

KIRKLEES COUNCIL
(OFF STREET PARKING PLACES) (No.2) ORDER 2014

The Council of the Borough of Kirklees (hereinafter referred to as “the enforcement authority”) in exercise of its powers under Sections 32 and 35 of the Road Traffic Regulation Act 1984 (hereinafter referred to as “the Act”), Part 6 of the 2004 Act, the Road Traffic (Permitted Parking Area and Specified 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 and with those persons and organisations specified in the Local Authorities’ Traffic Orders (Procedure) (England & Wales) Regulations 1996 hereby makes the following Order:-

PART 1

1. Part 6 of this Order shall, so far as relates to items 1 and 2 in the Second Schedule, come into force on the 1st day of May 2014. The remaining provisions shall come into force on the 6th day of May 2014 and the Order may be cited as the “Kirklees Council (Off Street Parking Places) (No.2) Order 2013”.
2. Save where the context otherwise requires, any reference in this Order to a numbered Article is a reference to the Article bearing that number in this Order and any reference to a numbered Schedule is a reference to the Schedule bearing that number in this Order.
3. For the avoidance of doubt any reference in this Order to a parking place shall be deemed to be a reference to more than one parking place where the context so requires.
4. In this Order except where the context otherwise requires the following expressions have the meanings hereby respectively assigned to them:-

“agent” in relation to a parking place means any person or company with whom the enforcement authority has an agency agreement for the management or control of that car park.

“charging hours” in relation to a parking place means the period specified in Column 5 of the First Schedule

“civil enforcement area” has the meaning given by Schedule 8 to the 2004 Act

“civil enforcement officer” has the meaning given by s.76 of the 2004 Act

“contract parking permit” means a permit purchased from or otherwise issued by the enforcement authority for the purpose of exempting the holder from paying further or any charges, the conditions of use of the permit being determined by the enforcement authority from time to time.

“disabled person’s badge” has the same meaning as in Regulation 2 of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000

“driver” in relation to a vehicle left in a parking place means the person driving the vehicle at the time it was left in the parking place

“enforcement authority” means the Council

“goods” includes postal packets of any description and cash over five kilograms in weight or one thousand pounds value and “delivering” and “collecting” in relation to any goods includes checking the goods for the purpose of their delivery or collection

“invalid carriage” has the same meaning as in Section 136 of the Act

“motor car” has the same meaning as in Section 136 of the Act.

“motor cycle” has the same meaning as in Section 136 of the Act

“motor vehicle” has the same meaning as in section 136 of the Act

“notice to owner” means a notice served under regulation 19 of the General Regulations

“owner” in relation to a vehicle means the person by whom the vehicle is kept, which in the case of a motor 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

“parking bay” means a space fully or partially marked out on the surface of the parking place to accommodate the leaving of a single vehicle

“parking charge” means such charge as is payable by reference to Column 6 of the First Schedule at the time of arrival of a motor vehicle in the parking place

“parking place” means the area of land specified in Column 1 of the First Schedule

“parking ticket” means a ticket dispensed by a ticket machine on the payment of the parking charge

“penalty charge” has the meaning given by section 92 of the 2004 Act

“penalty charge notice” has the meaning given by regulation 8 of the General Regulations

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

“relevant position” in relation to a parking ticket means in such a position that the expiry date and time can be seen easily through the front windscreen of the vehicle.

“subordinate legislation” has the same meaning as in section 21 of the Interpretation Act 1978

“ticket machine” means any apparatus or device installed to facilitate collection of the parking charge or dispense tickets as evidence of payment of the parking charge.

“toddler” means a child of 5 years of age and under

“trailer” has the same meaning as in Section 136 of the Act

“the 2004 Act” means the Traffic Management Act 2004

“the General Regulations” means the Civil Enforcement of Parking Contraventions (England) General Regulations 2007

PART 2

USE OF A PARKING PLACE

5. The parking place may be used subject to the following provisions of this Order as a parking place for such classes of motor vehicles specified in Article 6 in such positions and on such days and during such hours and on payment of such charges as are specified in the First Schedule.
6. The classes of motor vehicles permitted to use the parking place except with the permission of any person duly authorised by the enforcement authority or its agent are motor cycle motor car with or without trailer and invalid carriage
7. Where the parking place is described as available for motor vehicles of a specified class or in a specified position the driver of a motor vehicle shall not permit it to wait in that parking place:-
 - (a) Unless it is of a specified class; or
 - (b) In a position other than that specified
8. The driver of a motor vehicle drawing a trailer shall not permit the motor vehicle or the trailer to wait in the parking place unless they have been disconnected and for the purposes of this Order where a motor vehicle is drawing a trailer the motor

vehicle and the trailer shall be deemed to be separate vehicles and the said driver shall be deemed to be the driver of each of the said vehicles.

9. The driver of a motor vehicle using the parking place shall stop the engine as soon as the vehicle is in position in the parking place and shall not start the engine except when about to change the position of the motor vehicle or to depart from the parking place.
10. (1) The driver of a motor vehicle shall not permit it to wait in the parking place for longer than the maximum period permitted for waiting specified in Column 7 of the First Schedule or where no maximum is specified for the parking place in Column 7 of the First Schedule for longer than 72 hours.

(2) Nothing in this Article shall apply to parking bays set aside specifically for contract parking permit holders or any vehicle used for the purposes of a council approved car club.
11. Unless prior written consent has been granted by the enforcement authority or its agent no person shall:-

(a) Use a motor vehicle whilst it is in the parking place in connection with the sale or advertisement of any thing to persons in or near the parking place or in connection with the selling or offering for hire of his skill or services or the skill or services of any other person; or

(b) Use any part of the parking place or any building structure mechanical device or other physical feature therein or any motor vehicle left therein to display advertising material nor to place upon or attach to any motor vehicle any advertising material to induce the public to participate in or frequent any place function or gathering for the purpose of demonstration or entertainment or to buy or hire or otherwise obtain any thing or skill or services of any person and nothing shall be displayed to induce the public to engage for gain in any lottery sweepstake raffle or competition.
12. Subject to the proviso hereto when a motor vehicle is left in the parking place in contravention of any of the provisions of Articles 5, 6, 7 or 8 a person authorised in

that behalf by the enforcement authority or its agent may remove the motor vehicle or arrange for it to be removed from that parking place PROVIDED THAT when a motor vehicle is waiting in the parking place in contravention of the provisions of Article 7(b) a person authorised in that behalf by the enforcement authority or its agent may alter or cause to be altered the position of the motor vehicle in order that its position shall comply with that provision.

13. Any person removing or altering the position of a motor vehicle by virtue of Article 12 of this Order may do so by towing or driving the motor vehicle or in such other manner as he may think necessary and may take such measures in relation to the motor vehicle as he may think necessary to enable him to remove it or alter its position as the case may be.
14. When a person authorised by the enforcement authority removes or makes arrangements for the removal of the motor vehicle from the parking place by virtue of Article 12 of this Order he shall make such arrangements as may be reasonably necessary for the safe custody of the motor vehicle.
15. Unless prior written consent has been granted by the enforcement authority or its agent no person shall use any part of the parking place or any motor vehicle left in the parking place:-
 - (a) for sleeping or camping purposes;
 - (b) for eating or cooking purposes; or
 - (c) for the purpose of servicing or washing any motor vehicle or part thereof other than is reasonably necessary to enable that motor vehicle to depart from the parking place.
16. Where in the parking place signs are erected or surface markings are laid for the purpose of:-
 - (a) indicating the entrance to or exit from the parking place; or
 - (b) indicating that a motor vehicle using the parking place shall proceed in a specified direction within the parking place

no person shall drive or cause or permit to be driven any motor vehicle

- (i) so that it enters the parking place otherwise than by an entrance or leaves the parking place otherwise than by an exit so indicated; or
 - (ii) in a direction other than that specified as the case may be.
- 17. Nothing in Article 16 shall apply to any motor vehicle when being used in the service of the enforcement authority or in accordance with any agency agreement relating to the parking place.
- 18. In a parking place no person shall:
 - (a) erect or cause to be erected any tent booth stand building or other structure without the written consent of the enforcement authority; or
 - (b) light or cause or permit to be lit a fire.
- 19. Where in a parking place signs are erected or surface markings are laid for the purpose of indicating that a parking bay is intended for the use of:-
 - (a) a motor vehicle displaying in the relevant position a disabled person's badge;
 - (b) contract parking permit holders
 - (c) delivering goods or collecting goods from premises situated adjacent to the parking place;
 - (d) licensed hackney carriages;
 - (e) parents and toddlers;
 - (f) picking up and setting down passengers or
 - (g) a motor vehicle being used by a Council approved car club

the driver of a motor vehicle shall not permit the motor vehicle to wait in the parking bay unless the motor vehicle respectively:-

- (a) displays in the relevant position a disabled person's badge;
- (b) exhibits the contract parking permit so that it is facing forwards and can easily be seen from the front of the motor vehicle;
- (c) is being used for the purpose of delivering or collecting goods from the said premises;
- (d) is a licensed hackney carriage;
- (e) is carrying one or more toddlers;

- (f) is being used for the purposes of picking up or setting down passengers and remains in the parking place for a period not exceeding five minutes; or
 - (g) exhibits a valid permit issued for the purpose of a Council approved car club so that it is facing forwards and can be easily seen from the front of the vehicle.
20. Nothing in this Order shall restrict the power of the enforcement authority to close all or any part of the car park on any occasion where the car park is liable to be obstructed or for any other reason.
21. When the car park or any part thereof is closed pursuant to Article 22 no person shall cause or permit any motor vehicle to wait or be left in that car park or part thereof for the duration of the closure provided that nothing in this Article shall render it unlawful to cause or permit any motor vehicle being used for the fire brigade ambulance or police purposes to be left in that part of the car park during such period referred to in this Article or for any other motor vehicle to be left if that vehicle is left with the permission:-
- (a) of a police constable in uniform; or
 - (b) of a civil enforcement officer; or
 - (c) of a person duly authorised by the enforcement authority
22. Should a motor vehicle parked in the parking place in contravention of this Order be removed by a person authorised by the enforcement authority or its agent a reasonable charge to cover the cost of recovery in addition to any other accrued charges shall be payable before the motor vehicle is released.
23. (1) Any person duly authorised by the enforcement authority or its agent may suspend the use of a parking place or any part thereof whenever he considers such suspension reasonably necessary always provided that prior notice has been given:
- (a) for the purpose of any building operation demolition or excavation adjacent to or in the parking place;
 - (b) for the purpose of maintenance improvement or reconstruction of the parking place or any part thereof or the laying erection alteration or repair in or near the parking place of any sewer or any main pipe or apparatus for the

- supply of gas water or electricity or of any telecommunications apparatus or electronic communications apparatus or of any traffic sign or ticket machine;
- (c) for the convenience of occupiers of premises adjacent to the parking place on any occasion of the removal of furniture from one office or dwelling house to another or the removal of furniture from such premises to a depository or to such premises from a depository;
 - (d) on any such occasion on which it is likely by reason of some special attraction that the parking place will be thronged or obstructed; or
 - (e) in any other circumstances where the enforcement authority or its agent in their absolute discretion consider the suspension of use of a parking place to be reasonably necessary.

(2) If the use of a parking place or any part thereof is suspended during the charging hours for any of the purposes specified by Article 23 (1) a charge equal to the parking charge payable for a 10 hour stay (assuming no limitation on the maximum period of waiting for each parking bay suspended) shall be payable to the enforcement authority by the person making the request for such suspension in respect of each day or part thereof during which use of the parking place or part thereof is suspended

24. The enforcement authority shall not be liable in respect of any loss of or damage to any motor vehicle or the fittings or contents of any motor vehicle waiting or moving in or entering or leaving or otherwise using the parking place.

PART 3

CHARGING FOR THE USE OF A PARKING PLACE

- 25 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.
26. (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 30 (4) (a) PROVIDED THAT the requirements of Article 26 (4) (b) (c) and (d) have been complied with.

- (2) For the purposes of this Order a parking ticket shall be a ticket purchased from a ticket machine or a civilian enforcement officer at the parking place at the price specified opposite that parking place in Column 6 of the First Schedule for the period specified opposite that parking place in Column 7 of the First Schedule.
- (3) At its discretion the enforcement authority may dispense with any ticket machines at a parking place and make such alternative arrangements as it considers appropriate to facilitate the sale of parking tickets by a civil enforcement officer and any such parking ticket issued by a civil enforcement officer shall be treated as if it had been issued by a ticket machine and all provisions of this Order shall apply.
- (4) A parking ticket shall be valid for the parking place if and so long as the following conditions are satisfied:-
 - (a) The parking ticket is exhibited in the relevant position on the motor vehicle for which it is issued;
 - (b) The period or accumulated period indicated on the parking ticket or tickets as the case may be calculated from the date and time of purchase indicated on the ticket(s) or from the beginning of the charging period whichever is the later has not expired;
 - (c) The motor vehicle is parked in the position described opposite that parking place in Column 2 of the First Schedule
 - (d) The motor vehicle is not otherwise contravening the provisions of Part 2 of this Order.

27. ALTERNATIVE APPROVED METHODS OF PAYMENT

- (1) In this Order the expression “alternative approved method of payment” means park and phone or any other approved system where a pay and display ticket is not produced and the expression “park and phone” means a method of payment of the parking charge as directed by notice at the parking place (where available) involving intimation by phone of the relevant registration number of the vehicle, location of the parking place, credit or debit card details

and any such other details as the enforcement authority may from time to time require.

- (2) A driver, upon parking a vehicle in a parking place during the charging hours, instead of complying with the earlier requirements of this Order in relation to the payment of the parking charge, may immediately make arrangements to pay the appropriate parking charge through an alternative approved method of payment.
- (3) A driver who has made arrangements to pay the appropriate parking charge through an alternative approved method of payment will not be under any obligation to comply with any requirement to display a parking ticket in the relevant position on a vehicle which would otherwise be imposed by earlier provisions of this Order.
- (4) Where using its powers under this Order the enforcement authority has exercised its discretion to dispense with any ticket machines, in addition to any alternative arrangement which it may make to facilitate the sale of parking tickets the authority may also make arrangements for the making of the payment of the appropriate parking charge through an alternative approved method of payment.
- (5) Any provision of this Order which exempts the driver of a motor vehicle from payment of any penalty charge where, at the time when the vehicle is left in the parking place during the charging hours, there is no ticket machine at that parking place or all the ticket machines at that parking place carry notices placed upon them by a person duly authorised by the enforcement authority or its agent indicating that they are out of order, shall not apply where the enforcement authority has advised that payment shall be made using an alternative approved method of payment.
- (6) Any provision of this Order which prohibits during the charging hours the purchase of more than one parking ticket at a discounted tariff shall apply equally to the making of the payment of a parking charge through an alternative approved method of payment.
- (7) Any provision of this Order which requires the driver of a vehicle to remove it

from a parking place for a specified period before it may again be left in that parking place during the charging hours shall apply equally where the payment of the parking charge was made through an alternative approved method of payment.

28. RESTRICTION ON REMOVAL OF PARKING TICKETS

When a parking ticket has been exhibited on a motor vehicle in accordance with the provisions of Article 30 (4) no person other than a person duly authorised by the enforcement authority or its agent in that behalf or a person duly authorised by the driver shall remove the parking ticket from the motor vehicle until the motor vehicle is removed from the parking place.

29. OTHER EXEMPTIONS FROM CHARGING

The driver of a motor vehicle shall be exempt from payment of any penalty charge in respect of the parking place if:-

- (a) The driver displays in the relevant position a disabled person's badge; or
- (b) The motor vehicle is being used for the purposes of picking up or setting down passengers provided that such motor vehicle remains in the parking place for a period not exceeding 5 minutes; or
- (c) The motor vehicle is being used for the purposes of delivering goods to or collecting goods from premises situated adjacent to the parking place where such premises are accessible from and only from the said parking place; or
- (d) At the time when a motor vehicle is left in the parking place during the charging hours there is no ticket machine at that parking place or all the ticket machines at that parking place carry notices placed upon them by a person duly authorised by the enforcement authority or its agent indicating that they are out of order this exemption applying only on the day the motor vehicle was first left; or
- (e) It is a motor cycle parked in a marked out motor cycle bay.

30. CONTRACT PARKING TICKETS

- (1) The driver of a motor vehicle may on application to the enforcement authority purchase or otherwise be issued with a contract parking permit.
- (2) The driver of a motor vehicle left in the parking place shall be exempt from payment of the parking charge provided that the contract parking permit is exhibited in the motor vehicle so that it is facing outwards and can be easily seen from the front of the motor vehicle and provided that the terms and conditions of use determined at the time of issue are adhered to.

PART 4

CONTRAVENTIONS OF PROVISIONS OF THE ORDER

31. Where a motor vehicle is left in a parking place or in any road or any length of road in contravention of any provision of this Order such contravention shall be dealt with in accordance with the provisions of the 2004 Act and any subordinate legislation made under it.
32. The amount of the penalty charge for a parking contravention and, where applicable, the charges for the removal, storage and disposal of a vehicle shall be as set from time to time by the enforcement authority in accordance with the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 or any re-enactment or replacement thereof and published by it.

PART 5

DISPOSAL

35. Any motor vehicle removed by the enforcement authority from a parking place shall be dealt with in accordance with Sections 101 to 103 of the Act as amended and for the purposes of this Article motor vehicle includes trailer.

PART 6

REVOCATIONS

- 38.

- (1) The items listed in Column 1 of the Second Schedule are hereby revoked to the extent stated in Column 2 of that Schedule.
- (2) For the avoidance of doubt the revocation of any Order referred to in the Second Schedule is not intended to reverse any revocation made by or otherwise referred to in that Order.

PART 7
AMENDMENT OF EXISTING ORDERS

39. The Orders listed in Column 1 of the Third Schedule are hereby amended as shown in Column 2 of that Schedule.

GIVEN under the Corporate Common Seal of the Council of the Borough of Kirklees this Twenty-third day of April Two Thousand and Fourteen.

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

Assistant Director – Legal Governance and Monitoring /Authorised Signatory

First Schedule
Off Street Parking Places

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 | Column 7 |
|---|---|------------------------------------|---|---|---|--|
| Name and description of Parking Place | Position in which Vehicles may wait | Days of Operation of Parking Place | Hours of Operation of the Parking Place | Charging Hours | Scale Of Charges (No Charge unless specified) * denotes discounted Parking Tariff | Maximum Period for which vehicles may wait (up to 72 hours unless specified) |
| 1. Huddersfield Market Hall car park (Queensgate) Multi-storey car park on land bounded by Queensgate, Alfred Street and the Market Hall. | When marked out, wholly within a parking bay. | All Days | All Hours | Monday to Saturday 8am to midnight. Sunday Noon to 6pm | Monday to Saturday 8am – 6pm 90p up to 1hr, £1.80 up to 2hrs, £2.70 up to 3hrs, £3.60 up to 4hrs, £4.50 up to 5hrs, £5.40 up to 6hrs, £9.00 over 6hrs. Monday to Saturday 6pm to midnight £1.00 per visit Sunday Noon – 6pm £1.00 per visit | |

SECOND SCHEDULE

REVOCATIONS

| Column 1 | Column 2 |
|---|----------------------|
| Order to be revoked | Extent of revocation |
| 1. Kirklees Metropolitan Council (Off Street Parking Places) (Kingsgate, Huddersfield) Order 2002 (as amended) | The whole Order. |
| 2. Kirklees Metropolitan Council (Off Street Parking Places) (Market Hall Multi-Storey Car Park, Huddersfield) Order 2006 (as amended). | The whole Order. |
| 3. Kirklees Metropolitan Council (Decriminalised Parking) (Kingsgate Huddersfield) Order 2006 | The whole Order. |

THIRD SCHEDULE

AMENDMENTS

| COLUMN 1 | COLUMN 2 |
|---|--|
| Orders to be amended | Nature of the amendments |
| The Kirklees Metropolitan Council (Off Street Parking Places) Order 2004 (as amended) | <p>The following words are to re-instated in the order referred to in Column 1 to form Article 29(1) –</p> <p>“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”.</p> |