SCOTTISH STATUTORY INSTRUMENTS

2004 No. 87

ROAD TRAFFIC

The Road Traffic (Permitted Parking Area and Special Parking Area) (Dundee City Council) Designation Order 2004

Made - - - -	*4th March 2004*
Laid before the Scottish Parliament - - - -	*8th March 2004*
Coming into force - -	*1st April 2004*

The Scottish Ministers, having received an application from Dundee City Council under paragraphs 1(1)(d) and 2(1)(c) of Schedule 3 to the Road Traffic Act 1991(**1**) 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 upon them 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) (Dundee City Council) Designation Order 2004 and shall come into force on 1st April 2004.

Interpretation

2. In this Order–

"the 1984 Act" means the Road Traffic Regulation Act 1984(**2**);

"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.

(**1**) 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 section 53 of the Scotland Act 1998 (c. 46).

(**2**) 1984 c. 27.

Designation of permitted parking area and special parking area

3. That part of the Dundee City local government area(**3**) 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.

5.—(1) The 1984 Act 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(**4**) 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.

St Andrew's House, Edinburgh
4th March 2004

NICOL STEPHEN
A member of the Scottish Executive

(**3**) City of Dundee 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). By resolution under section 23 of the 1994 Act the name was changed to Dundee City Council at a special meeting convened on 29th June 1995.

(**4**) 1992 c. 53.

SCHEDULE 1

Article 3

SPECIFICATION OF AREA

Dundee City local government area, with the exception of the length of the A90 for its full extent within the boundary of Dundee City local government area, the A92 from its junction with South Marketgait and the Tay Road Bridge to the junctions of the B959 and the A972 (also known as the Scott Fyfe Roundabout) and the A972 from the preceding junction (Scott Fyfe Roundabout) to that of the A90.

SCHEDULE 2

Article 4

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), "in a designated parking place" shall be omitted.

(3) In subsection (2)–

(a) "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 specified proportion" there shall be substituted "one half"; and

(b) in paragraph (e) for "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) "in a designated parking place" shall be omitted; and

(b) for "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), 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 "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 "costs" there shall be substituted "expenses".

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

(2) Subsections (1), (1A) 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; and

(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) 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 "appointing 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 "costs" there shall be substituted "expenses"; and

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

(10) In subsection (15), 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 "Joint Committee", in each place where it occurs, there shall be substituted "parking authority".

(12) In subsection (18)–

(a) for "Joint Committee", 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:–