

METROPOLITAN COUNCIL
(TRAFFIC REGULATION) (NO. 11) ORDER 2006
FITZWILLIAM STREET, HUDDERSFIELD

The Council of the Borough of Kirklees ("the Council") in exercise of their powers under Sections 1, 2, 4, 32, 35, 45, 46, 47, 49 and 53 of the Road Traffic Regulation Act 1984 ("the Act"), Section 43 of and Schedule 3 to the Road Traffic Act 1991 ("the 1991 Act") and The Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of Kirklees) Order 2006 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 makes the following Order which relates to Fitzwilliam Street at Huddersfield in the Kirklees Metropolitan District:-

PART I

Definitions

1. In this Order the following definitions have the meanings hereby assigned to them, that is to say:-

"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.

"disabled person's badge" has the same meaning as in the 2000 Regulations and the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000.

"disabled person's motor vehicle" means a motor vehicle lawfully displaying a disabled person's badge and which immediately before or after any period of waiting allowed by virtue of this Order has been or is to be driven by a disabled person or has been or is to be used for carrying disabled persons as passengers.

"goods" has the same meaning as in the Road Traffic Act 1988.

"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 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 and Registration Act, 1994.

"parking attendant" means a person authorised by 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.

“parking disc” has the same meaning given by Regulation 8(5) of the 2000 Regulations.

“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.

"postal packets" has the same meaning as in the Postal Services Act 2000.

“reduced penalty charges” means the penalty charge as reduced by one half.

“relevant position” in relation to a disabled person’s badge has the same meaning as in Regulation 12 of the Disabled Person’s (Badges for Motor Vehicles) (England) Regulations 2000 and the 2000 Regulations.

"relevant position" in relation to parking disc means:-

- (i) the disc is exhibited on the dashboard or fascia of the motor vehicle; or
- (ii) where the motor vehicle is not fitted with a dashboard or fascia the disc is exhibited in a conspicuous position on the motor vehicle

so that the period during which waiting begins is clearly legible from the outside of the motor vehicle.

"telecommunications apparatus" has the same meaning as in the Telecommunications Act 1984.

"universal service provider" has the same meaning as in the Postal Services Act 2000.

"the 2000 Regulations" means the Local Authorities Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000.

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

PART II

Waiting Restrictions

2. Save as provided in Articles 3, 4 and 5 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 motor vehicle to wait at any time in the length of road specified in the First Schedule to this Order.

3. Nothing in Article 2 of this Order shall prohibit any person from causing or permitting any motor vehicle to wait in the length of road specified in the First Schedule to this Order for so long as may be necessary:-

- (a) to enable a person to board or alight from the motor vehicle;
 - (b) to enable the motor vehicle, if it cannot be conveniently used for such purpose in any other road, to be used in connection with any wedding or funeral, building operation or demolition, the removal of any obstruction to traffic, the maintenance, improvement or reconstruction of the length of road so specified or the laying, erection, alteration or repair in or near the said length of road of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunications apparatus;
 - (c) if the motor vehicle is a mobile speed camera unit or an automatic number plate recognition vehicle.
 - (d) to enable the motor vehicle, if it is in the service of the Post Office or other universal service provider to be used for the purpose of delivering or collecting postal packets;
 - (e) to enable the motor vehicle to be used in the length of road so specified for police, ambulance, fire brigade, local authority or water authority purposes when used in pursuance of statutory powers or duties;
 - (f) if the motor vehicle is waiting owing to the driver being prevented from proceeding by circumstances beyond the control of the driver, or to such waiting as is necessary to prevent an accident;
 - (g) for the purpose of loading or unloading the motor vehicle whilst it is in actual use in connection with the removal or delivery of furniture to or from any premises fronting, adjoining or abutting the said length of road, provided that notice is given twenty four hours in advance to the Police and their consent obtained.
4. Nothing in Article 2 of this Order shall prohibit any person from causing or permitting any motor vehicle to wait in the length of road specified in the First Schedule to this Order for so long as may be necessary to deliver to or collect from or load or unload goods at any premises fronting onto the said length of road provided that no motor vehicle so engaged shall wait for longer than 30 minutes outside the same premises without the permission of a Police Constable in uniform or a parking attendant and provided always that a Police Constable in uniform or a traffic warden may at any time require the driver of a motor vehicle to move it if it is necessary for the purposes of preventing obstruction.
5. Nothing in Article 2 of this Order shall render it unlawful to cause or permit any motor vehicle to wait for any period not exceeding 3 hours (not being a period separated by an interval of less than 1 hour from the previous period of waiting by the same motor vehicle in the same road or part of road on the same day) in the length of road specified in the First Schedule to this Order if the motor vehicle is a disabled person's motor vehicle which displays in the relevant position a disabled person's badge and a parking disc issued by any local authority in accordance with the provisions of the 2000 Regulations, or a badge having effect under those Regulations as if it were a disabled persons badge and the driver or other person in charge of the motor vehicle, marks on the parking disc the time at which the period of waiting began.

PART III

Revocation of Existing Order

6. The Order specified in Column 1 of the Second Schedule to this Order is hereby revoked to the extent specified in relation thereto in Column 2 of the said Second Schedule.

PART IV

Contraventions of Provisions of Order

7. 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 motor vehicle.
8. 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.
9. 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 the person appearing to him to be in charge of the motor vehicle a notice which shall include the following particulars:-
 - (1) the grounds on which the parking attendant believes that a penalty charge is payable with respect to the vehicle;
 - (2) the amount of the penalty charge which is payable;
 - (3) the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice;
 - (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;
 - (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;
 - (6) the address to which payment of the penalty charge must be sent.
10. The penalty charge shall be in the sum of the following amounts:-
 - (1) £60 on the issue of a penalty charge notice subject to being discounted to £30 if the Council as provided in Article 9 (4) received payment within 14 days of the issue of the penalty charge notice;

- (2) on the issue of a "charge certificate" the penalty will be increased to the sum of £90.
11. A penalty charge notice fixed to a motor vehicle in accordance with this Section shall not removed or interfered with except under the authority of:-
 - (1) the owner, or person in charge, of the motor vehicle; or
 - (2) the parking authority
12. 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:-
 - (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 10.00 am on the twenty eighth day following the day on which the penalty charge notice was issued; or
 - (2) in cash, credit card or debit card in person at the said parking Office not later than as aforesaid; or
 - (3) by automated telephone payment facility not later than as aforesaid; or
 - (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 10.00 am on the next day on which the said Parking Office or department is open;
 - (5) if the penalty charge is paid before the end of the period or fourteen days beginning with the date of the penalty charge notice, the amount of the penalty charge will be reduced by one half;
 - (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%.
13. Where a motor vehicle is left in any road or length or lengths 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.
14. The motor vehicle shall only be released from the immobilisation device:-
 - (1) by or under the direction of a parking attendant or a person acting under his direction; or
 - (2) upon payment to the Council of the:-

- (i) penalty charge or reduced penalty charge in accordance with the provisions of 12 and 13; 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

PART V

General

- 15. The restrictions imposed by this Order shall be in addition to and not in derogation of any restrictions or requirements imposed by any Regulations made or having effect as if made under the Act or by or under any other enactment.
- 16. Any reference in this Order to a Statute or Statutory Instrument shall include reference to any re-enactment or replacement thereof.
- 17. For the avoidance of doubt, any reference in this Order to a length of road shall be deemed to be a reference to more than one length of road or more than one parking place where the context requires it.
- 18. This Order shall come into operation on the 25th day of September 2006 and may be cited as "Kirklees Metropolitan Council (Traffic Regulation) (No. 11) Order 2006".

GIVEN under the Corporate Common Seal of the Council of the Borough of Kirklees this 20th day of September Two thousand and Six.

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

Solicitor to the Council/Authorised Signatory

FIRST SCHEDULE

No Waiting At Any Time

Column 1

Fitzwilliam Street

Column 2

North west side from a point 28 metres north east of its junction with St Johns Road for a distance of 14 metres in a north easterly direction.

SECOND SCHEDULE

Revocation of Existing Order

Column 1

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

Column 2

First Schedule
On Street Parking Places on length of road at Huddersfield,

Item 15a, Fitzwilliam Street.