



Statutory Document No: /08

THE ROAD TRAFFIC REGULATION ACT 1985

THE DRUMGOLD STREET (OFF-STREET CAR PARK) ORDER 2008

Coming into operation in accordance with Article 1

In exercise of the powers conferred on the Department of Local Government and the Environment by sections 11 and 13 of the Road Traffic Regulation Act 1985¹, and of all other enabling powers, and after complying with the requirements of paragraph 1 of Schedule 2 to that Act, the following Order is hereby made:-

PART 1

GENERAL

1. Citation, commencement and interpretation

(1) This Order may be cited as the Drumgold Street (Off-Street Car Park) Order 2008 and shall come into operation on the

(2) In this Order –

“the Act” means the Road Traffic Regulation Act 1985;

“the Act of 1985” means the Road Traffic Act 1985²;

“car” means a mechanically propelled vehicle (other than a bicycle, tricycle, motor cycle or motor cycle combination) which is constructed solely or principally for the carriage of people and excludes trailers and vehicles greater than 4.00 metres in length 1.825 metres in height or 2.00 metres in width;

“the car park” means the area of land specified in column 1 of the Schedule and known as Drumgold Street Car Park;

“charges” mean the charges set out in the Schedule to this Order;

“charging hours” means on any day specified in column 4 of the Schedule, the hours specified in column 7 of the Schedule;

“the Department” means the Department of Local Government and the Environment;

“driver” in relation to a vehicle waiting in the car park, means the person driving the vehicle at the time it was left in the car park;

“goods vehicle” means a mechanically propelled vehicle constructed or adapted for use for the carriage of goods or burden, the unloaded weight of which does not exceed 1525 kilogrammes;

“invalid carriage” means a mechanically propelled vehicle the weight of which unladen does not exceed 254 kilogrammes and which is specially designed and

¹ 1985 c.20

² 1985 c.23

constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability and is used solely by such a person;

“motor cycle” means a mechanically propelled vehicle, not being an invalid carriage, with less than four wheels and the weight of which unladen does not exceed 410 kilogrammes³;

“official disabled badge” means a badge issued by the Isle of Man Government or other agency appropriate to the jurisdiction in which the vehicle is registered;

“owner” in relation to a vehicle waiting in the car park means the person by whom such vehicle is kept and used;

“parking attendant” means a person authorised to act on behalf of the Department in relation to the operation of the car park and to enforce the provisions of this Order;

“parking bay” means any area of the which is clearly shown by a sign or surface marking as a place within which a single vehicle may wait;

“ticket machine” means apparatus at the car park designed to issue a dated and timed ticket to indicate whether the charge referred to in article 3(1) has been paid and when the period for which it has been paid elapses;

“vehicle” wherever referred to in this Order means and includes the permitted classes of vehicles referred to in column 3 of the Schedule.

PART II

USE OF CAR PARK

2. Use of land and car park

(1) The area of land specified by name in column 1 of the Schedule may be used, subject to the following provision of this Order, by members of the public as a car park for such classes of vehicles, in such positions on such days and during such hours as are specified on payment of the specified charges in relation to that area in the Schedule.

(2) Where in the Schedule the car park is described as available for vehicles of a specified class or in a specified position, the driver shall not permit a vehicle to wait in the car park unless it is of the class and in the position so specified.

(3) No person shall permit a vehicle to wait in the car park during the charging hours except on payment of a charge in accordance with the following provisions of this Order.

(4) Where in the car park signs are erected or surface markings are displayed reserving only parking bay for disabled people, no driver shall park in such space except if the vehicle displays an official disabled badge.

(5) Where in the car park, surface markings indicate the parking bays in which vehicles may park, the driver of any vehicle shall ensure that the vehicle is parked entirely within a marked parking bay and that no part of it straddles the markings separating the parking bays.

(6) The driver of a vehicle, if so required by an officer or agent of, or person authorised by, the Department shall —

(a) remove the vehicle from the car park; or

³ Taken from s.65 (Interpretation of expressions relating to motor vehicles and classes thereof) of the Act of 1985.

- (b) move the vehicle from one position to another in the car park.

3. Amount of charge at car park

(1) Except where otherwise provided in this Order on payment during the charging hours of the appropriate charge as specified in column 7 of the Schedule, a driver shall be entitled to park a vehicle in any available parking bay in the car park, other than a bay reserved for a disabled persons vehicle, for such period as may be stated on the ticket issued by the ticket machine on payment of the charge.

(2) The charge referred to in paragraph (1) shall be payable by the insertion of an appropriate coin or coins into the ticket machine.

(3) Any ticket issued on payment of the charge referred to in paragraph (1) shall be displayed in a conspicuous position in the vehicle in respect of which it was issued such that it can be read from outside the vehicle.

(4) An indication by the ticket machine and shown on the ticket issued by it of the amount of charge paid and of the period for which payment was made shall be presumed to be correct unless the contrary is shown.

4. Amount of excess charge at car park

(1) In any of the circumstances specified in this paragraph and in addition to any charge payable under article 3(1) (the initial charge) an excess charge of £50.00 shall be paid forthwith to the Department at the Department's offices. If payment is made not later than 4.30 pm on the fourteenth day following the day on which the charge was incurred, the excess charge of £50.00 shall be reduced to £25.00 —

- (a) where a vehicle is parked in the car park during the charging hours without the initial charge being paid or without a ticket being displayed in accordance with article 3(3);
- (b) where a vehicle is parked in the car park outside the charging hours and is not removed before the commencement of the charging hours;
- (c) where a vehicle is not removed from the car park at or before the expiry of the period for which the initial charge was paid;
- (d) where a vehicle not displaying an official disabled badge is parked in a parking bay reserved for disabled people

(2) Section 14B(4) of the Act (Court to order payment of unpaid charge) applies to a charge payable by virtue of this article as it applies to a charge payable under section 14A of the Act.

(3) In the case of a vehicle in respect of which an excess charge may have been incurred, it shall be the duty of the parking attendant to attach to the vehicle in a conspicuous position a notice which shall include the following particulars —

- (a) the registration mark of the vehicle, or where the vehicle is being used under a trade licence, the number of the trade plates carried by the vehicle;
- (b) the time at which he or she first observed that the period of time for which payment of the charge had been made had expired, and specifying the provisions of this Order which have been contravened or not complied with; or
- (c) the time he or she observed a vehicle not displaying an official disabled badge parked in a parking bay reserved for disabled people;
- (d) a statement that the excess charge of £50.00 is required to be paid;

- (e) the manner in which and the time within which the excess charge should be paid; and
- (f) a statement that failure to pay the excess charge is itself a contravention of the Order and may result in the vehicle, if it is parked in the car park, being removed and retained by the Department until such time as all outstanding charges are settled in full.

5. Responsibility for contravention

The following persons shall be responsible for any contravention of article 2 —

- (a) the driver of the vehicle in question;
- (b) where the identity of the driver is not ascertained, the person in whose name the vehicle was registered under the Licensing and Registration of Vehicles Act 1985⁴

6. Restriction on removal of notices

When a notice has been attached to a vehicle in accordance with any of the foregoing provisions of this Order no person other than a person authorised by the Department in that behalf or the driver or a person authorised by the driver in that behalf shall remove the notice from the vehicle.

7. Traffic in car park

(1) This article applies where in the car park signs are erected or surface markings are laid indicating —

- (a) the entrance to or exit from the car park; or
- (b) that a vehicle using the car park shall or shall not proceed in a specified direction within the car park.

(2) No person shall, without the consent of the Department, drive a vehicle, or cause or permit a vehicle to be driven —

- (a) so that it enters the car park otherwise than by an entrance so indicated, or
- (b) so that it leaves the car park otherwise by an exit so indicated, or
- (c) in, or otherwise than in, a direction so indicated, as the case may be.

8. Further conditions as to use of car park

(1) The driver of any vehicle using the car park shall have regard to the safety of other drivers and pedestrians and their property and shall drive with care, observing and complying with all signage and speed restriction indicators.

(2) The driver of a vehicle shall stop the engine thereof as soon as it is in a position in a parking bay and shall not restart it except when about to change the position of the vehicle in or to depart from the car park.

(3) No person shall bring any trailer or caravan into the car park except with the approval of the parking attendant.

(4) The driver of a vehicle shall not permit that vehicle to wait in the car park unless the vehicle is licensed in pursuance of the provisions of the Licensing and Registration of Vehicles Act 1985 and unless there is in relation to the use of the vehicle by the driver such a policy of insurance as complies with the requirements of Schedule 5 of the Act of 1985.

⁴ 1985 c.21

(5) Any person who wilfully or carelessly damages in any way or interferes with the fabric, structure or equipment of the car park or any apparatus or device provided therein shall be guilty of an offence under this Order and shall also be liable for the costs incurred in making good the damage.

(6) No person shall except with the permission of a parking attendant drive any vehicle in the car park other than for the purpose of leaving that vehicle in the car park in accordance with the provisions of this Order or for the purpose of departing from the car park.

(7) No person shall ply for hire or accept passengers for fee or use the vehicle for similar purposes but this provision shall not preclude the waiting in the car park of any vehicle bearing any business or company livery.

(8) No inflammable, dangerous or explosive substances (other than in the fuel tank of a vehicle) shall be brought into the car park.

(9) The driver of a vehicle shall not take or attempt to take it into the car park if either a sign indicates or a parking attendant states that the car park is full.

(10) The driver of a vehicle using or about to use the car park shall comply with directions given by a parking attendant and shall, if so required, remove the vehicle from the car park or move it from one parking bay to another. It shall be lawful for a parking attendant, for any reasonable cause, to remove a vehicle from the car park or move it from one parking bay to another whether or not the driver is present.

(11) No vehicle may be parked in the car park, or on a particular level of the car park, for longer than the maximum stay set out in column 6 of the Schedule hereto.

(12) Any person removing or altering the position of a vehicle by virtue of the provisions of this Order may do so by towing or driving the vehicle or in such other manner as he or she may consider necessary taking all reasonable precautions for the safety of other vehicles and persons in or about the car park and having due regard for the safe custody of the vehicle.

9. Removal of vehicles

(1) The Department may remove any vehicle which is parked within the car park in contravention of any provision of this Order.

(2) The Department shall remove any vehicle from the car park in the event that there are one or more excess charge tickets, issued in accordance with article 4, outstanding after 14 days from date of issue and the owner of the vehicle, in addition to the requirement to pay all outstanding charges, shall be liable to pay the prescribed charges in respect of the removal and safe custody of the vehicle in accordance with Part I of the Local Government (Miscellaneous Provisions) Act 1984⁵.

PART III

10. Exemptions

The following shall be exempt from any limitation of time specified in Article 3 and from any payment specified in Article 3 and 4 —

- (a) an invalid carriage;
- (b) the driver of a vehicle which displays in the relevant position a disabled persons badge;

⁵ 1984 c.5.

- (c) a vehicle left by the driver thereof who is a person who on account of his or her severe physical disability has been given a notice of exemption in writing by the Department, if the notice is displayed in the vehicle in a conspicuous position such that it can be read from outside the vehicle; and
- (d) motor cycles.

11. Disclaimer

Vehicles and their contents are parked at the owner's risk and no liability is accepted by the Department for loss or damage to vehicles or persons however caused. Furthermore, it is the responsibility of the owner to ensure that his or her vehicle is not placed, or allowed to remain, within the car park in contravention of the order and, accordingly, no liability is accepted by the Department for any loss or damage should the Department deem it necessary to remove such a vehicle from the car park.

PART IV

12. Penalties and enforcement

(1) The Department may take proceedings against any driver for contravention of the provisions of this Order or for the recovery of any unpaid excess parking charge and for that purpose may serve upon the owner of any vehicle a notice requiring such owner to supply within 14 days the name and address of the driver of the vehicle at the time of the offence.

(2) If the registered owner does not provide the name and address of the driver within the stated time, then such proceedings may be taken against the registered owner as if the registered owner had been the driver of the vehicle at the time of the offence.

(3) If any information provided under paragraph (1) by a registered owner is false or defective in any material particular, the registered owner shall be guilty of an offence.

(4) The Chief Constable or any constable may also institute proceedings against any driver for contravention of any of the provisions of articles 7 or 8 of this Order.

(5) Any person acting in contravention of, or failing to comply with, the provisions of this Order, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500. But no proceedings shall be taken for any such offence or failure if an excess parking charge issued in respect thereof has been settled.

PART V

13. Variations of Provisions

(1) The Department may suspend the use of the car park, or any part of the car park, in an emergency without notice.

(2) The Department may amend the layout of parking bays and facilities within the car park at any time subject to the provision of adequate signage, either temporary or permanent, to guide users.

14. Revocation and transitional arrangements

(1) The Drumgold Street (Car Park) Order 1996⁶ (“the 1996 Order”) is hereby revoked.

(2) An excess charge ticket issued, or prosecution commenced, in relation to any contravention of the 1996 Order prior to the commencement of this Order shall be determined under the terms of the 1996 Order.

⁶ SD 11/96

SCHEDULE

Car park 1	Position in Which vehicles may wait 2	Permitted Classes of Vehicles 3	Days of Operation of Car park 4	Hours of Operation of Car park 5	Maximum period for which vehicles may wait 6	Scale of Charges 7
Drumgold Street Multi-Storey Car Park Douglas	Wholly within a parking bay	(i) Cars; (ii) Invalid carriages; (iii) Motor cycles; (iv) Goods vehicles.	Monday to Saturday excluding Christmas Day, Boxing Day and New Year's Day	Between 8:00 a.m. and 8.00 p.m. Monday to Saturday (inclusive)	A maximum of three hours during the period 8.00 am to 8.00 pm from Monday to Saturday inclusive	Between the hours of 8.00 am and 7.00 pm on Monday to Saturday inclusive — Up to 1 hour £0.80 Up to 2 hours £1.00 Up to 3 hours £1.20

Made this day of

2008

Minister for Local Government and the Environment

Explanatory Note

(This note is not part of the Order)

This Order regulates parking within Drumgold Street car park and provides for charges to be levied for the use of a car park.

Article 4 of the Order provides for the issue of an excess charge ticket if the appropriate charge has not been paid or for parking in a parking bay without displaying the appropriate disabled persons badge. Article 12 provides that contravention of, or failure to comply with, any provision of the Order shall render the person guilty of an offence and liable on summary conviction to a fine not exceeding £500. No person shall be liable for legal proceedings if an excess parking ticket has been issued and payment received by the Department.

The Order further provides, in article 9, that the Department may remove any vehicle from the car park that is parked in contravention of any of its provisions and shall do so in the event that any excess parking ticket remains outstanding 14 days after being issued. The owner of a vehicle removed in accordance with the Order shall be liable not only to pay the outstanding excess parking ticket but also any charges for removal and safe custody of the vehicle.