

THE KENT COUNTY COUNCIL
TRAFFIC REGULATION ORDER
THE KENT COUNTY COUNCIL (A263 MOUNT PLEASANT ROAD AND A263
GROSVENOR ROAD, TUNBRIDGE WELLS) (BUS GATES & BUS ONLY
STREETS) ORDER 2014

The Kent County Council ('the Council'), acting as the local traffic authority and in exercise of its powers under Sections 1, 2, 3, 4 and 124 of and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 ('the Act'), the Traffic Management Act 2004 ('the 2004 Act'), the Bus Lane Contraventions (Penalty Charges, Adjudications and Enforcement) (England) Regulations 2005 ('the 2005 Regulations') and the Bus Lane Contraventions (Approved Local Authorities)(England) Order 2005 made by the Secretary of State for Transport pursuant to Section 144 of the Transport Act 2000 ('the 2000 Act') and of all other enabling powers and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 of the Act hereby make the following Order:-

1. PREAMBLE

This Order shall come into operation on the 1st day of December 2014 and may be cited as "THE KENT COUNTY COUNCIL (A263 MOUNT PLEASANT ROAD AND A263 GROSVENOR ROAD, TUNBRIDGE WELLS)(BUS GATES & BUS ONLY STREETS) ORDER 2014.

2. INTERPRETATION and DEFINITIONS

- (1) The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament
- (2) A reference to an article or schedule followed by a number is a reference to the article of, or schedule to, this Order so numbered
- (3) In this Order, except where the context requires otherwise, the following expressions shall have the meaning hereby assigned to them:-
 - (i) "approved device" means a device of a description specified in an Order made by the Relevant National Authority pursuant to Section 144 of the 2000 Act and complying with the Bus Lane (Approved Devices)(England) Order 2005;
 - (ii) "Authorised Officer" means a person employed by the Council, or its delegated representative, to record, detect and act on contraventions to this Order by means of an approved device;
 - (iii) "bus" means a motor vehicle constructed or adapted to carry more than 8 passengers (exclusive of driver) and local buses not so constructed or adapted to carry more than 8 passengers (exclusive of driver);
 - (iv) "bus gate" has the same meaning as bus lane,
 - (v) "bus lane" means an area of road that may be used only by buses (or a particular description of bus) or only by buses (or a particular description of bus) and some other class or classes of vehicular traffic as provided for in this order;
 - (vi) "bus only street" has the same meaning as bus lane,

- (vii) "carriageway" means a way constituting or comprised in a highway being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles;
- (viii) "Civil Enforcement Officer" means a person employed by Tunbridge Wells Borough Council in pursuance of powers granted by the 2004 Act
- (ix) "contravention" means a failure to comply with restrictions set out in this Order that may result in the issue of a penalty charge notice;
- (x) "cycle" means a pedal cycle not being propelled by mechanical power;
- (xi) "Date of Service" means the last day of the period of 3 consecutive working days beginning with the first day of posting. If the notice is not posted on a working day, the first working day after the date of posting will be the first day of posting;
- (xii) "detection date" means the date on which a vehicle was detected as contravening this Order, according to the record produced by an approved device;
- (xiii) "driver" means the person driving the vehicle at the time of the alleged contravention of this Order;
- (xiv) "electrically assisted pedal cycle" has the same meaning as in The Electrically Assisted Pedal Cycle Regulations 1983;
- (xv) "emergency services vehicle" means a vehicle operated by the police, fire & rescue service or ambulance service;
- (xvi) "enactment" includes any Act, Order or regulation made under any Act;
- (xvii) "Fixed Penalty Notice" means a notice issued by a person authorised to do so pursuant to the provisions of Part III of the Road Traffic Offenders Act 1988
- (xviii) "footway" means a way constituting or comprised in a highway (other than a cycle track) over which the public have a right of way for the passage of pedestrians;
- (xix) "hours of operation" means the period specified in column 3 of Schedules 1 and 2 being the period during which the restriction applies;
- (xx) "junction" means (in the Schedules to this Order) for measurement purposes only, the point where the projected centrelines of two specified roads intersect;
- (xxi) "local bus" means a public service vehicle used in provision of a local service not being an excursion or tour;
- (xxii) "local service" has the meaning given in Section 2 of the Transport Act 1985;
- (xxiii) "motor cycle" and "motor vehicle" have the meanings ascribed in Section 136 of the Act;
- (xxiv) "offence" means a failure to comply with restrictions set out in this Order that may result in the issue of a fixed penalty notice;
- (xxv) "owner" in relation to a vehicle, means the registered keeper of that vehicle, namely the person for the time being shown in the register kept in accordance with Section 21 of the Vehicle Excise and Registration Act 1994;
- (xxvi) "PCN" means a penalty charge notice;

- (xxvii) "pedal cycle" means a unicycle, bicycle, tricycle or cycle having 4 or more wheels, not being in any case mechanically propelled unless it is an electrically assisted pedal cycle;
- (xxviii) "Penalty Charge" and "Reduced Penalty Charge" means a charge set by the Council under regulation 4 of the 2005 Regulations and with the approval of the Secretary of State for Transport which is to be paid to the Council within 28 days beginning with the date of the notice, or 14 days in the case of a reduced penalty charge, following the issue of a penalty charge notice.
- (xxix) "penalty charge notice" means a notice issued by a person authorised to do so by the Council pursuant to the provisions of regulation 8 of the 2005 regulations;
- (xxx) "postal packets" has the meaning as defined in section 125(1) of the Postal Services Act 2000
- (xxxi) "private driveway" means the vehicular access/egress to a private property;
- (xxxii) "public highway" means a highway to which the public have unrestricted access;
- (xxxiii) "Relevant National Authority" means the Secretary of State in respect to England;
- (xxxiv) "relevant particulars" means particulars relating to the identity of the keeper of the vehicle contained in the register of mechanically propelled vehicles maintained by the Relevant National Authority under the Vehicle Excise and Registration Act 1994;
- (xxxv) "road marking" means a traffic sign consisting of a line or mark or legend on the surface of the road of a size, colour and type prescribed or authorised under Section 64 of the Act;
- (xxxvi) "security vehicle" means a vehicle specially adapted to securely convey cash, bullion or valuables and marked with the name of the security company;
- (xxxvii) "Statutory Grounds" means grounds for appeal as defined in regulation 9(2) of the 2005 Regulations
- (xxxviii) "Traffic Signs Regulations and General Directions" means the Traffic Signs Regulations and General Directions 2002 as amended from time to time;
- (xxxix) "traffic sign" means a sign of a size, colour and type prescribed or authorised under, or having an effect as though prescribed or authorised under, Section 64 of the Act;
- (xl) "undertaker" has the meaning as in section 48 of The New Roads And Street Works Act 1991;
- (xli) "universal postal service provider" shall have the meaning ascribed to it in section 4(1) of the Postal Services Act 2000;
- (xlii) "vehicle" means a mechanically propelled or pedal powered form of transportation intended or adapted for use on the road;

3. RESTRICTIONS IMPOSED

- (1) In accordance with the Act the Council in making the restrictions in this Order for a period in excess of 8 hours in any period of 24 hours are satisfied that for avoiding danger to persons or other traffic using the road to which the order relates it is requisite that Section 3(1) of the Act should not apply to this Order.
- (2) The restrictions and prohibitions imposed by this Order are in addition to and not in derogation of any restriction, prohibition or requirement imposed by any other enactment and any exception or exemption from the provisions of this Order is without prejudice to the provisions of any other enactment.
- (3) Unless otherwise stated all restrictions specified in this Order shall be deemed to apply to the whole of the carriageway as defined by and at the locations specified in Schedules 1 and 2 of this Order
- (4) No person shall cause or permit a vehicle to enter, be in or proceed on any length of road specified in Schedules 1 or 2 of this Order during the times specified in column 3 of that item unless that vehicle is of a type specified in Article 4 of this Order.

4. EXEMPTIONS

- (1) It shall not be a contravention to cause or permit any vehicle to enter, be in or proceed on any length of road specified in Schedules 1 or 2 to this Order provided that:-
 - (i) the vehicle is a cycle;
 - (ii) the vehicle is a bus;
 - (iii) the vehicle is a local bus;
 - (iv) the vehicle is an electrically assisted pedal cycle;
 - (v) the vehicle is being used for enforcement purposes by, or on behalf of the Council;
 - (vi) it is under the direction or with the permission of a police constable in uniform or such other persons in uniform appointed for that purpose by the Chief Constable of Kent;
 - (vii) it is necessary to do so to avoid an accident;
 - (viii) the vehicle is an emergency service vehicle and responding to an emergency incident where it is reasonably necessary for that vehicle to enter or proceed through the bus gate or bus only street;
 - (ix) the vehicle is being used in connection with the removal of an obstruction to the bus gate or bus only street;
 - (x) the vehicle is being used for public cleansing for or on behalf of the Council if it is reasonably necessary for that vehicle to enter or proceed through the bus gate or bus only street,
 - (xi) the vehicle is being used to remove refuse or waste if it is reasonably necessary for that vehicle to enter or pass through the bus gate or bus only street;
 - (xii) the vehicle is being used in connection with any building operation, demolition or excavation in or adjacent to the bus gate or bus only

- street if it is reasonably necessary for that vehicle to enter or proceed through the bus gate or bus only street;
- (xiii) the vehicle is being used in connection with the maintenance, improvement or reconstruction of any part of the carriageway over which the bus gate or bus only street passes or adjoins provided it is reasonably necessary for that vehicle to enter or proceed through the bus gate or bus only street;
 - (xiv) the vehicle is being used by any undertaker to carry out work relating to any pipe, cable, sewer or apparatus in, on or over that road provided it is reasonably necessary for that vehicle to enter or proceed through the bus gate or bus only street;
 - (xv) the vehicle is being used in connection with the placing, maintenance or removal of any traffic sign, 'bus stop', bus shelter and notices or other things attached thereto provided that it is reasonably necessary for the vehicle to enter or pass through the bus gate or bus only street;
 - (xvi) the vehicle is in the service of a universal postal service provider, is marked as such and being used to deliver or collect postal packets as defined in section 125(1) of the Postal Services Act 2000 to premises adjacent to the bus gate or bus only street.
 - (xvii) the vehicle is a security vehicle being used for the collection or delivery of cash or bullion to or from a bank, building society or business premises in or adjacent to the roads restricted by this Order.

5. CONTRAVENTIONS AND ENFORCEMENT OF RESTRICTIONS IMPOSED BY THIS ORDER

- (1) The Council will carry out civil enforcement of any contravention of any prohibitions, restrictions or provisions of the Order by permitting the imposition of a Penalty Charge only on the basis of a record produced by means of an approved device
- (2) Where the Council have reason to believe that a Penalty Charge is payable in relation to a vehicle which has contravened this Order, the Council will serve a PCN in accordance with the 2005 Regulations on the person appearing to be the owner or keeper of the vehicle or, the person appearing to be the person liable to pay the charge.
- (3) A PCN shall be served before the end of the period of 28 days beginning with the detection date. The Council shall continue to be entitled to serve a PCN during a further period of six months, beginning with the detection date, provided that:-
 - (a) the Council has made a request within 14 days of the Detection Date to the Relevant National Authority for the supply of relevant particulars, and
 - (b) those particulars have not been supplied before the date after which the Council would not be entitled to serve a PCN by virtue of this Order.
- (4) If a vehicle owner, keeper or driver contravenes any prohibitions or restrictions of this Order, a charge set by the Council pursuant to Regulations

under Section 144 of the 2000 Act (the Penalty Charge) is to be paid in the manner described in the notice within 28 days of the Date of Service of the PCN or within 14 days of the Date of Service of the PCN in the case of a Reduced Penalty Charge.

- (5) When the owner, keeper or driver has been identified, the Council will issue a PCN in accordance with this Order and send the PCN by first class post.
- (6) A PCN must state:-
 - (a) The registration mark of the vehicle or, where the vehicle is being used under a trade licence, the number of the trade plate carried by the vehicle involved in the alleged contravention;
 - (b) The date and time at which the Authorised Officer first noticed that a contravention of this Order had occurred in respect of the date known as the Contravention Date;
 - (c) The grounds on which the Authorised Officer believes that a Penalty Charge is payable with respect to that vehicle;
 - (d) That the Penalty Charge must be paid before the end of the period of 28 days beginning with the date of service of the PCN;
 - (e) That if the Penalty Charge is paid before the end of the period of 14 days beginning with the Date of Service of the PCN, a Reduced Penalty Charge shall apply;
 - (f) That representations may be made on any of the Statutory Grounds of appeal to the Council against the imposition of the Penalty Charge but that representations made outside the 28 day period may be disregarded;
 - (g) What the Statutory Grounds of appeal are;
 - (h) The postal address to which representations are to be sent;
 - (i) Any electronic mail address or FAX number to which representations may be sent as an alternative to the postal address;
 - (j) That, if the Penalty Charge is not paid and no representations have been made before the end of the 28 days period from the Date of Service, the Council may increase the Penalty Charge by half and take steps to enforce payment of the charge as so increased;
 - (k) The manner in which the Penalty Charge may be paid;
 - (l) that if representations are rejected by the Council, an appeal may be made on any of the Statutory Grounds to an adjudicator in respect of a Penalty Charge;
 - (m) the recipient of the PCN may, by notice in writing to the Council, request that an office be made available during the normal office hours as specified on the PCN, for the purpose of viewing by him free of charge and by his representative (if any), the recording of the alleged contravention produced by the approved device pursuant to which the PCN was imposed and/or to provide him with still images from that recording which, in the Council's opinion, establish the contravention;
 - (n) the date of issue, being the date on which the PCN was produced by the Council;
 - (o) the address to which payment of the Penalty Charge must be sent.
- (7) Where a police officer in uniform is satisfied that a driver of a vehicle has committed an alleged offence under the provisions of this Order such that liability to a Fixed Penalty Notice arises, a police officer may issue such a

notice at the time and date of the alleged offence to the driver of the vehicle, which shall include the particulars listed in Section 52 of The Road Traffic Offenders Act 1988.

- (8) Where the owner, keeper or driver has been issued a PCN by the Council and it is proven by the owner, keeper or driver that he was issued a Fixed Penalty Notice or a Summons for the same day and time for the same contravention by a police officer, then the Council shall no longer proceed with its PCN or where the PCN was paid in accordance with this Order, the amount that was paid will be refunded in full as soon as reasonably practicable.

6. REVOCATIONS

- (1) The following Orders are revoked to the extent specified

ORDER	EXTENT
THE KENT COUNTY COUNCIL (A263 MOUNT PLEASANT ROAD, A263 GROSVENOR ROAD, A26 ST. JOHNS ROAD, TUNBRIDGE WELLS AND A26 LONDON ROAD, SOUTHBOROUGH) (CYCLE AND BUS LANES) ORDER 2013	1. That part of the A263 Mount Pleasant Road, Tunbridge Wells (west side) between its junctions with York Road Road and Calverley Road, as defined in Schedule 1 of that order. 2. That part of the A263, Grosvenor Road, Tunbridge Wells (east side) between its junctions with Goods Station Road and Calverley Road, as defined in Schedule 1 of that order.

Given under the Common Seal of The Kent County Council the day of 2014.

THE COMMON SEAL of THE

KENT COUNTY COUNCIL

was hereunto affixed in the

presence of:-

Authorised Signatory

SCHEDULES

SCHEDULE 1 – BUS GATE

1. Road Name	2. Side and length of Road	3. Hours of Restriction
A263 Mount Pleasant Road, Tunbridge Wells	West side – between its junction with Monson Road and a point 15 metres north of that junction.	9am to 6pm

SCHEDULE 2 – BUS ONLY STREET

1. Road Name	2. Side and length of Road	3. Hours of Restriction
A263 Mount Pleasant Road, Tunbridge Wells	Both sides – between its junction with Grosvenor Road and its junction with Newton Road	9am to 6pm
A263 Grosvenor Road, Tunbridge Wells	Both sides - between its junction with Goods Station Road and its junction with Mount Pleasant Road.	9am to 6pm.