

THE BOROUGH OF BLACKBURN WITH DARWEN
(CULSHAW STREET CARPARK, BLACKBURN)
ORDER 2018

The Council of the Borough of Blackburn with Darwen ("the Council") in exercise of its powers under the Road Traffic Regulation Act 1984 and Parts III and IV of Schedule 9 to the 1984 Act and the Road Traffic Act 1991 and the Road Traffic (Permitted Parking Area and Special Parking Area) (Borough of Blackburn with Darwen) Order 2004 and the Traffic Management Act 2004 and all other enabling powers, and after consultation with the Chief Constable of Police in accordance with Part III of Schedule 9 to the Road Traffic Regulation Act 1984, hereby makes the following Order:

PART I
GENERAL

Commencement and Citation

1. This Order shall come into operation on the 7th May 2018 and may be cited as "The Borough of Blackburn with Darwen (Culshaw Street Carpark, Blackburn) Order 2018".

Interpretation

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

"1984 Act" means the Road Traffic Regulation Act 1984;

"2004 Act" means the Traffic Management Act 2004;

"Charging Hours", means the time periods as specified in column 4 of the Schedule attached to this Order;

"Civil Enforcement Officer" means a person authorised by or on behalf of the Council in accordance with Section 76 of the 2004 Act;

"Council" means Blackburn with Darwen Borough Council or any successor authority and includes any parking services contractors or authorised agent appointed by or acting on behalf of the Council;

"Daily Charge" means the charge imposed by the Council for parking in a parking place on any one day and for a specified period of time as is identified in the scale of charges specified by notice at each Parking Place;

"Disabled Person's Badge" means a badge issued by any Local Authority in accordance with the provisions of the Local Authorities' Traffic Orders (Exemptions for Disabled Persons)(England) Regulations 2000 ("the 2000 Regulations") or a badge having effect under those regulations as if it were a disabled person's badge;

"Expiry Time" is the time indicated on the Pay and Display Ticket and is the time by which the Vehicle must leave the Parking Place;

"Mobile Phone Payment" means a cashless payment made by mobile phone to the number displayed in the Parking Place allowing the Vehicle to be parked for the period of time for which payment has been made, to be used where such facility is advertised and provided for in a Parking Place and the use of which is specified by notice in the Parking Place;

"Motor Car" has the same meaning as in Section 136(2) of the 1984 Act;

"Motor Cycle" has the same meaning as in Section 136(4) of the 1984 Act;

"Invalid Carriage" has the same meaning as in Section 136(5) of the 1984 Act;

"Owner" in relation to a Vehicle means the person who is recorded as the registered keeper by the Driver and Vehicle Licensing Agency on the date on which the Vehicle was parked in the Parking Place in question;

"park", "parked" and "parking" refer to the stopping of a Vehicle and it remaining at rest for some time whether or not the driver is still in the Vehicle and a Vehicle shall be deemed to be Parked for any period in the same Parking Place or Parking Bay (as the case may be) if any part of the Vehicle or the Vehicle's load (if any) is on any part of the Parking Place or Parking Bay whether or not the Vehicle is moved during that period;

“Parking Bay” means an area of a Parking Place, which is provided for the Parking of a Vehicle of a class specified and indicated by markings on the surface of the Parking Place or signed or otherwise indicated by signs in the Parking Place;

“Parking Permit” means a contract permit, scratch card permit, clock permit, staff permit or any other permit of a type and design issued by the Council;

“Parking Place” means the area of land or building provided by the Council pursuant to Section 32(1) of the 1984 Act for the purpose of parking of Vehicles and not closed (in part or in whole) by a notice erected thereon by authority of the Council and specified in the Schedules and Plans incorporated into this Order;

“Pay and Display Ticket” means a ticket issued by a Ticket Machine located in the Parking Place in which the Vehicle has been parked or issued by a person authorised by the Council on payment of a charge and valid for a parking period as advertised at that Parking Place;

“Penalty Charge” means a penalty charge imposed under Part 6 of the 2004 Act;

“Penalty Charge Notice” means a notice served by a Civil Enforcement Officer pursuant to Section 78 of the 2004 Act and supporting regulations.

“Relevant Position” means

- (a) in respect of a Vehicle displaying a valid Disabled Person’s Badge -
 - (i) in the case of a Vehicle fitted with a dashboard or fascia panel, the badge is exhibited thereon so that the front of the badge (within the meaning of the 2000 Regulations) (showing the expiry date) is legible from the outside of the vehicle; or
 - (ii) in the case of a Vehicle not fitted with a dashboard or fascia panel, the badge is exhibited in a conspicuous position on the Vehicle so that the front of the badge, as described above, is legible from outside the vehicle;
- (b) in respect of a Vehicle displaying a Pay and Display Ticket or Parking Permit -
 - (i) in the case of a Vehicle fitted with a front windscreen, dashboard or fascia panel, the ticket or permit is exhibited thereon facing forwards

so that the date, time and other details confirming the validity thereof are legible from outside the Vehicle; or

- (ii) in the case of a Vehicle that is not fitted with a front windscreen, the ticket or permit is exhibited thereon facing forwards so that the date, time and other details confirming the validity thereof are legible from outside the Vehicle

“Ticket Machine” means an apparatus located in the Parking Place (if any) of a type and design approved by the appropriate Minister for the purpose of the 1984 Act, being apparatus designed to indicate the time by a clock and to issue Pay and Display Tickets indicating the payment of a charge, the day and time at which the charge was paid and the Expiry Time of the parking period for which payment has been made;

“Vehicle” means any Motor Car, Motor Cycle or Invalid Carriage.

3. Except where the context requires otherwise, any reference in this Order to a numbered Article shall be construed as a reference to the Article bearing that number in this Order.
4. Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, applied, consolidated, re-enacted by or as having effect by virtue of any subsequent enactment.
5. Unless the context otherwise requires words denoting the singular shall include the plural and vice versa and words denoting the persons shall include either gender, bodies corporate, unincorporated associations and partnerships.
6. The Interpretation Act 1978 shall apply for the interpretation of this Order.

PART II

DESIGNATION AND USE OF PARKING PLACES

Designation

7. Each area of land or building specified by name in the Schedules may be used, subject to the provisions of this Order, as a place to park Vehicles of such classes, in such positions, on such days, during such hours, for such period and on payment of such charges as are specified by notice at that Parking Place.

Class and position of Vehicle

8. Where in the Schedule and by notice at a Parking Place, the Parking Place or specified part(s) of the Parking Place or particular Parking Bays are described as available for Vehicles of a specified class only, no person shall cause or permit a Vehicle to park otherwise than in accordance with the Schedule and the notice.
9. If Parking Bays are marked out in a Parking Place no person shall cause or permit a Vehicle to be parked beyond the Parking Bay markings. If Parking Bays are not marked out in a Parking Place the driver of a Vehicle shall ensure that it is positioned so that it does not obstruct other Vehicles using the Parking Place, the free flow of traffic circulating within the Parking Place and the entrances to and exits from the Parking Place.

Disabled person's parking bays

10. No person shall cause or permit a Vehicle to park in a Parking Bay marked for disabled persons unless the Vehicle displays a valid Disabled Person's Badge in the Relevant Position and immediately before or immediately after the act of parking the Vehicle has been or is about to be used by the person(s) in respect of whom the Disabled Person's Badge has been issued.

Motor Cycle parking bays

11. No person shall cause or permit a Vehicle to park in a Parking Bay marked for Motor Cycles unless the Vehicle is a Motor Cycle.

Maximum Period of Stay

12. Where specified in the Schedule and by notice at each Parking Place respectively, a Parking Place, or a specifically marked Parking Bay within a Parking Place, is described as available on specified days, during specified hours or for a maximum period of stay, no person shall cause or permit a Vehicle to be parked in that Parking Place, or specifically marked Parking Bay within a Parking Place, on any day, during such hours or for any longer period other than those specified.

Period of no return

13. Where specified by notice at each Parking Place respectively, a Parking Place is described as having a period within which a Vehicle, after any period of parking in that Parking Place, may not return, no person shall cause or permit a Vehicle to park in that Parking Place on any day, during any such 'no return' period.

Power to close or suspend Parking Places

14. Nothing in this Order shall prevent the Council by notice, sign or barrier displayed or erected in a Parking Place:
 - (i) from closing or suspending the use of a Parking Place or any part thereof for any period; and/or
 - (ii) from setting aside a Parking Place or any part or parts thereof on all days or on certain days or during certain parts of days for use only by particular Vehicles or organisations.
15. Any person closing or suspending the use of a Parking Place or any part thereof shall thereupon place or cause to be placed in or adjacent to that Parking Place or part thereof a notice or traffic sign indicating that the Parking Place or part thereof is closed or the use is suspended and that parking by Vehicles is prohibited.
16. No person shall cause or permit a Vehicle to be parked in a Parking Place or any part thereof during such periods that the Parking Place or that part thereof is closed or the use is suspended or during such period as there is in or adjacent thereto a notice or traffic sign indicating the closure or suspension placed by or on behalf of the Council.

Sale of Goods and Services

17. No person shall in a Parking Place, without the express written permission of the Council, use a Vehicle, in connection with the sale of any article or the plying for hire of any services, including the Vehicle itself, to any person in or near the Parking Place or in connection with the selling or offering for hire of skill or services in any other capacity.

Parked with engine running

18. The driver of a Vehicle using a Parking Place shall stop the engine as soon as the Vehicle is in the Parking Bay and shall not start the engine except when about to change the position of the Vehicle or to depart from the Parking Place.

Parked causing an obstruction

19. The driver of a Vehicle using a Parking Place shall not park the Vehicle in such a manner or place where it causes an obstruction to any other users of the Parking Place or to obstruct vehicular access to or egress from the Parking Place or any Parking Bay in the Parking Place.

PART III
CHARGES FOR PARKING

Payment

20. The driver of a Vehicle using a Parking Place shall upon parking the Vehicle in a Parking Place during the Charging Hours pay the appropriate Daily Charge (if any) in accordance with the scale of current charges as specified by notice at each Parking Place.

Charges for set periods

21. Where a Daily Charge is specified for a period, the whole of that Daily Charge shall be due and payable for the use of the Parking Place for any part of that period.

Means of payment

22. The charges referred to in the Schedule attached to this Order shall be payable in the manner as advertised at that Parking Place.

Pay and display Parking Places ticket purchase

23. The driver of a Vehicle using a pay and display Parking Place, or any Parking Bay within the Parking Place, shall upon parking the Vehicle in a Parking Bay, and prior to leaving the Parking Place, where a Ticket Machine is present and a driver of a Vehicle is expected to obtain a Pay and Display Ticket then they shall purchase a Pay and Display Ticket at the level of charge and for the period required in accordance with the scale of charges specified by notice at each Parking Place and remove the Vehicle from the Parking Place before the Expiry Time.

Display of ticket

24. Once a Vehicle has been Parked within a pay and display Parking Place the driver of the Vehicle shall:
- (i) ensure that a valid Pay and Display Ticket has been obtained to cover the entire period that the Vehicle is to be Parked in the Parking Place; and
 - (ii) ensure that the valid Pay and Display Ticket is displayed in the Relevant Position on the Vehicle in respect of which it was issued at all times the Vehicle is parked
- PROVIDED THAT where a Ticket Machine is not placed at the Parking Place then no Pay and Display Ticket shall be required to be displayed.

No pay and display ticket displayed

25. If at any time while a Vehicle is parked in a pay and display Parking Place where there is a Ticket Machine provided and no Pay and Display Ticket is displayed on that Vehicle in the Relevant Position and in accordance with the provisions of this Order, it shall be deemed that the charge has not been paid.
26. If at the time when a Vehicle is parked during the Charging Hours in a pay and display Parking Place and the nearest Ticket Machine (if present) in that Parking Place is out of order or non-operational, then a Pay and Display Ticket shall be obtained from another Ticket Machine within the same Parking Place (where provided) or as directed in the Parking Place. If a Pay and Display Ticket cannot be obtained from the Ticket Machine(s) then the Council must be informed using the contact number displayed on the information signs within the Parking Place immediately and before the Vehicle is parked in the Parking Place.

Validity of Pay and Display Tickets

27. A Pay and Display Ticket is not transferable from one Vehicle to another and on transfer the Pay and Display Ticket ceases to be valid.
28. A Pay and Display Ticket is valid only in the Parking Place in which it was issued. This is defined by the location name of the Ticket Machine located in that Parking Place printed on the Pay and Display Ticket.
29. A Pay and Display Ticket is valid only until the expiry of the period for which a charge has been paid and is valid only on the day on which it is issued.

Expiry of parking period

30. The expiry of the period for which the appropriate charge has been paid shall be:
- (i) where a Pay and Display Ticket has been purchased, when the time shown on the clock of the issuing Ticket Machine is later than the expiry time shown on the Pay and Display Ticket displayed; or
 - (ii) where an alternative approved method of payment has been used, when the period for which payment has been made and recorded has been exceeded.
31. No person shall cause or permit any Vehicle to be parked during the Charging Hours in a pay and display Parking Place:
- (i) after the expiry of a displayed Pay and Display Ticket; or
 - (ii) where there is no Ticket Machine then no longer than the maximum period specified in column 5 of the Schedule.

Exemption to requirement to display of Pay and Display Ticket

32. Where arrangements to pay the Daily Charge have been made through a Mobile Phone Payment and no Pay and Display Ticket is produced by following the process, the driver of a Vehicle shall be exempt from the requirement to display such a ticket.

Parking Permits

33. Parking Permits where specified in the Schedule may be available from the Council for the appropriate fee, for a Vehicle of a specific class and for a specific Parking Place or for specific Parking Places subject to terms and conditions determined by the Council.

34. The driver of a Vehicle shall abide by the terms and conditions stipulated by the Council for the use of the Parking Permit as described in the conditions of use.
35. A Parking Permit is only valid in the Parking Place or specified Parking Places in respect of which it was issued and up to the date of expiry shown on the Parking Permit.

Withdrawal of permit

36. The Council may, by notice in writing served on the holder of a Parking Permit at the address provided by that person on the application for the Parking Permit or at any other address believed to be that person's residence or place of business, withdraw a parking Permit if it appears to the Council that any of the stipulated terms and conditions have been abused and the Parking Permit will immediately become invalid.

Display of Parking Permit

37. The driver of the Vehicle shall display the Parking Permit in the Relevant Position on the Vehicle in respect of which it was issued at all times during which the Vehicle is parked in the Parking Place.

Replacement Parking Permits

38. Damaged or lost Parking Permits will be replaced on application to the Council and on payment of an administration fee agreed from time to time by the Council. The damaged or lost Parking Permit will then become immediately invalid.

Surrender of Parking Permit

39. The holder of an annual Parking Permit shall on surrendering the Parking Permit only be entitled to a refund based upon the Council's policy in place at that time.

Restriction on removal

40. When a Pay and Display Ticket or Parking Permit has been exhibited on a Vehicle in the Relevant Position no person shall remove the Pay and Display Ticket or Parking Permit from the Vehicle until the Vehicle is removed from the Parking Place.

PART IV EXEMPTIONS FROM DAILY CHARGES

Exemption from daily charge

41. No Daily Charge shall be payable in respect of:
- (i) a Motor Cycle; or
 - (ii) a pedal cycle; or
 - (iii) a Vehicle parked displaying in the Relevant Position a Parking Permit valid for that time and that Parking Place; or
 - (iv) a Vehicle parked in a pay and display Parking Place which displays in the Relevant Position a valid Disabled Person's Badge provided that the Vehicle immediately before or after the act of parking has been used or is about to be used by the person(s) in respect of whom the badge is issued.

PART V

RELOCATION, REMOVAL AND DISPOSAL OF VEHICLES

Emergencies

42. In the case of an emergency, a person authorised by the Council or a police officer in uniform may, using such measures as are appropriate, move or cause to be moved to any place he/she thinks fit, any Vehicle parked in a Parking Place.

Contraventions in suspended parking place

43. A person authorised by the Council may, using such measures as are appropriate, move or cause to be moved to any place he/she thinks fit, any Vehicle parked in a Parking Place which has been closed or suspended in whole or in part by the Council and the cost of movement or removal and safe keeping shall be the liability of the Owner of the Vehicle.

Safe keeping

44. Any person removing a Vehicle from a Parking Place under the provisions of this Order shall make such arrangements as may be reasonably necessary to provide for the safe keeping of the Vehicle.

Disposal of vehicles abandoned in parking places

45. The Council may sell or otherwise dispose of, in accordance with current legislation, a Vehicle which has been, or could at any time be, removed from a Parking Place if the Vehicle appears to have been abandoned.

PART VI
CONTRAVENTION AND PENALTY CHARGE

Contraventions

46. Save for the provisions in Part VII, if a Vehicle is parked in the Parking Place without complying with the requirements of this Order, a contravention shall have occurred and a Penalty Charge shall be payable.
47. In the case of a Vehicle in respect of which a Penalty Charge is payable, a Penalty Charge Notice containing the information required by Section 66 of the Road Traffic Act 1991 as applied and modified by the Road Traffic (Permitted Parking Area and Special Parking Area) (Borough of Blackburn with Darwen) Order 2004 and the Section 78 of the Traffic Management Act 2004 may be issued by a Civil Enforcement Officer by fixing it to the Vehicle, or by giving it to the person appearing to him to be in charge of the Vehicle, or may be served by the Council by post as prescribed by regulations.

Restriction on removal of notices

48. A notice fixed to a Vehicle in accordance with the provisions of this Order shall not be removed or interfered with except by or under the authority of:
- (i) the Owner, or person in charge of the Vehicle; or
 - (ii) the Council for the Parking Place in which the Vehicle in question was found.

Offences

49. Any person who uses any part of the Parking Place contrary to the provisions in Part VII of this Order, shall have committed an offence and a notice of intended prosecution may be issued and/or any Vehicle may be removed from the Parking Place.

Indications as Evidence

50. The particulars given in any notice issued in accordance with this Order shall be treated as evidence in any proceedings relating to failure to pay the Penalty Charge or in any court action.

PART VII

LIABILITY AND OTHER PROVISIONS

Liability

51. The Council accepts no liability for the loss or damage to Vehicles or other property left in any of the Parking Places to which this Order applies save for that arising from the negligence of the Council.

Validity

52. If a Court, the Department for Transport, the Traffic Penalty Tribunal or the Traffic Enforcement Centre declares any part of this Order to be invalid or unenforceable such declaration shall not invalidate the remainder of the Order.

Driving within the Parking Place

53. Where in the Parking Place signs are erected or surface markings are laid for the purpose of:

- (i) indicating the entrance to or exit from the Parking Place, or
- (ii) indicating that a Vehicle using the Parking Place shall proceed in a specified direction within the Parking Place;

then any person who drives or permits to be driven any Vehicle:

- (a) 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
- (b) in a direction other than so specified;

shall be liable to prosecution.

54. Any person who, without the permission of a person authorised by the Council drives or permits to be driven any Vehicle in a Parking Place for any purpose other than the purpose of leaving that Vehicle in the Parking Place in accordance with the provisions of this Order or for the purpose of departing from the Parking Place shall be liable to prosecution.

Wilful damage

55. Any person who with intent to defraud interferes with a Ticket Machine or operates or attempts to operate it by the insertion of objects other than undamaged and unaltered coins or notes of legal tender and of the appropriate denomination, or other approved method of payment, shall be liable to prosecution.

56. Any person who interferes with or damages any part of the fabric of a Parking Place or integral signing provided for the operation of the Parking Place shall be liable to prosecution.

Domestic purposes

57. Any person who uses any part of the Parking Place or a moveable dwelling Parked within a Parking Place or a Vehicle in a Parking Place for sleeping or camping or cooking shall be liable to prosecution.

Behaviour

58. Any person who wilfully sounds any horn or any other similar instrument on a Vehicle except when about to change the position of the Vehicle in or to depart from the Parking Place shall be liable to prosecution.
59. Any person who in a Parking Place shouts or otherwise makes any loud noise to the disturbance or annoyance of users of the Parking Place or residents or premises in the neighbourhood shall be liable to prosecution.
60. Any person who in a Parking Place uses 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 shall be liable to prosecution.

Other activities

61. Any person who in a Parking Place
- (i) erects or causes or permits to be erected any tent, booth, stand, building or other structure without the written consent of the Council, or
 - (ii) lights or causes to be lit any fire,
- shall be liable to prosecution.
62. A person who uses a Parking Place for the purpose of displaying or posting or distributing advertising material or fly tipping of rubbish without the express written consent of the Council shall be liable to prosecution.

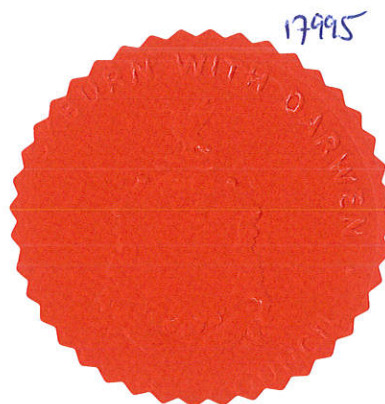
Given under the Common Seal of the Blackburn with Darwen Borough Council this 3rd day of May 2018



Key to Restriction Types Displayed

— Limited Waiting 8am-5pm
 — Limited Waiting 2 hours, No return within 3 hours

THE COMMON SEAL of Blackburn)
with Darwen Borough Council)
was hereunto affixed in pursuance of)
a resolution of the Council held on)
This 15th day of November 2014)



Authorised Officer

Council 15/11/01

SCHEDULE 1

CULSHAW STREET, BLACKBURN

Parking Place	Class of Vehicles	Days of Operation	Charging Hours	Maximum period for which vehicles may wait	Scale of Charges
Culshaw Street, Carpark, Blackburn	a) Motor Car b) Motor Cycle c) Invalid Carriage	Any time during any day other than a Bank Holiday being a public holiday	8.00am to 6.00pm	3 hours No return within 2 hours	0 – 3 hours: Nil