

EXECUTIVE COUNCIL

CONFIDENTIAL

Title of Report: St Mary's Walk (Parking Control) Order
Paper No: 68/11
Date: 24 February 2011
Report of: Legislative Drafter

1.0 Purpose

The purpose of this paper is to seek Executive Council's approval for the St Mary's Walk (Parking Control) Order.

A draft of the order is attached.

2.0 Recommendations

2.1 Executive Council is recommended to advise the Governor to make the orders in the form of the attached draft.

2.2 Executive Council is recommended to advise the Governor to issue a notice bringing the order into force when he is informed by the Director of Public Works that the necessary signs and road markings are in place.

3.0 Summary of Financial Implications

None

4.0 Background

4.1 At its meeting on 16 December 2010, Executive Council considered paper 293/10 and approved the adoption of parking controls on St Mary's Walk to deal with parking issues at the King Edward Memorial Hospital.

4.2 A draft order has been prepared to implement that decision. Executive Council is asked to approve that draft order.

4.3 Although the draft order contains a "boilerplate" provision making signs and/or road markings irrelevant to the question of whether or not an offence is committed, the view has been taken by officials that signs and markings should be put in place before the parking controls are brought into force and that publicity should be given to the new controls.

4.4 For that reason, the order contains a provision for it come into force on a date fixed by the Governor by a notice in the *Gazette*. Executive Council is asked to approve the order coming into force once the necessary arrangements have been made.

5.0 Financial Implications

None

6.0 Legal Implications

6.1 The draft order has an explanatory note.

6.2 It is based on paper 293/10 and existing parking legislation but has been rewritten in plain language. This should make it clearer and easier to understand.

6.3 The proposed maximum fine on conviction has been set at £200. There is some variation in the maximum fines for parking offences in existing parking legislation but a maximum fine of £200 would be consistent with the maximum fine for breaches of the restrictions at the Ross Road Drop-off Point.

6.4 Parking legislation will need to be reviewed generally but that will need to compete for priority in the usual way.

7.0 Human Resources Implications

None

SUBSIDIARY LEGISLATION

ROAD TRAFFIC

St Mary's Walk (Parking Control) Order 2011

S. R. & O. No. of 2011

Made: 2011

Published: 2011

Coming into force: see article 2

I make this order under section 59(1)(m)(iii) of the Road Traffic Ordinance (Title 63.1) on the advice of the Executive Council.

1. Title

This order is the St Mary's Walk (Parking Control) Order 2011.

2. Commencement

This order comes into force on a day appointed by the Governor by notice in the *Gazette*.

3. Interpretation

In this order —

“local property” means a property adjoining St Mary's Walk or nearby it;

“No Parking area” means the northern half of the carriageway of St Mary's Walk (and the pavement adjacent to it) between —

- (a) the western side of its junction with Cable Street; and
- (b) the eastern side of its junction with Reservoir Road;

“parking”, in relation to a motor vehicle, includes stopping, standing or waiting —

- (a) for any reason;
- (b) for any period of time (however short); and
- (c) whether or not anyone is in or with the vehicle;

“Restricted Parking area” means the southern half of the carriageway of St Mary’s Walk (and the pavement adjacent to it) between —

- (a) the eastern side of its junction with the entrance to the car parking area between 8B and 12 St Mary’s Walk; and
- (b) the eastern side of its junction with Reservoir Road;

“restriction period” means a period from 8am to 5pm on a working day; and

“working day” means a day that is not a Saturday, Sunday or public holiday.

4. No Parking area

(1) A person must not park a motor vehicle or a trailer in the No Parking area at any time.

(2) Paragraph (1) does not prohibit parking to the extent that it is covered by an exception in article 6.

5. Restricted Parking area

(1) This article only applies during restriction periods.

(2) A person must not park a motor vehicle or a trailer in the Restricted Parking area —

- (a) for more than one hour at a time; or
- (b) within two hours of a previous occasion on which it was parked in the Restricted Parking area.

(3) Paragraph (2) does not prohibit parking to the extent that it is covered by an exception in article 6.

6. Exceptions

(1) This article sets out the extent to which a person may park a motor vehicle or a trailer in the No Parking area or the Restricted Parking area in what would otherwise be contravention of article 4 or article 5

(2) A person may park if both —

- (a) either —
 - (i) the person was required by law to stop (or park in some other way);
 - (ii) the person stopped in order to avoid an accident; or
 - (iii) the person was prevented from proceeding by circumstances beyond that person’s control; and
- (b) the person either —

- (i) drives the motor vehicle or the trailer to a place outside the No Parking area or the Restricted Parking area as soon as reasonably practicable;
 - (ii) removes it from the No Parking area or the Restricted Parking area as soon as reasonably practicable; or
 - (iii) takes reasonable steps to have it removed from the No Parking area or the Restricted Parking as soon as reasonably practicable.
- (3) A person may park (for as long as reasonably necessary for the purpose but no longer) —
- (a) to remove another vehicle or an obstruction;
 - (b) in connection with the repair or maintenance of either —
 - (i) the road (or the pavement adjacent to it); or
 - (ii) public services in the road or nearby it;
 - (c) for police, fire service or ambulance purposes;
 - (d) if both —
 - (i) the purpose of parking is to deliver goods or materials to the King Edward Memorial Hospital or another local property (or to collect goods or materials from there); and
 - (ii) the delivery (or collection) cannot reasonably be done with the motor vehicle or trailer parked outside the No Parking area or the Restricted Parking area because of —
 - (aa) the quantity or nature (or both) of the goods or materials;
 - (bb) other circumstances;
 - (cc) a combination of those factors;
 - (e) if both —
 - (i) the purpose of parking is to drop off one or more passengers and their luggage at the King Edward Memorial Hospital or another local property (or to pick up one or more passengers and their luggage from there); and
 - (ii) the drop off (or pick up) cannot reasonably be done with the motor vehicle or trailer parked outside the No Parking area or the Restricted Parking area because of —
 - (aa) the physical condition of a passenger;

- (bb) the quantity or nature (or both) of luggage;
 - (cc) other circumstances;
 - (dd) a combination of more than one of those factors; or
- (f) if both —
- (i) it is a taxi that has been hired to pick up one or more passengers from the King Edward Memorial Hospital or another local property; and
 - (ii) there is no place outside the No Parking area or the Restricted Parking area where the taxi may conveniently wait to pick up the passengers and their luggage.
- (4) A person may also park with the authority of either —
- (a) a police officer in uniform; or
 - (b) the Director of Public Works.

7. Offences

- (1) It is an offence to park a motor vehicle or trailer in contravention of article 4 or article 5.
- (2) Paragraph (1) does not make parking a motor vehicle or trailer an offence to the extent that the parking is covered by an exception in article 6.
- (3) A person convicted of an offence against paragraph (1) is liable to a fine of up to £200.

8. Signs

- (1) The Director of Public Works may arrange for signs or notices to be erected and displayed to draw attention to the effect of this Order (or any of its provisions).
- (2) The Director of Public Works may also arrange for road markings to be made to draw attention to the effect of this Order (or any of its provisions).
- (3) It is not a defence in a prosecution for an offence against article 7 that —
- (a) a sign or notice —
 - (i) had not been erected;
 - (ii) was not displayed properly; or
 - (iii) had been altered, concealed, defaced, damaged or destroyed; or
 - (b) a road marking —

- (i) had not been made;
- (ii) had not been made properly; or
- (iii) had been altered, concealed, defaced, damaged or obliterated.

Made 2011

N. R. Haywood C.V.O.,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Section 59(1)(m)(iii) of the Road Traffic Ordinance (Title 63.1) allows the Governor to control the use of roads and, in particular, to prohibit the parking of motor vehicles on a road (either absolutely or during specified hours in the day).

This order will not come into force until a date fixed by the Governor by a notice published in the *Gazette*.

Once it comes into force, there will be two areas in St Mary's Walk in which parking (which is defined in article 3 of the order) is either prohibited or restricted.

On the north side of St Mary's Walk, the length of road from Cable Street to Reservoir Road will be a No Parking area. Unless one of the exceptions applies, there will be no parking there at any time.

On the south side of St Mary's Walk, the length of road from the entrance to the St Mary's Walk Car Park to Reservoir Road will be a Restricted Parking area. Parking restrictions will apply there between 8am and 5pm on Mondays to Fridays (but not on public holidays). Unless one of the exceptions applies, parking in the Restricted Parking area will be limited to a one hour at a time with no return within two hours.

There will be a number of exceptions and these are described in article 6.

Parking in breach of the prohibition or restriction will be an offence with a maximum fine on conviction of £200.

The Director of Public Works will have the power to draw attention to the effect of the order and its provisions by means of signs and/or road markings. However, signs and road markings will not affect whether or not an offence is committed.