

**THE KIRKLEES METROPOLITAN COUNCIL
(DECriminalISED PARKING) ORDER 2006**

The Council of the Borough of Kirklees (hereinafter referred to as "the Council") in exercise of its powers under section 43 and Schedule 3 of the Road Traffic Act 1991 (hereinafter referred to as "the 1991 Act") and The Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Kirklees) Order 2006 together with all other enabling powers hereby makes the following Order:-

PART I

1. COMMENCEMENT AND CITATION

This Order shall come into operation on the 8th day of July 2006 and may be cited as the Kirklees Metropolitan Council (Decriminalised Parking) Order 2006.

2. INTERPRETATION

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

"charge certificate" means a statement that may be served by the parking authority to the effect that the penalty charge is increased by 50% in accordance with the provisions of Schedule 6 to the 1991 Act

"Notice to Owner" means a notice that may be served by the parking authority in accordance with the provisions of Schedule 6 to the 1991 Act

"owner" in relation to a motor vehicle or vehicle means the person by whom such a motor vehicle is kept and used and in determining who was the owner of a motor vehicle at any time it shall be presumed that the owner was the person in whose name the motor vehicle was at that time registered under the Vehicle Excise & Registration Act 1994.

"parking attendant" means a person authorised by or on behalf of the Council pursuant to Section 63A of the 1984 Act

"parking area" means the area designated as a permitted parking area and as a special parking area by Article 4 of The Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Kirklees) Order 2006

"parking authority" means the Council

"penalty charge" means a charge set by the Council under the provisions of Section 74 of the 1991 Act as applied to the parking area by The Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Kirklees) Order 2006

"reduced penalty charge" means the penalty charge as reduced by one half

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

3. APPLICATION OF THE PROVISIONS OF THE ROAD TRAFFIC ACT 1991

3.1. Without prejudice to the validity of anything done or to any liability incurred in respect of any act or omission before the coming into operation of this Order the:-

- a) Kirklees Metropolitan Council (Traffic Regulation) (Huddersfield Area) (Consolidation) Order 2006
- b) Kirklees Metropolitan Council (Traffic Regulation)(Dewsbury Area) (Consolidation) Order 2006
- c) Kirklees Metropolitan Council (Traffic Regulation)(Batley Area) (Consolidation) Order 2006
- d) Kirklees Metropolitan Council (Traffic Regulation)(Holme Valley Area) (Consolidation) Order 2006
- e) Kirklees Metropolitan Council (Traffic Regulation)(Cleckheaton Area) (Consolidation) Order 2006
- f) Kirklees Metropolitan Council (Traffic Regulation)(Colne Valley and Denby Dale Areas)(Consolidation) Order 2006

shall have effect as though:-

3.1.1 Articles 3.1, 3.2, 3.3, 3.4, 3.5, 3.7, 4.5, 4.11.6, 5.4, 5.10.6, 6.6, 7.1, 8.1, 9.1, 10.1 and 10.3 of each of those Orders shall be modified as follows:-

The words "traffic warden" therein shall be substituted with "parking attendant"

3.1.2 The following provisions shall be incorporated into each of those Orders as Part XI Article 12:-

PART XI

12. CONTRAVENTIONS OF PROVISIONS OF ORDER

12.1. Where a motor vehicle is left in a parking place or in any road or length of road in contravention of any provision of this Order, a penalty charge shall be payable by the owner of the motor vehicle.

12.2. A penalty charge notice showing the information required by Section 66(3) of the 1991 Act may then be issued by a parking attendant in accordance with the provisions of Section 66(1) of the 1991 Act

12.3. In the case of a motor vehicle in respect of which a penalty charge has been incurred it shall be the duty of the parking attendant to attach to the vehicle in a conspicuous position or to give to the person appearing to him to be in charge of the motor vehicle a notice which shall include the following particulars:-

- 12.3.1. the grounds on which the parking attendant believes that a penalty charge is payable with respect to the vehicle;
- 12.3.2. the amount of the penalty charge which is payable;
- 12.3.3. that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice;

- 12.3.4. that if the penalty charge is paid before the end of the period of 14 days beginning with the date of the penalty charge notice, the amount of the penalty charge will be reduced by one half;
- 12.3.5. that, if the penalty charge is not paid before the end of the 28 day period, a Notice to Owner may be sent by the parking authority to the person appearing to them to be the owner of the motor vehicle;
- 12.3.6. the address to which payment of the penalty charge must be sent.

12.4. The penalty charge shall be in the sum of the following amounts:-

- 12.4.1. £60 on the issue of a penalty charge notice subject to being discounted to £30 if the Council as provided in Article 12.3.4 received payment within 14 days of the issue of the penalty charge notice;
- 12.4.2. On the issue of a "charge certificate" the penalty charge will be increased to the sum of £90.

12.5. A penalty charge notice fixed to a motor vehicle in accordance with this section shall not be removed or interfered with except under the authority of:-

- 12.5.1. the owner, or person in charge, of the motor vehicle; or
- 12.5.2. the parking authority.

12.6. The owner of a motor vehicle in respect of which a penalty charge has been incurred shall pay the penalty charge to the Council either:-

- 12.6.1. by cheque or postal order which shall be delivered or sent by post so as to reach the Council's Parking Office, Albion Street, Huddersfield (or such other department as may from time to time be appointed for that purpose by the Council) not later than 10:00am on the twenty eighth day following the day on which the penalty charge notice was issued; or
- 12.6.2. in cash, credit card or debit card in person at the said Parking Office not later than as aforesaid; or
- 12.6.3. automated telephone payment facility not later than as aforesaid; or
- 12.6.4. If the said twenty eighth day falls on a day on which the said Parking Office or department is closed, the period within which payment shall be made to the Council shall be extended until 10:00am on the next day on which the said Parking Office or department is open;
- 12.6.5. If the penalty charge is paid before the end of the period of fourteen days beginning with the date of the penalty charge notice, the amount of the penalty charge will be reduced by one half;
- 12.6.6. if the owner of the motor vehicle fails to pay the penalty charge by the end of the twenty eight day period, a Notice to Owner may be served, and if the penalty charge is then not paid within a further twenty eight days it may be increased by 50%.

12.7. Where a motor vehicle is left in any road or length of road after a penalty charge has been incurred, a parking attendant or a person acting under his direction may attach to the motor vehicle an immobilisation device or a notice in accordance with the requirements of Section 69(1) and (2) of the Road Traffic Act 1991.

12.8. The motor vehicle shall only be released from the immobilisation device:-

12.8.1. by or under the direction of a parking attendant or a person acting under his direction; or

12.8.2. upon payment to the Council of the:-

12.8.2.1. penalty charge or reduced penalty charge in accordance with the provisions of Articles 12.6 and 12.7; and

12.8.2.2. such release fee as may be required by the Council in accordance with the provisions of Section 69(4)(b) of the 1991 Act.

3.2. Without prejudice to the validity of anything done or to any liability incurred in respect of any act or omission before the coming into operation of this Order the:-

Kirklees Metropolitan Council (Off Street Parking Places) Order 2004

shall have effect as though:-

3.2.1. in Article 4 the definition of "initial charge" shall be modified by the deletion of all words following "parking place"

3.2.2. all references to "initial charge" shall be modified to read "parking charge"

3.2.3. all references to "standard charge" shall be deleted

3.2.4. in Article 4 the words "penalty charge" and the following definition thereof shall be incorporated:-

"penalty charge" means a charge set by the Council under the provisions of Section 74 of the 1991 Act as applied to the parking area by The Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Kirklees) Order 2006

3.2.5. all references to "standard charge notice" shall be modified to read "penalty charge notice"

3.2.6. the definition of "standard charge notice" in Article 4 shall be deleted

3.2.7. In Article 4 the words "penalty charge notice" and the following definition shall be incorporated:-

"means a notice issued by a parking attendant pursuant to the provisions of Section 66 and Schedule 3 of the 1991 Act"

3.2.8. Article 23 shall be deleted and there shall be substituted a new Article 23 as follows:-

23(1) where a motor vehicle is left in a parking place in contravention of any provision of this Order, a penalty charge shall be payable by the owner of the motor vehicle

23(2) A penalty charge notice showing the information required by Section 66(3) of the 1991 Act may then be issued by a parking attendant in accordance with the provisions of Section 66(1) of the 1991 Act.

3.2.9. Articles 24, 25, 26, 27 and 28 of Part 3 of the Order shall be deleted and there shall be substituted new Articles 24, 25, 26, 27 and 28 as follows:-

24(1) In the case of a motor vehicle in respect of which a penalty charge has been incurred it shall be the duty of the parking attendant to attach to the motor vehicle in a conspicuous position or to give to the person appearing to be in charge of the motor vehicle a notice which shall include the following particulars:-

- (a) the grounds on which the parking attendant believes that a penalty charge is payable with respect to the motor vehicle;
- (b) the amount of the penalty charge which is payable;
- (c) that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice;
- (d) that if the penalty charge is paid before the end of the period of 14 days beginning with the date of the penalty charge notice, the amount of the penalty charge will be reduced by one half;
- (e) that, if the penalty charge is not paid before the end of the 28 day period, a Notice to Owner may be sent by the parking authority or the person appearing to them to be the owner of the motor vehicle;
- (f) the address to which payment of the penalty charge must be sent.

24(2) The penalty charge shall be in the sum of the following amounts:-

- (a) £60 on the issue of a penalty charge notice subject to being discounted to £30 if the Council as provided in Article 24(1)(d) received payment within 14 days of the issue of the penalty charge notice;
- (b) On the issue of a "charge certificate" the penalty charge will be increased to the sum of £90.

25 A penalty charge notice fixed to a motor vehicle in accordance with this section shall not be removed or interfered with except under the authority of:-

- (a) the owner, or person in charge, of the motor vehicle; or
- (b) the parking authority.

26 The owner of a motor vehicle in respect of which a penalty charge has been incurred shall pay the penalty charge to the Council either:-

- (a) by cheque or postal order which shall be delivered or sent by post so as to reach the Council's Parking Office, Albion Street, Huddersfield (or such other department as may from time to time be appointed for that purpose by the Council) not later than 10.00 am on the twenty eighth day following the day on which the penalty charge notice was issued; or
- (b) in cash, credit card or debit card in person at the said Parking Office not later than as aforesaid; or
- (c) automated telephone payment facility not later than as aforesaid; or
- (d) if the said twenty eighth day falls on a day on which the said Parking Office or department is closed, the period within which payment shall be made to the Council shall be extended until 10.00 am on the next day on which the said Parking Office or department is open;
- (e) if the penalty charge is paid before the end of the period of fourteen days beginning with the date of the penalty charge notice, the amount of the penalty charge will be reduced by one half;
- (f) if the owner of the motor vehicle fails to pay the penalty charge by the end of the twenty eighth day period, a Notice to Owner may be served, and if the penalty charge is then not paid within a further twenty eight days it may be increased by 50%.

27 Where a motor vehicle is left in any road or length of road after a penalty charge has been incurred, a parking attendant or a person acting under his direction may attach to the motor vehicle an immobilisation device or a notice in accordance with the requirements of Section 69(1) and (2) of the Road Traffic Act 1991.

28 The motor vehicle shall only be released from the immobilisation device:-

- (a) by or under the direction of a parking attendant or a person acting under his direction; or
- (b) upon payment to the Council of the:-

- (i) penalty charge or reduced penalty charge in accordance with the provisions of Article 26; and
- (ii) such release fee as may be required by the Council in accordance with the provisions of Section 69(4)(b) of the 1991 Act.

3.2.10. Article 29(1) shall be deleted and there shall be substituted a new Article 29(1) as follows:-

29(1) The driver of a motor vehicle left in a parking place shall purchase a valid parking ticket or tickets for that parking place and shall exhibit the parking ticket(s) on the motor vehicle in accordance with the provisions of Article 29(4)(a) PROVIDED THAT the requirements of Article 29(4)(b)(c) and (d) have been complied with.

3.2.11. Article 31 - before the word "charge" there shall be inserted "penalty"

3.2.12. In Article 32(2) the words "parking charge" shall be inserted after "the" and before "provided"

3.2.13. Article 33 - before the words "and for" there shall be inserted "as amended by the Road Traffic Act 1991".

3.3. Without prejudice to the validity of anything done or to any liability incurred in respect of any act or omission before the coming into operation of this Order the:-

(a) Kirklees Metropolitan Council (On Street Parking Places) (Consolidation) Order 2004.

(b) Kirklees Metropolitan Council (On Street Parking Places) (No. 1) Order 2005

shall have effect as though:-

3.3.1. In Article 2(3) of each Order the definition of "excess charge" shall be deleted.

3.3.2. All references to "initial charge" shall be modified to read "parking charge"

3.3.3. All references to "excess charge" shall be modified to read "penalty charge"

3.3.4. All references to "initial period" shall be modified to read "charging period"

3.3.5. All references to "relevant initial charge" shall be modified to read "relevant parking charge"

3.3.6. In Article 2(3) of each Order the words "penalty charge" and the following definition thereof shall be incorporated:-

"penalty charge" means a charge set by the Council under the provisions of Section 74 of the 1991 Act as applied to the parking area by The Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Kirklees) Order 2006

3.3.7. In Article 2(3) of each Order the words "penalty charge notice" and the following definition thereof shall be incorporated:-

"penalty charge notice" means a notice issued by a parking attendant pursuant to the provisions of Section 66 and Schedule 3 of the 1991 Act

3.3.8. In Article 6(2) all words following "notice" shall be deleted and the following words shall be inserted:-

"indicating that a penalty charge shall be payable by the owner of the vehicle".

3.3.9. Article 8 shall be deleted and there shall be substituted and a new Article 8 as follows:-

8(1) If a vehicle is left in a parking place during the charging hours for longer than the charging period for which payment was made by the parking charge or if a vehicle is left during the charging hours without the payment of any parking charge or if a vehicle is left in a parking place in contravention of any other provision of this Order, then a penalty charge shall be payable.

8(2) In the case of a vehicle in respect of which a penalty charge has been incurred it shall be the duty of the parking attendant to attach to the vehicle in a conspicuous position or to give to the person appearing to be in charge of the vehicle a notice which shall include the following particulars:-

(a) the grounds on which the parking attendant believes that a penalty charge is payable with respect to the vehicle;

(b) the amount of the penalty charge which is payable;

(c) that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice;

(d) that if the penalty charge is paid before the end of the period of 14 days beginning with the date of the penalty charge notice, the amount of the penalty charge will be reduced by one half;

- (e) that, if the penalty charge is not paid before the end of the 28 day period, a Notice to Owner may be sent by the parking authority to the person appearing to them to be the owner of the vehicle;
- (f) the address to which payment of the penalty charge must be sent.

8(3) The penalty charge shall be in the sum of the following amounts:-

- (a) £60 on the issue of a penalty charge notice subject to being discounted to £30 if the Council as provided in Article 8(2)(d) received payment within 14 days of the issue of the penalty charge notice;
- (b) On the issue of a "charge certificate" the penalty charge will be increased to the sum of £90.

3.3.10. Article 9 shall be deleted and there shall be substituted a new Article 9 as follows:-

- 9 A penalty charge notice fixed to a vehicle in accordance with this section shall not be removed or interfered with except under the authority of:-
- (a) the owner, or person in charge, of the vehicle; or
 - (b) the parking authority.

3.3.11. Article 10 shall be deleted and there shall be substituted a new Article 10 as follows:-

- 10 The owner of a vehicle in respect of which a penalty charge has been incurred shall pay the penalty charge to the Council either:-
- (a) by cheque or postal order which shall be delivered or sent by post so as to reach the Council's Parking Office, Albion Street, Huddersfield (or such other department as may from time to time be appointed for that purpose by the Council) not later than 10.00 am on the twenty eighth day following the day on which the penalty charge notice was issued; or
 - (b) in cash, credit card or debit card in person at the said Parking Office not later than as aforesaid; or
 - (c) automated telephone payment facility not later than as aforesaid; or
 - (d) if the said twenty eighth day falls on a day on which the said Parking Office or department is closed, the period within which payment shall be made to the Council shall

be extended until 10.00 am on the next day on which the said Parking Office or department is open;

- (e) if the penalty charge is paid before the end of the period of fourteen days beginning with the date of the penalty charge notice, the amount of the penalty charge will be reduced by one half;
- (f) if the owner of the vehicle fails to pay the penalty charge by the end of the twenty eighth day period, a Notice to Owner may be served, and if the penalty charge is then not paid within a further twenty eight days it may be increased by 50%.

3.3.12. In Article 16(4) [of the Order specified in Article 3.3(a)] before the words "and for" there shall be inserted "as amended by the Road Traffic Act 1991".

3.3.13. Article 26 shall be deleted and there shall be substituted a new Article 26 as follows:-

26(1) Where a vehicle is left in any road or length of road after a penalty charge has been incurred, a parking attendant or a person acting under his direction may attach to the vehicle an immobilisation device or a notice in accordance with the requirements of Section 69(1) and (2) of the Road Traffic Act 1991.

26(2) The vehicle shall only be released from the immobilisation device:-

- (a) by or under the direction of a parking attendant or a person acting under his direction; or
- (b) upon payment to the Council of the:-
 - (i) penalty charge or reduced penalty charge in accordance with the provisions of Article 10; and
 - (ii) such release fee as may be required by the Council in accordance with the provisions of Section 69(4)(b) of the 1991 Act.

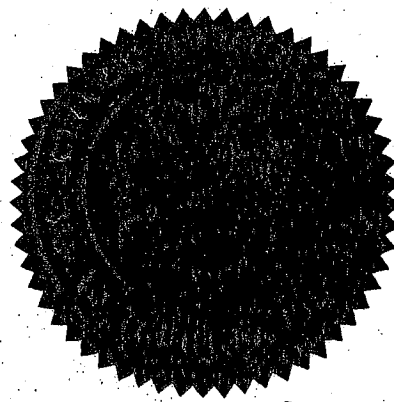
3.4. Without prejudice to the validity of anything done or to any liability incurred in respect of any act or omission before the coming into operation of this Order the Kirklees Metropolitan Council (On Street Parking Places) (No. 1) Order 2005 shall have effect as though:-

3.4.1. all references to "excess charge notice" and the definition of "excess charge notice" in Article 2(3) shall be deleted;

3.4.2. in Article 16(4) following the word "Act" there shall be inserted "as amended by the Road Traffic Act 1991".

Given under the Corporate Common Seal of the Council of the Borough of Kirklees
this 22nd day of June Two thousand and six.

THE CORPORATE COMMON SEAL)
of THE COUNCIL OF THE BOROUGH)
OF KIRKLEES was hereunto affixed)
in the presence of:-)



Authorised Signatory

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