

BRACKNELL FOREST BOROUGH COUNCIL  
(SERVICE YARD H, BRACKNELL)  
(LOADING AREA) ORDER 2014



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Bracknell Forest Borough Council (hereinafter referred to as "the Council") in exercise of its powers under Sections 1, 2,4, 32, 35, 45, 46, 49, 53, and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 (hereinafter referred to as "the Act of 1984"), as amended; and the Traffic Management Act 2004 (hereinafter referred to as "the Act of 2004"), as amended, and all other enabling powers; and after consultation with the Chief Officer of the Police in accordance with Part III of Schedule 9 to the Act of 1984 hereby makes the following Order:-

**PART I**  
**CITATION AND INTERPRETATION**

**Citation**

1. This Order shall come into operation on the 24<sup>th</sup> day of February 2014 and may be cited as the Bracknell Forest Borough Council (Service Yard H) (Loading Area) Order 2014.
2. Bracknell Forest Council drawing number 4674/067 ("the Plan") is incorporated into this Order.

**Interpretation**

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

*"authorised officer"* means the Director of Environment and Leisure for the Council or any other officer of the Council (to whom the Council has delegated all relevant powers) to be designated by the Council;

*"civil enforcement officer"* means a person authorised by or on behalf of the Council to supervise the parking places and enforce the restrictions imposed by this Order;

*"delivering" and "collecting"* in relation to any goods includes checking the goods for the purpose of their delivery or collection;

*"dispensation certificate"* means a certificate duly issued on behalf of the Council by an Authorised Officer permitting a specified vehicle to wait in specified circumstances on a length or lengths of roads where the waiting or loading of that vehicle would otherwise be prohibited;

*"driver"*, in relation to a vehicle waiting in a parking place or on a road or length of road, means the person driving the vehicle at the time it was left in that parking place or road or length of road;

*"enactment"* means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment and 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;

*"goods"* means goods or burden of any description and includes postal packets of any description;

*"key"* means the key which is included on the Plan and which is to be read in conjunction with the Plan;

*"loading"* means the loading or unloading of goods to or from a vehicle;

*"loading area"* means a road or part of a road specified on the Plan, and indicated by sign diagram numbers 640.3 and 640.4 as defined in Schedule 2 of the Traffic Signs Regulations and General Directions 2002, to be used only as a loading or unloading area;

"motor vehicle", "motorcycle", "invalid carriage" and "motor car" have the same meaning as assigned to them by section 136 of the Act of 1984;

"owner", in relation to a vehicle means the person who is named in the vehicle registration document as the registered keeper of a goods or passenger vehicle or the person who has the use of such a vehicle and who is entitled to use such a vehicle as though he/she were the registered keeper thereof;

"PCSO" means a Police Community Support Officer as designated by the Chief Police Officer;

"penalty charge" and "reduced penalty charge" means a charge set by the Council under Section 77 of Part 6 and Schedule 9 of the 2004 Act, which is to be paid to the Council following the issue of a penalty charge notice (PCN) and within 28 days beginning with the date of issue of the notice, or 14 days in the case of a reduced penalty charge;

"penalty charge notice" means a notice issued by or served by a Civil Enforcement Officer pursuant to the provisions of 'The Civil Enforcement of Parking Contraventions (England) General Regulations 2007';

"registered keeper", in relation to a penalty charge imposed in respect of motor vehicle, means the person in whose name the motor vehicle was registered under the Vehicle Excise and Registration Act 1994 at the time of the act, omission, event or circumstances in respect of which the penalty charge is imposed;

"relevant position" in respect of: -

- (a) a dispensation certificate means;
  - (i) in the case of a vehicle fitted with a front windscreen, that the badge or dispensation certificate is exhibited with the front facing forward and is legible on the nearside of the vehicle and immediately behind the windscreen; or
  - (ii) the case of a vehicle not fitted with a front windscreen, that the dispensation certificate is exhibited and is legible in a

conspicuous position on the front or nearside of the vehicle;

"telecommunication system" has the same meaning as in the Telecommunications Act 1984;

"the Plan" means that plan attached to this Order and in any orders amending this Order including the key in the Plan;

"the 2002 Regulations" means the Traffic Signs Regulations and General Directions 2002; and

"vehicle" means a motor vehicle as defined in Section 136(1) of the Act of 1984.

4. Except where otherwise stated, any reference in this Order to a numbered Article or Schedule is a reference to the Article or Schedule bearing that number in this Order;
5. The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

## **PART II**

### **PROHIBITION OF WAITING IN LOADING AREA**

#### **Restriction of Waiting in Loading Areas**

6. Save as provided in Articles 7, 8(a), 8(b) and 8(c) of this Order no person shall, except upon the direction or with the permission of a Civil Enforcement Officer in uniform, Police Constable in uniform or PCSO in uniform, cause or permit any motor vehicle, (and/or drawn trailer), to wait during the restricted hours in the loading area specified on the Plan unless it is loading or unloading goods in connection with nearby trade, commercial or business premises.

## **Emergencies**

7. Nothing in Article 6 of this Order shall render it unlawful to cause or permit any motor vehicle to wait in the loading area specified on the Plan for so long as may be necessary to enable the motor vehicle to be used in an emergency for fire and rescue, ambulance or police purposes.

## **Exemptions on Waiting**

### **8 (a) General**

Nothing in Article 6 of this Order shall render it unlawful to cause or permit any motor vehicle to wait in the loading area specified on the Plan, for so long as may be necessary to enable:

- (i) the motor vehicle, if it cannot conveniently be used for such purpose in any other road, to be used in connection with any of the following operations, namely:-
- (a) building, shop fitting, industrial or demolition operations;
  - (b) the removal of any obstruction to traffic;
  - (c) the maintenance, improvement or reconstruction of the road or part of the road, the laying, erection, alteration or repair in or on land adjacent to the said road any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunications system; or
  - (d) the removal of snow, ice or traffic debris, by the Council's maintenance vehicles,
- (ii) the motor vehicle, not being a passenger vehicle, if it cannot conveniently be used for such purposes in any other road, to be used in the service of a local authority or its contractors in pursuance of that authority's statutory powers or duties;

- (iii) the motor vehicle is being used by the Royal Mail or other universal service provider (as defined in section 65 of the Postal Services Act 2011) for the purpose of delivering and/or collecting mail;
- (iv) the motor vehicle is specifically designed for the delivery and collection of valuables and/or cash and is being used for such purposes in relation to properties.
- (v) in any case where the person in control of the motor vehicle,
  - (a) is required by law to stop;
  - (b) is obliged to stop so as to prevent an accident, or
  - (c) is prevented from proceeding by circumstances outside his/her control;

**(b) Loading and Unloading**

Nothing in Article 6 of this Order shall render it unlawful to cause or permit any motor vehicle to wait in the loading area specified on the Plan for so long as may be necessary to enable goods to be loaded to or unloaded from a motor vehicle (or goods or merchandise to be delivered or collected).

**(c) Waiting by a motor vehicle displaying a dispensation certificate**

Nothing in Article 6 of this Order shall prevent any person from causing or permitting a motor vehicle to wait in the loading area specified on the Plan if it is displaying in a relevant position a dispensation certificate and the motor vehicle is waiting in accordance with the terms and conditions of the said dispensation certificate.

**Dispensation Certificates**

- 9. The Council may issue a dispensation certificate on receipt of written application with at least five working days notice and may impose terms and conditions as appropriate.
- 10. A dispensation certificate may be cancelled at any time at the sole discretion of the

Council and shall thereupon immediately cease to be valid. Notification of such cancellation shall be sent by post to the holder of the certificate at any address that the Council believes to be that person's address and the certificate shall forthwith be surrendered to the Council.

### **PART III**

#### **CONTRAVENTION OF ORDER**

#### **Contravention**

11. If a vehicle is left in any road or length of road in contravention of any provision of this Order, a Penalty Charge shall be payable.
12. In the case of a vehicle in respect of which a Penalty Charge is payable A penalty charge notice showing the information required by the 2004 Act may then be issued by a civil enforcement officer in accordance with the requirements of the 2004 Act or any subsequent applicable legislation.

#### **Penalty Charge Notice**

13. In the case of a Vehicle in respect of which the Penalty Charge may have been incurred, it shall be the duty of a Civil Enforcement Officer to either hand the Penalty Charge Notice to the driver of the vehicle, post the Penalty Charge Notice to the Owner of the vehicle or attach the Penalty Charge Notice to the vehicle in a conspicuous position. The notice shall include the following particulars:
  - (a) the registration mark of the vehicle or, where the vehicle is being used under a trade licence, the number of the trade plate carried by the vehicle;
  - (b) the grounds on which the Civil Enforcement Officer believes that a Penalty Charge is payable in respect of that vehicle;
  - (c) the date the contravention occurred;
  - (d) the date of issue of the Penalty Charge Notice;
  - (e) the amount of Penalty Charge required to be paid;

- (f) that if the Penalty Charge is paid before the end of the period of 14 days beginning with the date of the notice, the amount of the Penalty Charge will be reduced by the specified proportion or amount;
- (g) that if the Penalty Charge is not paid before the end of the 28 day period a Notice to Owner may be served by the Council on the person appearing to be the owner of the vehicle; and
- (h) the address to which payment of the Penalty Charge must be sent.

#### **Manner of payment of Penalty Charge**

14. The Penalty Charge shall be paid to the Council within 28 days of the issue of the penalty charge notice either;
- (a) by cheque, bankers' draft, money order or postal order delivered or sent by post as indicated on the penalty charge notice, or
  - (b) by cheque, postal order, in cash by credit card or debit card in person at any Bracknell Forest Borough Council office which accepts such payments, or
  - (c) by credit card or debit card over the phone using the number specified on the Penalty Charge Notice, or
  - (d) by internet using the Bracknell Forest Borough Council web site:
- Provided that, if the said twenty eighth day falls upon a day on which the said Department or office is closed, the period within which payment of the said charge shall be made to the Council shall be extended until 4.30pm on the next full day on which the said Department is open.
15. If the Penalty Charge is paid before the end of the period of 14 days beginning with the date of the notice, the amount of the Penalty Charge will be reduced by the specified proportion.
16. If the owner fails to pay the Penalty Charge by the end of the 28 day period, a Notice to Owner may be served; and if the charge is not paid within a further 28 days it may be increased by 50% on the issue of a Charge Certificate in accordance with the provisions of the 2004 Act.



17. Continuing failure to pay the Penalty Charge may result in a judgement in the County Court against the owner to enable the Council to recover the payments due.

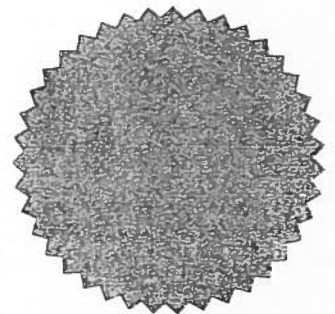
### Indications as Evidence

18. The particulars given in the Penalty Charge Notice in accordance with Article 13 shall be treated as evidence in any proceedings relating to failure to pay such Penalty Charge.

### Restriction on Removal of Notices

19. Where a Penalty Charge Notice has been issued in accordance with the provisions of Article 13 of this Order, no person, not being the driver of the vehicle, a Civil Enforcement Officer in uniform, Police Officer in uniform or PCSO in uniform or some other person duly authorised by the Council, shall remove the notice from the vehicle unless authorised to do so by the driver.

THE COMMON SEAL of BRACKNELL  
FOREST BOROUGH COUNCIL was  
hereunto affixed on the 17<sup>th</sup> day of  
FEBRUARY 2014 in the presence of :



  
.....  
MAYOR

  
.....  
BOROUGH SOLICITOR



