2002 No. 398

ROAD TRAFFIC

The Road Traffic (Permitted Parking Area and Special Parking Area) (Perth and Kinross Council) Designation Order 2002

Made	*2nd September 2002*
Laid before the Scottish Parliament	*3rd September 2002*
Coming into force	*1st October 2002*

The Scottish Ministers, having received an application from Perth and Kinross Council under paragraphs 1(1)(d) and 2(1)(c) of Schedule 3 to the Road Traffic Act 1991(**a**) and having consulted the Chief Constable of Tayside Police in accordance with paragraphs 1(3) and 2(3) of that Schedule, in exercise of the powers conferred by paragraphs 1(1), 2(1) and 3(3) of Schedule 3 to the Road Traffic Act 1991 and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Road Traffic (Permitted Parking Area and Special Parking Area) (Perth and Kinross Council) Designation Order 2002 and shall come into force on 1st October 2002.

Interpretation

2. In this Order–

"the 1991 Act" means the Road Traffic Act 1991; and

"parking area" means the area designated as a permitted parking area and a special parking area by article 3 of this Order.

Designation of permitted parking area and special parking area

3. That part of the Perth and Kinross Council local government area(**b**) specified in Schedule 1 to this Order is hereby designated as–

(a) a permitted parking area; and

(b) a special parking area.

Modifications and application of Part II of the 1991 Act

4. Sections 66, 69 to 74, 79 and 82 of, and Schedule 6 to, the 1991 Act shall apply in relation to the parking area and as so applied shall have effect subject to the modifications specified in Schedule 2 to this Order.

(a) 1991 c.40; paragraphs 1(1) and 2(1) of Schedule 3 were amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 171. The functions of the Secretary of State under that Schedule were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) Perth and Kinross local government area was established by section 1(2) and (4) of, and Schedule 1 to, the Local Government etc. (Scotland) Act 1994 (c.39).

Modification of the 1984 Act and Schedule 3 to the 1991 Act

5.—(1) The Road Traffic Regulation Act 1984(**a**) shall be modified in relation to the parking area as specified in Part I of Schedule 3 to this Order.

(2) Schedule 3 to the 1991 Act shall be modified in relation to the parking area as specified in Part II of Schedule 3 to this Order.

Consequential modification

6. In relation to a parking adjudicator appointed under section 73(3) of the 1991 Act by virtue of this Order, the reference in paragraph 40(b) of Schedule 1 to the Tribunals and Inquiries Act 1992(**b**) to a parking adjudicator appointed under section 73(3)(a) of the 1991 Act shall be construed as if it were a reference to a parking adjudicator appointed under section 73(3) of that Act by virtue of this Order.

LEWIS MACDONALD
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
2nd September 2002

(a) 1984 c.27.
(b) 1992 c.53.

Article 3

SCHEDULE 1

SPECIFICATION OF AREA

Perth and Kinross Council local government area as established by Section 1(2) and (4) of, and Schedule 1 to, the Local Government etc. (Scotland) Act 1994, excluding the following roads within this area:–

the M90 and M90(S)

the A9 Edinburgh to Inverness trunk road

the A90 Perth to Dundee trunk road.

SCHEDULE 2

MODIFICATIONS OF PROVISIONS OF PART II OF THE ROAD TRAFFIC ACT 1991

1.—(1) Section 66 shall be modified as follows.

(2) In subsection (1), the words "in a designated parking place" shall be omitted.

(3) In subsection (2)-

(a) the words "For the purposes of this Part of the Act"; and

(b) paragraphs (a)(i), (b) and (c) shall be omitted.

(4) In subsection (3)–

(a) in paragraph (d) for the words "the specified proportion" there shall be substituted "one half"; and

(b) in paragraph (e) for the word "London" there shall be substituted "parking".

(5) Subsection (4) shall be omitted.

(6) In subsection (5), for paragraph (b) there shall be substituted–

"(b) the parking authority.".

2.—(1) Section 69 shall be modified as follows.

(2) In subsection (1)–

(a) the words "in a designated parking place" shall be omitted; and

(b) for the words "specified in section 66(2)(a), (b) or (c) of this Act" there shall be substituted "in which a penalty charge is payable".

(3) In subsection (8), for the words from "London" to the end there shall be substituted "parking authority".

3.—(1) Section 71 shall be modified as follows.

(2) In subsection (1) for the words "a London" there shall be substituted "the parking".

(3) For subsection (4) there shall be substituted–

"(4) The grounds are–

(a) that there were no reasonable grounds for the parking attendant concerned to believe that the vehicle had been permitted to remain at rest in the parking area in circumstances in which a penalty charge was payable;

(b) that the vehicle had been permitted to remain at rest in the place where it was by a person who was in control of the vehicle without the consent of the owner;

(c) that the place where the vehicle was at rest was not in the parking area;

(d) in a case within subsection (1)(d) above, that, by virtue of an exemption given by section 70 of this Act, section 69 of this Act did not apply to the vehicle in question at the time in question; or

(e) that the penalty or other charge in question exceeded the amount applicable in the circumstances of the case.".

(4) In subsection (8)(b) for the word "costs" there shall be substituted "expenses".

4.—(1) Section 73 shall be modified as follows.

(2) Subsections (1) and (2) shall be omitted.

(3) For subsection (3) there shall be substituted–

"(3) The traffic commissioner shall, with the consent of the Lord Advocate, appoint persons to act as parking adjudicators for the purposes of this Part of this Act.".

(4) After subsection (3) there shall be inserted the following subsections–

"(3A) A parking adjudicator appointed by virtue of this section is authorised to act as a parking adjudicator in relation to the parking area.

(3B) The parking authority, after consultation with the traffic commissioner–

(a) shall–

(i) provide or enter into arrangements for the provision of accommodation and administrative staff for the parking adjudicators acting in relation to the parking area;

(ii) determine the places at which such parking adjudicators are to sit; and

(b) may enter into arrangements for the remuneration of such parking adjudicators.".

(5) In subsection (4) for the words from "have" to the end there shall be substituted "be an advocate or solicitor of at least five years' standing".

(6) In subsection (5), for the words "London authorities" there shall be substituted "traffic commissioner".

(7) For subsections (8) to (10) there shall be substituted–

"(8) The reasonable expenses of the traffic commissioner incurred in connection with the discharge of the duties imposed on him by this section, shall be met by the parking authority.".

(8) In subsection (11), for "The Secretary of State" there shall be substituted "The Scottish Ministers".

(9) In subsection (12)–

(a) in each of paragraphs (i) and (j), for the word "costs" there shall be substituted "expenses"; and

(b) in paragraph (j) for the word "county" there shall be substituted "sheriff".

(10) In subsection (15), for the words from "if a" to the end there shall be substituted "be recoverable by the person to whom the amount is payable as if it were payable under an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court for any sheriffdom in Scotland".

(11) In subsection (17) for the words "Joint Committee", in each place where they occur, there shall be substituted "parking authority".

(12) In subsection (18)–

(a) for the words "Joint Committee", in each place where they occur, there shall be substituted "parking authority".

(b) for "The Secretary of State" there shall be substituted "The Scottish Ministers".

5. For section 74 there shall be substituted the following section–

"**Fixing of certain parking and other charges for parking area**

74.–(1) It shall be the duty of the parking authority to set the levels of additional parking charges to apply in the parking area.

(2) Different levels may be set for different parts of the parking area.

(3) The levels of additional parking charges set by the parking authority under this section shall accord with any guidance given by the Scottish Ministers whether such guidance is given specifically to the parking authority or to local authorities generally.

(4) Any guidance given by the Scottish Ministers under subsection (3) above may be varied at any time by them.

(5) The parking authority shall publish, in such manner as the Scottish Ministers may determine, the levels of additional parking charges which have been set under this section.

(6) In this section "additional parking charges" means penalty charges, charges made by the parking authority for the removal, storage and disposal of vehicles and charges for the release of vehicles from immobilisation devices fixed under section 69 of this Act.".

6.—(1) Section 82 shall be modified as follows.

(2) For subsection (1) there shall be substituted–

"(1) In this section and sections 66, 69 to 74 and 79 of, and Schedule 6 to, this Act–

"hiring agreement" and "vehicle-hire firm" have the same meanings as in section 66 of the Road Traffic Offenders Act 1988(**a**);

"immobilisation device" has the same meaning as in section 104(9) of the Road Traffic Regulation Act 1984(**b**);

"parking area" means the area designated as a permitted parking area and a special parking area by the Road Traffic (Permitted Parking Area and Special Parking Area) (Perth and Kinross Council) Designation Order 2002(**c**);

"parking attendant" has the same meaning as in section 63A of the Road Traffic Regulation Act 1984;

"parking authority" means–

(a) in relation to a parking place which was provided or authorised under section 32(1) of the Road Traffic Regulation Act 1984, the local authority as defined by section 32(4)(a) of that Act in relation to the parking place;

(b) in any other case, the traffic authority (other than the Scottish Ministers) as defined by section 121A of that Act;

"penalty charge" means a penalty charge which is payable by virtue of paragraph 3(1) and (2) of Schedule 3 to this Act;

"prescribed" means prescribed by regulations made by the Scottish Ministers; and

"traffic commissioner" means the traffic commissioner appointed for the Scottish Traffic Area under section 4 of the Public Passenger Vehicles Act 1981(**d**).".

(3) In subsection (5), for the words "London authority concerned" there shall be substituted "parking authority".

(4) In subsection (7), for the words "either House of Parliament" there shall be substituted "the Scottish Parliament".

7.—(1) Schedule 6 shall be modified as follows.

(2) In paragraph 1(1), for the words "London authority concerned" there shall be substituted "parking authority".

(3) In paragraph 2–

(a) in sub-paragraph (1), for the words from "London" to the end there shall be substituted "parking authority";

(b) in sub-paragraph (2), for the words from "such" to the end there shall be substituted "writing";

(c) in sub-paragraph (3), after the word "The", where it first occurs there shall be inserted "parking";

(d) in sub-paragraph (4)(c), for the word "place" there shall be substituted "area"; and

(e) in sub-paragraph (7), for the words "an authority to whom representations are duly made" there shall be substituted "the parking authority when representations are duly made to it".

(4) In paragraph 3(1) and (2), for the words "London authority concerned" there shall be substituted "parking authority".

(5) In paragraph 4–

(a) for the words "London authority concerned" and "authority" there shall be substituted "parking authority"; and

(b) in sub-paragraph (b), for the word "costs" there shall be substituted "expenses".

(6) In paragraph 5–

(a) 1988 c.53.
(b) 1984 c.27.
(c) S.S.I. 2002/398.
(d) 1981 c.14.

(a) in sub-paragraph (1), for the words "an authority" there shall be substituted "the parking authority" and for the words "authority's decision" there shall be substituted "parking authority's decision";

(b) in sub-paragraph (2), for the words "London authority concerned" there shall be substituted "parking authority"; and

(c) in sub-paragraph (3), for the words from "any" to the end there shall be substituted "the parking authority to comply with any direction given to it under sub-paragraph (2) above".

(7) In paragraph 6–

(a) in sub-paragraph (1), for the words "authority serving the notice" there shall be substituted "parking authority"; and

(b) in sub-paragraph 2(b)(ii), for the words "authority concerned" there shall be substituted "parking authority".

(8) In paragraph 7, for the words from "authority concerned" to the end there shall be substituted "parking authority may recover the increased charge as if the charge certificate were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court in any sheriffdom in Scotland".

(9) Paragraph 8 shall be omitted.

SCHEDULE 3

PART I

MODIFICATIONS OF THE ROAD TRAFFIC REGULATION ACT 1984

1.—(1) Section 46 shall be modified as follows.

(2) In subsection (1A), for the words "Greater London" there shall be substituted "the parking area"(**a**).

2.—(1) Section 55 shall be modified as follows.

(2) For subsection (1), there shall be substituted–

"(1) A local authority shall keep an account–

(a) of their income and expenditure in respect of designated parking places for which they are the local authority and which are in the permitted parking area; and

(b) of their income from additional parking charges (as defined in section 74(6) of the Road Traffic Act 1991) received by them in respect of vehicles found within the special parking area and the expenditure incurred by them in relation to that area by virtue of any provision of Part II of the Road Traffic Act 1991 as it applies in relation to that area.

(1A) As soon as reasonably practicable after the end of each financial year, the local authority shall send to the Scottish Ministers a copy of the account for that year.".

(3) Subsections (3A) and (3B) shall be omitted(**b**).

3. In section 63A, in subsection (4) for the words "Greater London" there shall be substituted "the parking area"(**c**).

4.—(1) Section 101 shall be modified as follows.

(2) Subsection (4) shall be omitted.

(3) In subsection (4A), for the words "Greater London" there shall be substituted "the parking area"(**d**).

(4) Subsection (5) shall be omitted.

(5) In subsection (5A), for the words "Greater London" there shall be substituted "the parking area"(**e**).

5.—(1) Section 102 shall be modified as follows.

(2) For subsection (1) there shall be substituted–

"(1) If a vehicle is removed by the local authority in circumstances in which an offence would have been committed but for the provisions of paragraph 1(4) or 2(4) of Schedule 3 to the Road Traffic Act 1991, the local authority will be entitled to recover from any persons responsible such charges in respect of the removal, storage and disposal of the vehicle as they may require.".

(3) Subsections (2) and (3) shall be omitted.

(4) For subsection (4) there shall be substituted–

"(4) Without prejudice to subsection (1) above, where any sum is recoverable in respect of a vehicle by a local authority in whose custody the vehicle is, the local authority shall be entitled to retain custody of it until that sum has been paid.".

(a) Section 46(1A) was inserted by the Road Traffic Act 1991 ("the 1991 Act"), section 64(2).
(b) Sections 55 (3A) and (3B) were inserted by the 1991 Act, Schedule 7 paragraph 5.
(c) Section 63A was inserted by the 1991 Act, section 44(1).
(d) Section 101(4A) was inserted by the 1991 Act, section 67(4).
(e) Section 101(5A) was inserted by the 1991 Act, section 67(6).

(5) In subsection (5), for the words "an authority" there shall be substituted "the local authority".

(6) Subsections (6) and (7) shall be omitted.

(7) In subsection (8) in paragraph (b) of the definition of "appropriate authority" for the words "outside Greater London" there shall be substituted "within the parking area".

6. In section 134, for the references to "the Secretary of State" there shall be substituted references to "the Scottish Ministers"; and for the references to "each House of Parliament" there shall be substituted references to "the Scottish Parliament".

7. In section 142(1)–

(a) after the definition of "owner" there shall be inserted–

""parking area" means the area designated as a permitted parking area and a special parking area by the Road Traffic (Permitted Parking Area and Special Parking Area) (Perth and Kinross Council) Designation Order 2002; and "permitted parking area" and "special parking area" are to be read accordingly;"; and

(b) in the definition of "prescribed" for "the Secretary of State" substitute "the Scottish Ministers".

PART II

MODIFICATIONS OF SCHEDULE 3 TO THE ROAD TRAFFIC ACT 1991

In paragraph 1(4) of Schedule 3 to the Road Traffic Act 1991, paragraph (ab) shall be omitted(**a**).

(a) This paragraph was inserted by the Road Traffic Act 1991 (Amendment of Schedule 3) (England and Wales) Order 1996 (SI 1996/500) and extended to Scotland by the Road Traffic Act 1991 (Amendment of Schedule 3) (Scotland) Order 1998 (SI 1998/2018).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to Perth and Kinross new arrangements for enforcing parking controls already available in London and certain other areas in England and in Edinburgh and Glasgow. It does so by designating Perth and Kinross (with certain specified exceptions) as a permitted parking area and as a special parking area in accordance with Schedule 3 to the Road Traffic Act 1991 ("the 1991 Act"). The Order applies to the designated area various provisions of the 1991 Act and modifies them where necessary. It also makes consequential modifications to certain provisions of the Road Traffic Regulation Act 1984 ("the 1984 Act") dealing with parking and related matters.

While the Order is in force certain specified offences will be decriminalised: for example, in the case of the permitted parking area, breaches of orders relating to free on-street parking places and in the case of orders prohibiting or restricting waiting, loading and unloading.

Enforcement will be carried out by parking attendants provided under section 63A of the 1984 Act. A system of parking adjudicators will deal with disputes.

SCOTTISH STATUTORY INSTRUMENTS

2002 No. 398

ROAD TRAFFIC

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