

THIS IS A COPY OF THE SEALED ORDER

NORTH YORKSHIRE COUNTY COUNCIL

(VARIOUS ROADS, BOROUGH OF HARROGATE) (PARKING AND WAITING)
(NO 5) ORDER 2004

North Yorkshire County Council (hereinafter referred to as "the Council") in exercise of their powers under Sections 1(1), 2(1) to (3) and 4(2) of the Road Traffic Regulation Act 1984 ("the Act") and of all other enabling powers and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act, hereby make the following Order:-

PART 1

GENERAL

1. (1) When used in this Order each of the following expressions has the meaning assigned to it below:-

"disabled person" means a person who holds a disabled persons' badge in accordance with the provisions of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (No. 682) (and in particular Regulation 4 thereof) or any re-enactment thereto;

"disabled person's badge" means a badge issued in accordance with the provisions of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (as amended) (in particular Regulation 11 and the Schedule thereto) or under regulations having effect in Scotland and Wales under Section 212 of the Chronically Sick and Disabled Persons Act 1970 as referred to currently by the Local Authorities Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000 (No. 683) or any subsequent further re-enactments thereof;

"disabled person's vehicle" means a vehicle driven by a disabled person as defined in Regulation 4(2) of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 (No. 682);

"goods" shall mean items of any description which cannot easily be carried by one person and do not include goods that are not pre-ordered, shopping, small fragile goods or cash or other valuable securities which are being collected or delivered from a bank/building society;

"loading/unloading" means when a vehicle stops to load or unload bulky or heavy goods;

"parking attendant" shall mean the person or persons duly authorised in writing in that behalf (from time to time) by the Council of the Borough of Harrogate;

"parking disc" means in relation to article 4(2) of this Order (Exemptions for Disabled Persons' Vehicles), a device which:-

- (a) is 125 millimetres square and coloured blue, issued on or after 1st April 2000 or orange, if issued before that date;
- (b) has been issued by a local authority and has not ceased to be valid; and
- (c) is capable of showing the quarter-hour period during which a period of waiting has begun;

"penalty charge" means a charge set by the Council under the provisions of Section 74 of the 1991 Act in accordance with guidance given by the Secretary of State and specified in Article 5 of this Order, such charge being payable by virtue of Paragraph 3(1) and (2) of

Schedule 3 of the 1991 Act in the manner set out in the Penalty Charge Notice;

“penalty charge notice” means a Notice issued by the parking attendant pursuant to the provisions of Section 66 and Schedule 6 and related provisions of the 1991 Act;

“post office” and any reference to “post office vehicle” or “postal packets” shall be construed in the context of the Postal Services Act 2000 and the Consequential Amendments Order 2001 (No. 2001/648) and shall include therefore references to “universal service providers” such as Consignia Plc, as the context shall require;

“relevant position” means (in conformity with Regulation 12 of SI 2000 No. 682 referred to above):-

- (a) in relation to a disabled person’s badge,
 - (i) in the case of a vehicle fitted with a dashboard or facia panel, the badge is exhibited thereon so that Part 1 of the badge is legible from outside the vehicle; or
 - (ii) in the case of a vehicle not fitted with a dashboard or facia panel, the badge is exhibited in a conspicuous position on the vehicle so that Part 1 of the badge is legible from outside the vehicle;
- (b) in relation to a parking device or disc (in conformity with Regulation 4 of SI 2000/1519):-
 - (i) in the case of a vehicle fitted with a dashboard or facia panel the disc is exhibited thereon so that the quarter-hour period during which the period of waiting began is legible from outside the vehicle or
 - (ii) in the case of a vehicle not so fitted the disc is exhibited in a conspicuous position on the vehicle so that the quarter-hour period during which the period of waiting began is legible from outside the vehicle;

“quarter-hour period” means a period of a quarter of an hour starting at any hour or fifteen, thirty or forty-five minutes past the hour which can be shown on the parking disc;

“road” means the full width of the highway including the carriageway and footway;

“the 1991 Act” means the Road Traffic Act 1991.

- (2) 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.

- 2. For the purposes of this Order any reference to a length of road shall be construed as a reference to the length specified in column 4 of the Schedule to this Order of the side or sides of road specified in respect of that length in column 3 thereof in relation to the road named in respect of that side or those sides in column 2 of that Schedule.

PART 2

PROHIBITION AND RESTRICTION OF WAITING

- 3. Save as provided in article 4 of this Order no person shall except upon the direction or with the permission of a Police Constable in uniform, or of a Parking Attendant, cause or permit any vehicle to wait at any time in the length of road specified in the Schedule to this Order.

Exemptions

4. (1) Nothing in article 3 of this Order shall render it unlawful to cause or permit any vehicle to wait in the length of road specified in the Schedule to this Order for so long as may be necessary to enable:-
- (a) a person to board or alight from the vehicle or
 - (b) goods to be loaded on or unloaded from the vehicle or
 - (c) the vehicle if it cannot conveniently be used for such purposes in any other road to be used in connection with any of the following operations:-
 - (i) building, industrial or demolition operations
 - (ii) the removal of any obstruction to traffic
 - (iii) the maintenance, improvement or reconstruction of the length of road specified in the said Schedule or
 - (iv) the laying, erection, alteration or repair, in or in land adjacent to, the length of road specified in the said Schedule of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunications apparatus as defined in the Telecommunications Act 1984;
 - (v) the delivery or collection of postal packets as defined in Section 87 of the Post Office Act 1953 at or from premises fronting the length of road specified in the said Schedule.
 - (d) the vehicle if it cannot conveniently be used for such purpose in any other road to be used in the service of a local authority or a water authority for the purpose of the performance of the statutory functions of such authority;
 - (e) the vehicle to take in petrol, oil, water or air from any garage situated on or adjacent to the length of road specified in the said Schedule;
 - (f) the vehicle to wait at or near to any premises situated on or adjacent to the length of road specified in the said Schedule for so long as is reasonably necessary to enable the vehicle to be used for or in connection with the purposes of any wedding or funeral taking or to take place from or at any such premises;
 - (g) the vehicle to be used for fire brigade, ambulance or police purposes.
- (2) Nothing in article 3 of this Order shall render it unlawful to cause or permit a disabled person's vehicle which displays in the relevant position a disabled person's badge whilst such vehicle is being used by or for the convenience of a disabled person and a parking disc (on which the driver or other person in charge of the vehicle has marked the time at which the period of waiting began) to wait in the length of road referred to in that article for a period not exceeding three hours (not being a period separated by an interval of less than one hour from a previous period of waiting by the same vehicle in the same length of road on the same day).

PART 3

PENALTY CHARGE AND PAYMENT

5. From the date The Road Traffic (Permitted Parking Area and Special Parking Area) (County of North Yorkshire) (Borough of Harrogate) Order 2002 takes effect on 15 July 2002, hereinafter called the Designation Order, the following provisions shall apply by operation of law, namely:-

- (1) Where a vehicle:-
 - (a) waits, parks or is left on a road in contravention of the foregoing provisions of this Order or otherwise contravenes or fails to comply with the provisions of this Order, insofar as it relates to a vehicle waiting, parking or being left on a road; or
 - (b) waits, parks or is left on a road in contravention of any other Traffic Regulation Order the provisions of which are not consolidated into this Order or fails to comply with the provisions of any such Order insofar as it relates to a vehicle waiting, parking or being left on a road; or
 - (c) parks in contravention of the provisions of Section 19 or 21 of the Road Traffic Act 1988 (prohibition of parking of HGVs on verges, central reservations and footways), and (driving or parking on cycle tracks);

then a Penalty Charge of £60 shall be payable within 28 days beginning with the date of the Notice under Section 66(3) of the 1991 Act.

- (2) In the case of a vehicle in respect of which a Penalty Charge is payable under Paragraph (1) of this Article, a Penalty Charge Notice may be issued by a parking attendant in accordance with the requirements of Section 66 of the 1991 Act and may accordingly be affixed to the vehicle or given to the person appearing to be in charge of the vehicle;
- (3) A Penalty Charge Notice shall contain the details required by Section 66(3) of the 1991 Act;
- (4) Where a Penalty Charge Notice has been issued and affixed or given in the manner set out above, it shall not be removed or interfered with except by or under the authority of the owner or person in charge of the vehicle or a parking attendant or some other duly authorised person. The Penalty Charge shall be payable by the owner of the vehicle in respect of which that notice was issued in accordance with Section 66 and Schedule 6 of the 1991 Act in the sum specified in paragraph (1) above.
- (5) A Penalty Charge shall be deemed to be paid when it is received by the Council in accordance with Section 82(5) of the 1991 Act.
- (6) In accordance with Section 66(3) (d) of the 1991 Act (as amended), where a Penalty Charge Notice has been issued and the Penalty Charge has been paid within 14 days of the date of issue of the Penalty Charge Notice, the lesser sum of £30.00 shall be payable by the owner of the vehicle in respect of which that Notice was served.
- (7) If in accordance with Section 66(3) as above and Schedule 6 of the 1991 Act, the Penalty Charge Notice is not paid within 28 days of the issue date of the Penalty Charge Notice the Council may serve a Notice to Owner on the owner of the vehicle when the alleged contravention occurred stating the matters required by Schedule 6, paragraph 1(2) amongst other things that the owner may make representations to the Council against the said Notice invoking one or more grounds specified in paragraph 2(4) of the said Schedule.
- (8) The Council will consider any such representations and may cancel the Notice if it accepts one or more statutory grounds are made out but if such are rejected by the Council the Council will serve a "Notice of Rejection" in accordance with Schedule 6, paragraph 4 of the 1991 Act and enclose a "Notice of Appeal" in accordance with the Adjudicator's Directions to Local Authorities.
- (9) Within 28 days of service of a Notice of Rejection the Penalty Charge must be paid or the person upon whom the Notice of Rejection was served must appeal to the Adjudicator who will then carry out an adjudication on the Appeal.
- (10) Where a Notice to Owner is served on any person and the Penalty Charge to which it relates is not paid before the end of the relevant period, the authority serving the notice may

serve on that person a statement (a "Charge Certificate") to the effect that the penalty charge in question is increased by 50 per cent.

- (11) The relevant period, in relation to a Notice to Owner, is the period of 28 days beginning:-
- (a) where no representations are made under paragraph 2(4) of Schedule 6 to the 1991 Act, with the date on which the notice to owner is served;
 - (b) where:-
 - (i) such representations are made;
 - (ii) a notice of rejection is served by the Council; and
 - (iii) no appeal against the notice of rejection is made, with the date on which notice of the adjudicator's decision is served on the appellant.
- (12) Where an appeal against a notice of rejection is made but is withdrawn before the adjudicator gives notice of his decision, the relevant period in relation to a notice to owner is the period of 14 days beginning with the date on which the appeal is withdrawn.
- (13) When the Charge Certificate has been served on any person and the increased penalty charge provided for in the Certificate is not paid within 14 days of service the Council may register a debt at Northampton County Court (for enforcement purposes), which has been designated as the Traffic Enforcement Centre.
- (14) If the charge Certificate is not paid within 14 days of registration at the County Court the Council can apply to the Traffic Enforcement Centre for authorization to issue a bailiffs warrant in accordance with the Lord Chancellors Regulations made under Section 78 (2) of the Road Traffic Act 1991.

PART 4

OPERATION OF THE ORDER

6. The prohibitions and restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirement imposed by any Order or regulations made or having effect as if made under the Act or by or under any other enactment.
7. This Order is intended to operate within the provisions of the Road Traffic Regulation Act 1984 and the Road Traffic Act 1991 as amended and applied to the administrative area of the County of North Yorkshire (Borough of Harrogate) by the Designation Order referred to in Article 5 above together with any other related enactment or consequential provision as referred to therein or any further Order that the Secretary of State for Local Government Transport and the Regions shall later make.
8. This Order shall come into operation on 22 March 2004 and may be cited as "North Yorkshire County Council (Various Roads, Borough of Harrogate) (Parking and Waiting) (No 5) Order 2004".

THE SCHEDULE

ROAD IN THE VILLAGE OF HAMPSTHWAITE

WAITING PROHIBITED AT ALL TIMES WITH EXEMPTIONS

<u>Column 1</u> <u>Item</u>	<u>Column 2</u> <u>Road</u>	<u>Column 3</u> <u>Side</u>	<u>Column 4</u> <u>Length</u>
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<u>Column 1 Item</u>	<u>Column 2 Road</u>	<u>Column 3 Side</u>	<u>Column 4 Length</u>
1	C257, Main Street, Hampsthwaite	North West	From a point directly in line with the southern gable wall of the Joiners Arms, in a north easterly direction for a distance of 13 metres.

Given under **THE COMMON SEAL** of)
NORTH YORKSHIRE COUNTY COUNCIL)
this 10th day of March 2004)
in the presence of:-)

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