

Dated 18th March 2008

CHILTERN DISTRICT COUNCIL

OFF-STREET PARKING PLACES AMENDMENT (No. 5) ORDER

2008

CHILTERN DISTRICT COUNCIL

OFF-STREET PARKING PLACES AMENDMENT (No. 5) ORDER 2008

The Council of the Chiltern District in the County of Buckinghamshire (hereinafter referred to as “the Council”) in exercise of its powers under Section 35(1) and (3) and under Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 as amended by the Parking Act 1989 (which said Act of 1984 is hereinafter referred to as “the Act”), the Traffic Management Act 2004 (“the 2004 Act”) and all Regulations and Orders made in exercise of the powers conferred by the 2004 Act and all other enabling powers, with the consent of the Buckinghamshire County Council in accordance with Section 39(3) of the Act and after consulting the Chief Officer of Police in accordance with Part III of Schedule 9 of the Act, HEREBY MAKES the following Order:-

1. (1) This Order is supplemental to the Chiltern District Council Off-Street Parking Places Order 2004 (as amended) (“the Original Order”) which subject as hereinafter mentioned remains in full force and effect.

 (2) This Order shall come into operation on 31 March 2008 and may be cited as the Chiltern District Council Off-Street Parking Places Amendment (No. 5) Order 2008 (“the Amendment Order”).

 (3) Definitions are set out in the Original Order.
2. The definition for “owner” in Article 2(2) of the Original Order is deleted and the following is inserted:

“owner” in relation to a vehicle means the person at the material time by whom the vehicle is kept which in the case of a vehicle registered under the Vehicle Excise and Registration Act 1994 is presumed (unless the contrary is proved) to be the person in whose name the vehicle is registered at the material time.

3. The definition for “driver” in Article 2(2) of the Original Order is deleted and the following is inserted:

“driver” in relation to a mechanically propelled vehicle means the person who at the material time is entitled to the possession and use of such vehicle under the terms of a hiring agreement entered into with a vehicle-hire firm and has signed a statement of liability acknowledging his liability in respect of any parking contraventions involving the vehicle during the currency of the hiring agreement and in respect of whom the owner of the vehicle has in response to a Notice to Owner served on him by the Council made representations on the grounds specified by Regulation 4(4)(d) of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 and the Council has accepted those representations.

4. The definition for “parking attendant” in Article 2(2) of the Original Order is deleted and the following is inserted:

“civil enforcement officer” means a person provided by the Council for the purpose of supervising parking places situate within the Chiltern District and

enforcing the restrictions imposed by this Order pursuant to Section 63A of the Act.

5. The definition for “penalty charge” in Article 2(2) of the Original Order is deleted and the following is inserted:

“penalty charge” means a charge set by the Council in accordance with Article 5(2) of this Order. The appropriate penalty charge in force will be as shown on the ‘Pay and Display’ Notice in the parking place where it applies.

6. The definition for “penalty charge notice” in Article 2(2) of the Original Order is deleted and the following is inserted:

“penalty charge notice” means a penalty charge notice issued or served by a civil enforcement officer or posted by the enforcement authority pursuant to the provisions of Section 78 of the 2004 Act, the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and complying with Article 6 of this Order.

7. The definition for “ticket” in Article 2(2) of the Original Order shall be amended as follows:

After “Schedule of” delete “the Principal Order” and insert “this Order.”

8. Article 2(2) of the Original Order is further amended by the addition of the following definitions:

“reduced penalty charge” means a 50 per cent reduction of the penalty charge provided payment is received by the Council not later than the last day of the period of 14 days beginning with the date on which the penalty charge notice is served.

“Council” means Chiltern District Council.

“enforcement authority” means Chiltern District Council.

“registered keeper” means the person in whose name the vehicle was registered under the Vehicle Excise and Registration Act 1994.

“material time” means the time when the contravention giving rise to the penalty charge is said to have occurred.

“hand-held device” means a wireless hand-held computer used by a civil enforcement officer which is programmed to interface with the telephone payment parking system.

“location identification number” means the unique number assigned to each parking place where the telephone payment parking system is operational.

“Pay by Phone” means the Telephone Payment Parking System provided by the Council.

“Telephone Payment Parking System” means a system to facilitate and monitor the payment of parking charges using telephone communication with the service provider in accordance with instructions indicated on signs located at each parking place where the system is operational.

“service provider” means the company authorised and appointed by the Council to operate, administer and maintain the payment of parking charges using the telephone payment parking system.

“service charge” means the charge payable to the service provider (in addition to the parking charge payable in accordance with the provisions of Article 4(8) to Article 4(12) of this Order for vehicles using the telephone payment parking system.

9. The existing definitions in the Original Order and the additional definitions in the Amendment Order shall be reorganised in alphabetical order.

10. Article 5 of the Original Order shall be amended as follows:

Delete from “**PENALTY CHARGE AT PARKING PLACE**” to end of Article 5

and insert

“PENALTY CHARGE AT PARKING PLACE

5. (1) Subject to the provisions of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 in respect to a vehicle where there has been committed in relation to that vehicle a parking contravention within paragraph 4 of Schedule 7 to the 2004 Act (parking contraventions outside Greater London) in a civil enforcement area outside Greater London and/or the provisions of this Order a penalty charge is payable by the owner or driver of the vehicle to the Council in accordance with Article 6 of this Order.

(2) Penalty charges including any discounts or surcharges thereto shall be of such levels as are from time to time set by the Council in accordance with the provisions of Section 77 and Part 3 of Schedule 9 of the 2004 Act and the Schedule to the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (‘the Guidelines Order’) made by the Secretary of State under Paragraph 8 of Part 3 of Schedule 9 of the 2004 Act. All off-street parking contraventions are prescribed as either Higher Level or Lower Level contraventions in respect of which different penalty charges apply at the levels described in Table 1 of the Schedule to the Guidelines Order as Band 1 or Band 2. In relation to both the Higher Level and Lower Level contraventions the Council may in its absolute discretion set the level of penalty charge at either the Band 1 or Band 2 level PROVIDED that the Council will publish the level of charges in a newspaper circulating in

the locality not less than 14 days before such charges shall come into force.

11. Article 6 of the Original Order shall be amended as follows:

Delete from “**NOTICE WHERE CONTRAVENTION OF THIS ORDER (PENALTY CHARGE NOTICE)**” to end of Article 6

and insert

“NOTICE WHERE CONTRAVENTION OF THIS ORDER (PENALTY CHARGE NOTICE)

6. (1) A penalty charge notice may be in such form as may from time to time be considered appropriate by the Council, provided that it displays the information required by the Schedule to the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and Part 2 of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.

- (2) The penalty charge, reduced penalty charge and charge payable after service of a charge certificate shall be in the following amounts:

- (a) In respect of any contravention the penalty charge payable shall, subject to Articles 6(2)(b) and 6(2)(c) of this Order, be the amount from time to time set by the Council in accordance with Article 5(2) of this Order and payment shall

be received by the Council not later than the last day of the period of 28 days beginning with the date on which the penalty charge notice is served.

(b) Notwithstanding the provisions of Article 6(2)(a) of this Order a reduced penalty charge shall be payable PROVIDED payment is received by the Council not later than the last day of the period of 14 days beginning with the date on which the penalty charge notice is served.

(c) On the issue of a charge certificate in accordance with the provisions of Regulation 21 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 the penalty charge shall be increased by 50 per cent.

(3) For the avoidance of doubt the reference in Articles 6(2)(a) and 6(2)(b) of this Order to payment being received by the Council not later than the last day of the period of 28 or 14 days (as the case may be) shall be interpreted to mean that payment must be received by the Council by no later than 00.00 hours on the last day of the said period of 28 or 14 days.

(4) The penalty charge, reduced penalty charge and charge payable after service of a charge certificate (as appropriate) shall be paid to the Council in cash or by means of cheque, postal order, credit card or debit

card payment or any other means of payment acceptable to the Council. Payment shall be made at Customer Services, Council Offices, King George V Road, Amersham or to such other office as the Council may from time to time determine or an agent appointed by the Council or by using the Council's Telephone Payment System or Online at www.chiltern.gov.uk as specified in the penalty charge notice.

(5) Where a penalty charge has been incurred due to a parking contravention a civil enforcement officer may attach to the vehicle in a conspicuous position or hand to the driver of the vehicle a penalty charge notice which complies with the requirements of Regulation 9 and Schedule to the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

(6) Where a penalty charge has been incurred a penalty charge notice may be issued by post by the enforcement authority if the owner of the vehicle drives the vehicle away before the civil enforcement officer has issued a penalty charge notice or the civil enforcement officer has been prevented from issuing a penalty charge notice, such a penalty charge notice shall comply with the requirements of Regulation 10 and the Schedule to the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

(7) Part 6 of the Traffic Management Act 2004, the Schedule to the Civil Enforcement of Parking Contraventions (England) General

Regulations 2007, Part 2 of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 and the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 shall have effect with respect to penalty charges, notices to owners and other matters supplementing the provisions of Article 6 of this Order.”

12. Article 7 of the Original Order shall be deleted.

13. Article 10(2) of the Original Order shall be amended as follows:

Delete from “(2) If a vehicle” to the end of Article 10(2)

and insert

“(2) If a vehicle is left in a parking place in contravention of any of the provisions of this Order, or is abandoned, a person authorised by the Council in that behalf may remove the vehicle from that parking place or arrange for such removal and the Council shall be entitled to recover as a civil debt from any person responsible such charges in respect of the removal, storage and disposal of the vehicle as the Council may require in accordance with Schedule 9 of the 2004 Act.”

14. Article 8 to Article 12 of the Original Order shall be renumbered Article 7 to Article 11 consecutively.

15. After Article 4(7) of the Original Order insert the following:

“4(8) In addition to the provisions of Article 4(1) to Article 4(7) of this Order each parking place referred to in Part I of the Schedule of this Order may also be used, where applicable, for such classes of vehicles in such positions, on such days, during such hours on payment of the relevant parking charge including Season Ticket parking charges using Pay by Phone.

4(9) Pay by Phone information signs and the relevant Location Identification Number signs will be located in each parking place where Pay by Phone is in operation and will provide information in regard to the operation and use of Pay by Phone.

4(10) Save as provided for in Paragraph 4 (iii) of Part II of the Schedule of this Order the payment of a parking charge using Pay by Phone will relate only to the parking place as indicated by the location identification number displayed on the location identification number sign situated in the parking place.

4(11) Where a vehicle has been left in a parking place operating Pay by Phone an indication that the relevant parking charge including Season Ticket parking charges has been made in respect of that vehicle using Pay by Phone together with an indication of the parking periods for which payment has been made shall appear on the hand-held device.

4(12) Without prejudice to the provisions of Article 4(1) to Article 4(7) and Paragraph 2(ii) of Part II of the Schedule of this Order if at any time while a vehicle is left in a parking place referred to in Part I of the Schedule of this Order no indication appears on a hand-held device that payment of the parking charge has been made using Pay by Phone, or a hand-held device indicates that the payment period for which payment was made using Pay by Phone has expired it shall be presumed (as the case may be and unless the contrary is proved) that either:

- (a) the parking charge has not been duly paid in respect of that vehicle in accordance with the provisions of Article 4 of this Order; or
- (b) the parking period for which payment was made using Pay by Phone has expired

and in either case a civil enforcement officer may serve a penalty charge notice.

16. Paragraph 4 of Part II of the Schedule of the Original Order shall be amended as follows:

After sub paragraph 4 ii) insert the following:

- “iii) Payment of the parking charge using Pay by Phone in respect of Star Yard, Chesham Parking Place will apply to Catlings, Chesham Parking Place and vice versa but

such payments are not transferable between users of these car parks.”

17. Paragraph 6 of Part II of the Schedule of the Original Order shall be amended as follows:

After “operated” insert “both”

and after “Pay and Display” delete “method” and insert “and Pay by Phone methods”

18. Row 19, Column 1 of Part I of the Schedule of the Original Order shall be amended as follows:

Delete “ Station Car Park Amersham” and insert “Amersham Multi-Storey Car Park”

19. Paragraph 8 of Part II of the Schedule of the Original Order shall be amended as follows:

After “8” delete “STATION CAR PARK, AMERSHAM” and insert “AMERSHAM MULTI-STOREY CAR PARK”.

20. Paragraph 13 of Part II of the Schedule of the Original Order shall be amended as follows:

After “Group A” delete “Station Car Park, Amersham” and insert “Amersham Multi-Storey Car Park”.

21. Paragraph 2 of Part III of the Schedule of the Original Order shall be amended as follows:

Under the heading of Parking Place, Amersham delete “Station Car Park” and insert “Amersham Multi-Storey Car Park”.

22. Row 3, Column 4 of Part I of the Schedule of the Original Order shall be amended as follows:

Delete “No Limit”

23. Row 3, Column 5 of Part I of the Schedule of the Original Order shall be amended as follows:

Insert “No Season Tickets”.

24. Row 4, Column 4 of Part I of the Schedule of the Original Order shall be amended as follows:

Delete “No Limit”

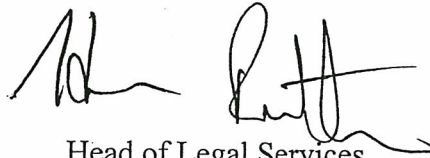
25. Row 5, Column 4 of Part I of the Schedule of the Original Order shall be amended as follows:

Delete "No Limit"

The COMMON SEAL of
CHILTERN DISTRICT COUNCIL
was hereunto affixed this 18th day of March, 2008
in the presence of:



Chairman



Head of Legal Services

