the Road Traffic Act 1991 (issue of penalty charge notice),
 - section 69 of the 1991 Act (immobilisation of vehicles in parking places).

Committee consideration

16. So far, no motion recommending annulment has been lodged.
17. Members are invited to consider the instrument and decide whether there are any points they wish to raise. If there are, options include:
 - seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or
 - inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.

It would then be for the Committee, at the next meeting, to consider the additional information gathered and decide whether to make recommendations in relation to the instrument.

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18. If members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).
19. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

**Clerks to the Committee
November 2024**

Annexe A: Scottish Government Policy Note

POLICY NOTE

THE ROAD TRAFFIC (PERMITTED PARKING AREA AND SPECIAL PARKING AREA) (WEST DUNBARTONSHIRE COUNCIL) DESIGNATION ORDER 2024

SSI 2024/270

THE PARKING ATTENDANTS (WEARING OF UNIFORMS) (WEST DUNBARTONSHIRE COUNCIL) REGULATIONS 2024

SSI 2024/271

The above instruments were made in exercise of the powers conferred by Schedule 3 of the Road Traffic Act 1991, and section 63A(4) of the Road Traffic Regulation Act 1984 respectively. The instruments are subject to negative resolution procedures before the Scottish Parliament.

Summary Box

The purpose of the two Scottish Statutory Instruments is to introduce a decriminalised parking regime within the West Dunbartonshire Council area.

Policy Objectives

The Road Traffic Act 1991 introduced provisions enabling the decriminalisation of most non- endorsable parking offences in London and permitted similar arrangements to be introduced elsewhere in the UK. Decriminalised Parking Enforcement (DPE) is a regime which enables a local authority to administer its own parking penalty schemes, including the issuing of Penalty Charge Notices (PCNs) to motorists breaching parking controls in specific areas.

DPE seeks to ensure compliance with parking controls through transparent, effective enforcement aimed at dissuading motorists from breaching parking controls and achieving 100% compliance with such controls.

To date, 22 Scottish local authorities have introduced DPE within their areas. Under these arrangements, local authorities are allowed to retain the penalties collected. However, section 55 of the Road Traffic Regulations Act 1984 requires that any surplus accrued by local authorities from their DPE regimes should be ring-fenced and may only be used for certain transport-related provisions, including the provision and maintenance of off-street parking, the provision or operation of (or facilities for) public passenger transport services or for road improvement projects in the local authority area.

Under DPE, enforcement powers no longer rest with the Police but are implemented by parking attendants employed either directly by, or under contract to, the local authority. As such, a breach of parking rules within an area where DPE is in force requires payment to the local authority of a penalty charge.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, The Road Traffic (Permitted Parking Area and Special Parking Area) (West Dunbartonshire Council) Designation Order 2024 and the associated instrument the Parking Attendants (Wearing of Uniforms) (West Dunbartonshire Council) Regulations 2024 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

To comply with the requirements of the Road Traffic Regulation Act 1984, we consulted with neighbouring local authorities, Police Scotland, the Scottish Courts and Tribunals Service and the Traffic Commissioner for Scotland.

As a result of that consultation there were no changes made to the SSIs.

Impact Assessments

As the draft regulations relate to the enforcement of existing parking restrictions and do not therefore constitute an additional burden on business a Business and Regulatory Impact Assessment is not required. The enforcement costs incurred by West Dunbartonshire Council are expected to be absorbed by income from parking penalties.

Financial Effects

The Cabinet Secretary for Transport confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Transport
Scotland
Roads
Directorate

20 September 2024