

**THE COUNTY OF CUMBRIA (BOROUGH OF BARROW-IN-FURNESS)**

**(OFF-STREET PARKING PLACES) ORDER 1998**

The Council of the Borough of Barrow-in-Furness (hereinafter referred to as 'the Council') pursuant to arrangements made under Section 101 of the Local Government Act 1972 with the County Council of Cumbria in exercise of the powers of the said County Council under Part IV of the Road Traffic Regulation Act 1984 ('the Act') and in exercise of all other powers enabling them in that behalf and after consultation with the chief officer of police in accordance with Schedule 9 of the Act hereby make the following Order:

**GENERAL**

**1. Commencement, Citation and Repeals**

- (i) This Order shall come into operation on **7th August, 1998** and may be cited as The County of Cumbria (Borough of Barrow-in-Furness) (Off Street Parking Places) Order, 1998.

**2. Interpretation**

In this Order, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them:

'contract', means a ticket or permit issued by the Council authorising the parking of a designated vehicle upon a named parking place subject to such conditions as may from time to time be fixed by the Council.

'contract holder', means a person to whom a contract or permit has been issued pursuant to Article 6.1 of this Order;

'driver', in relation to a vehicle waiting in a parking place, means:

- (a) the person driving the vehicle at the time it was left in the parking place; OR:
- (b) in the event of the Council being unable, for any reason whatsoever, to identify, and/or reasonably contact that person:
- (i) the owner, being the person registered as the keeper of the vehicle with DVLA or otherwise identified as the keeper at the time of the offence  
OR:

- (ii) in relation to hired or leased vehicles, the person identified by the hire company as the hirer/lessee at the time of the offence.

'goods vehicle', means a vehicle which is constructed or adapted for use for the carriage of goods or burdens of any description;

'immobilisation device', means any device or appliance designed or adapted to be fixed to a vehicle for the purpose of preventing it from being driven or otherwise put into motion, being a device or appliance of a type approved either generally or specifically by the Secretary of State for use for that purpose.

'motor cycle', means a two wheeled mechanically propelled vehicle not having a side car or trailer attached thereto;

'owner', has the same meaning as in the Act;

'parking attendant', means a person authorised by or on behalf of the Council to supervise any parking place;

'parking bay', means any area of a parking place which is provided for the leaving of a vehicle and indicated by markings on the surface of the parking place;

'parking place', means a parking place described in the Schedule to this Order, as may be from time to time amended;

'passenger vehicle', means a vehicle constructed or adapted solely for the carriage of passengers and their effects;

'prescribed hours', in respect of the parking places comprised in the Schedule hereto means the period between 8.00 am and 6.00 pm on any of the days specified in the Schedule hereto in respect of that parking place;

'relevant position', shall be defined and interpreted as follows:

- (a) a vehicle shall be regarded as displaying a permit or ticket as the case may be in the relevant position when
- (b) in the case of a vehicle fitted with a front windscreen, the contract or permit is exhibited thereon with the obverse side facing forwards on the near side of and immediately behind the windscreen;
- (c) in the case of a vehicle not fitted with a front windscreen, the contract or permit is exhibited in a conspicuous position on the vehicle.
- (d) in **ALL** cases: So that the details displayed thereon are clearly visible from outside the vehicle.

**3. Use of Areas as Parking Places**

- 3.1 The areas of land specified by name in column 1 of the Schedule to this Order may be used, subject to the following provisions of this Order, as parking places during the prescribed hours for such classes of vehicles, in such positions and on such days and on payment of such charges as are specified in relation to that parking place in the said schedule.
- 3.2 The Council may close a parking place or any part thereof, for such periods and on such conditions as it shall think fit without notice.
4. The exercise by the Council of their powers under this Order shall not render them subject to any liability in respect of the loss of, or damage to, any vehicle or the fittings or contents of any vehicle parked in a parking place, howsoever, caused.

**5. Class and Position of Vehicles**

- 5.1 Where in the schedule to this Order a parking place is described as available for vehicles of a specified class or in a specified position, the driver of a vehicle shall not permit it to wait in that parking place unless:
- (a) it is of the specified class appropriate to that parking place and/or
  - (b) it is in a specified position for that parking place.
- 5.2 The driver of a vehicle shall not permit it to wait in any parking place in a space or bay marked or signed as being available only for a vehicle in respect of which a contract or permit has been issued unless:
- (a) a contract or permit has been issued pursuant to Article 6.1 hereof and is in force in respect of that vehicle for that parking place; and
  - (b) that contract or permit is displayed in the relevant position at all times while the vehicle is parked in such space or bay.
- 5.3 The driver of any vehicle exceeding 1500 kg unladen weight shall not permit that vehicle to wait in any parking place, at any time.

**6. Charges for Use of Parking Places**

- 6.1 The owner of a vehicle may apply to the Council and the Council may at its discretion and at a fee to be determined by it issue a contract which shall be valid for the parking place and for the period for which it is issued and the Council may restrict the sale of contracts as it sees fit.

7. **Parking Penalty**

Subject to the provisions of Article (9) a parking penalty of £50 shall be payable in respect of a breach of the provisions of this Order, save that if the parking penalty is paid within fourteen working days of the date on which it was incurred, the amount thereof shall be reduced to £20.

8. **Manner of Payment of Parking Penalty**

- 8.1 The driver of a vehicle in respect of which the penalty has been incurred shall pay the £20 penalty to the Council either by cheque or postal order which shall be delivered or sent by post so as to reach the Director of Finance of the Council not later than 10.00 am on the fourteenth working day following the day on which the charge was incurred or in cash in person at the said Department not later than aforesaid. Otherwise, the full £50 charge will be incurred.

9. **Offences and Proceedings**

Nothing in this Order shall be deemed to restrict or negate the right of the Council under section 35(A) of the Act to bring proceedings against offending persons in respect of any breach of any provision of this Order.

10. **Notice of Parking Penalty Incurred**

- 10.1 In the case of a vehicle in respect of which a parking penalty may have been incurred, it shall be the duty of a parking attendant to attach to the vehicle in a conspicuous position a notice which shall include the following particulars:
- (a) means of identifying the vehicle (e.g. registration mark; trade plate numbers; parking permit details; excise licence details, etc.).
  - (b) the time at which he noticed that the penalty had been incurred;
  - (c) a statement that a parking penalty is required to be paid;
  - (d) the manner in which, and the time within which, the penalty should be paid; and
  - (e) a statement that it is an offence under this Order for the driver of a vehicle who has left the vehicle in a parking place to fail duly to pay the parking penalty.

10.2 In the event of the parking attendant being unable to attach the Notice to a vehicle, for any reason whatsoever, then Notice may be served by the Council upon the driver of the vehicle as soon as practicable after the identity of the person is known. In the event of the date of service of any Notice under this Article being more than fourteen days after the date of the offence, the reduction of the penalty payable under Article 8.1 shall not apply.

**11. Evidence of Offence**

11.1 The details shown on any contract or permit issued by the Council and displayed in accordance with Article 5.2 shall, unless proved to the contrary, be deemed to be evidence in respect of an offence.

**12. Restriction on Removal of Notices**

Where a notice has been attached to a vehicle in accordance with the provisions of Article 10 of this Order, no person not being a parking attendant or some other person duly authorised by the Council shall remove the notice from the vehicle until the vehicle is removed from the parking place.

**13. Restriction on Removal of Contract or Permit**

When a contract or permit has been exhibited on a vehicle in accordance with the provisions of Article 5.2 of this Order, no person shall remove the parking ticket or contract from the vehicle until the vehicle is removed from the parking place.

**14. Vehicles to be Licensed and Insured**

The driver of a vehicle shall not permit that vehicle to wait in a parking place unless the vehicle displays a valid licence in accordance with the provisions of the Vehicles (Excise) Act 1971 and unless there is in relation to the use of the vehicle by the driver such policy of insurance as complies with the requirements of Section 143 of the Road Traffic Act, 1988 and Schedule 2 of the Road Traffic Offenders Act, 1988.

**15. Driving in Parking Places**

15.1 No person shall, except with the permission of any person duly authorised by the Council, drive any vehicle in a parking place other than for the purpose of leaving that vehicle in a parking place in accordance with the provisions of this Order or for the purposes of departing from the parking place.

15.2 The driver of a motor vehicle using a parking place shall stop the engine as soon as the vehicle is in a position comprising a parking bay in the parking place and shall not start the engine again except when about to change the position of the vehicle in or to depart from the parking place.

- 15.3 Where in a parking place signs are erected or surface markings are laid for the purpose of indicating the entrance to or exit from the parking place, or indicating that a vehicle using the parking place shall proceed in a specified direction within the parking place, no person shall drive or permit to be driven any vehicle so that it enters the parking place otherwise than by an entrance, or leaves the parking place otherwise than by an exit, so indicated, or in a direction other than so specified.

**16. Conduct of Persons in Parking Places**

- 16.1 No person shall at any time in a parking place wantonly shout or otherwise make any loud noise to the disturbance or annoyance of users of the parking place or residents of premises in the neighbourhood.
- 16.2 No person shall at any time in a parking place use any threatening, abusive or insulting language, gesture or conduct with intent to put any person in fear or so as to occasion a breach of the peace or whereby a breach of the peace is likely to be occasioned.
- 16.3 The driver of a motor vehicle using a parking place shall not sound a horn or other similar instrument except when about to change the position of the vehicle in or to depart from the parking place.

**17. Use of Vehicles in Parking Places**

- 17.1 No person shall use a parking place, or any vehicle thereon, in connection with any form of advertising, except with the prior written permission of the Council.

**18. Repair of Vehicles in Parking Places**

No person shall, while a vehicle is in a parking place, permit the carrying out of any work of maintenance or repair thereto except such as may be necessary to enable the vehicle to be moved from the parking place.

**19. Use of Caravans Etc. in Parking Places**

No person shall use a caravan or camper van while it is in a parking place as a dwelling or for any domestic or sanitary purpose.

20. Manner of Parking of Trailers

The driver of a vehicle drawing a trailer shall not permit the vehicle or the trailer to wait in a parking place unless they have been disconnected, and for the purposes of this Order the vehicle and the trailer shall be deemed to be separate vehicles and the said driver shall be deemed to be the driver of each of the said vehicles.

21. Removal of Vehicles from Parking Places and/or immobilisation thereof

21.1 Where a parking attendant or other person duly authorised by the Council is of the opinion that any of the provisions contained in this Order have been contravened in respect of a vehicle left in a parking place, he may remove the vehicle or cause it to be removed from the parking place or fix an immobilisation device to the vehicle prior to, or in lieu of, its removal from the parking place.

21.2 On any occasion when an immobilisation device is fixed to a vehicle in accordance with this Article, the person fixing the device shall also affix to the vehicle a Notice;

a) Indicating that such a device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from that device.

b) Specifying the steps to be taken in Order to secure its release and

c) giving such other information as may be prescribed.

21.3 A vehicle to which an immobilisation device has been fixed in accordance with this Article may only be released from that device by or under the direction of a person authorised in that behalf by the Council, subject to payment, in the manner specified, of such fees, including outstanding charges, as the Council may from time to time determine.

21.4 When an immobilisation device has been fixed to a vehicle in accordance with this Article no person, not being a person duly authorised by the Council or under the direction of a person duly authorised by the Council shall remove or attempt to remove the device from the vehicle. The driver of the vehicle shall be held responsible for any damage, howsoever caused, during any unauthorised removal of the device or attempt thereat.

21.5 Where a notice has been attached to a vehicle under Article 21.2 of this Order no person, not being the driver of the vehicle or duly authorised representative of the Council shall remove the notice from the vehicle unless authorised by the driver to do so.

**22. Movement of Vehicles in a Parking Place in Emergencies**

- 22.1 A parking attendant or any other person duly authorised by the Council may move or cause to be moved, in case of emergency, to any place he thinks fit, vehicles left in a parking place.
- 22.2 Where a vehicle is left in a parking place in a position other than that specified in column 2 of the Schedule to this Order, a parking attendant or any other person duly authorised by the Council may move the vehicle or cause it to be moved to a position which complies with that specified in column 2 of the said Schedule.

**23. Manner of Moving Vehicles**

Any person moving or removing a vehicle in accordance with Article 21 or 22 of this Order may do so by towing or driving the vehicle or in such other manner as he may think necessary and may take such measures in relation to the vehicle as he may think necessary to enable him to move or remove it as aforesaid.

**24. Safe Custody of the Vehicles**

When a parking attendant or other person authorised by the Council removes a vehicle or causes it to be removed from a parking place in accordance with Articles 21 or 22 of this Order, he shall make such arrangements as may reasonably be necessary for the safe custody of the vehicle but neither he nor the Council shall be liable for any damage which a vehicle may sustain in the course of such removal.

**25. Disposal of Vehicles**

- 25.1 The Council may as respects a vehicle which has been, or could at any time be, removed from a parking place in pursuance of Articles 21 or 22 of this Order, if it appears to them to have been abandoned, sell or otherwise dispose of the vehicle; provided that the power of disposal conferred by this Article shall not be exercisable in the case of a vehicle unless there have been taken by the Council such steps as are necessary to comply with the relevant provisions of the Refuse Disposal (Amenity) Act, 1978.
- 25.2 In the event of any such costs incurred by them in connection with the disposal of the vehicle not being satisfied by virtue of the last preceding Article, the Council may recoup those costs, in so far as they are not satisfied, from the person who was the last owner of the vehicle before it was removed from the parking place, either in pursuance of Articles 21 or 22 of this Order or after it had been disposed of by virtue of the power of disposal conferred by Article 25 of this order, if that person was sent by the Council a notice under the foregoing provisions of this Order.



25.3 Any sums received by the Council on a sale of the vehicle, after deducting any sum applied there out by virtue of this Article, shall be payable within a period of one year from the date of the sale of the vehicle to any person to whom, but for such sale, the vehicle would have belonged, and insofar as any such sums are not claimed within the said period they shall be paid into the general rate fund of the Council.

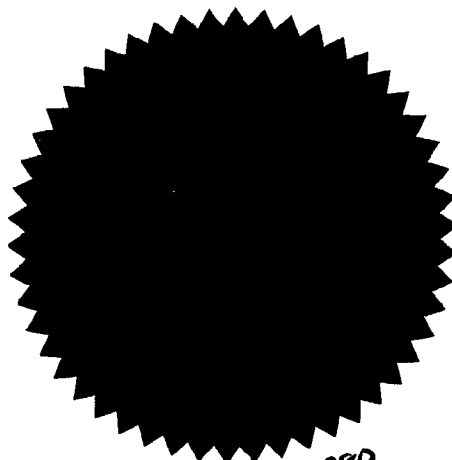
Given under the Common Seal of the Council of the Borough of Barrow-in-Furness this **twenty eighth** day of **July** 1998.

THE SCHEDULE

(1)

(1) Parking Places	(2) Position in which vehicle may be parked	(3) Class of Vehicle	(4) Initial period	(5) Pay and Display Days of Operation	(6) Day of Contract Validity	(7) Maximum Period Pay and Display	(8) Scale of Charges (in pence)			
							Up to 1 Hr.	Up to 2 Hrs.	Up to 3 Hrs.	Over 3 Hrs.
Craven House  Cartmel /Grange Crescent  Slater Street	Any motor cycle to be within a bay marked for "Motor Cycles" on the parking place. Any other vehicle to be wholly within a bay marked on the parking place. Contract holders in spaces marked with a Letter "C" or otherwise indicated as only available for contract permit holders	All vehicles except:-  a) Goods vehicles exceeding 1500kg unladen weight and  b) Passenger vehicles adapted to carry more than 12 passengers exclusive of the driver.		8am - 6pm	8am - 6pm Mon - Sat					---

The Common Seal of the Council )  
of the Borough of Barrow-in-Furness )  
was hereunto affixed in the )  
presence of: )



**TJH Bodys**

Borough Solicitor