



SOUTH AYRSHIRE COUNCIL

(Crossburn Drive, Loans)

(Waiting Restrictions)

(Civil Enforcement) Order 2012

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South Ayrshire Council in exercise of the powers conferred on it by Sections 1(1), 2(1) to (3), 3, 4, 99, 101, 102, 124 and Part IV of Schedule 9 to the Road Traffic Regulation Act 1984 as amended, the Road Traffic (Permitted Parking Area and Special Parking Area) (South Ayrshire Council) Designation Order 2012 and the Road Traffic Act 1991 and of all other enabling powers, and after consultation with the Chief Constable of Strathclyde Police in accordance with Part III of Schedule 9 to the Act, hereby makes the following Order:-

Citation and commencement

1. This Order may be cited as the "South Ayrshire Council (Crossburn Drive, Loans) (Waiting Restrictions) (Civil Enforcement) Order 2012", and shall come into operation on Saturday 1st September 2012.

Interpretation

2. In this Order the following expressions have the meanings hereby assigned to them:

"the 1984 Act" means the Road Traffic Regulation Act 1984;

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

"Council" means South Ayrshire Council;

"disabled person's badge" has the same meaning as in the Disabled Person's (Badges for Motor Vehicles) (Scotland) Regulations 2000, as amended;

"disabled person's vehicle" has the same meaning as in the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (Scotland) Regulations 2000.

"local authority" means the South Ayrshire Council;

"local roads authority" means the South Ayrshire Council;

"owner" in relation to a vehicle, means the person by whom such vehicle is kept and used. In determining who was the owner at any time it shall be presumed that the owner was the person named in the vehicle registration document as the registered keeper of the vehicle or the person who has the use of such vehicle in the course of his/her employment and who is entitled to use such vehicle as though he/she were the registered keeper thereof;

"parking attendant" means a person employed in accordance with Section 63A of the 1984 Act to carry out the functions therein;

"penalty charge" has the same meaning as in Section 82(1) of the 1991 Act;

"penalty charge notice" means a notice issued or served by a parking attendant pursuant to the provisions of Section 66 of the 1991 Act;

"vehicle", unless the context otherwise requires, means a vehicle of any description and includes a machine or implement of any kind drawn or propelled along roads whether or not by mechanical power;

3. Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.
4. The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies to an Act of Parliament.

Prohibition of Waiting

5. Save as provided in Articles 6,7 and 8 of this Order no person shall, except on the direction or with the permission of a police constable in uniform or a parking attendant in uniform, cause or permit any vehicle to wait at any time in any of the lengths of road specified in Schedule 1 to this Order.
6. Nothing in Article 5 of this Order shall:
 - (a) prevent any person from causing or permitting a vehicle to wait in the length of roads referred to in that Article:
 - (i) for so long as may be necessary to enable a person to board or alight from the vehicle or to load thereon or unload therefrom their personal luggage;

- (ii) for so long as may be necessary to enable the vehicle, if it cannot conveniently be used for such purpose in any other road, to be used in connection with any building operation or demolition, the removal of any obstruction to traffic, the maintenance, improvement or reconstruction of any of the lengths of roads so referred to, or the laying, erection, alteration or repair in or near to any of the said lengths of the roads, of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity, or of any telecommunications apparatus, as defined in the Telecommunications Act 1984;
 - (iii) to enable the vehicle, if it cannot conveniently be used for such purpose in any other road, to be used in pursuance of statutory powers and duties and in particular, but without prejudice to the generality of the foregoing, to enable the vehicle to be used in connection with police, fire brigade and ambulance purposes;
 - (iv) if the vehicle is waiting owing to the driver being prevented from proceeding by circumstances beyond their control to such waiting being necessary in order to avoid an accident;
 - (v) if the vehicle is in the service of or employed by a Postal Delivery Service and is waiting in any of the lengths of roads while postal packets addressed to premises adjacent thereto are being unloaded from the vehicle or having been unloaded therefrom are being delivered or while postal packets are being collected from premises or postal boxes adjacent thereto;
 - (vi) for the purpose of loading or unloading the vehicle while the vehicle is standing at the kerb and is in actual use in connection with 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;
 - (vii) to enable the vehicle to be used in connection with funeral operations and weddings.
- (b) notwithstanding anything in paragraph (a) of this Article, the driver of a vehicle waiting shall move the said vehicle on the instruction of a police constable in uniform or a parking attendant in uniform, whenever such moving may be reasonably necessary for the purpose of preventing an obstruction or danger to others.
7. Nothing in Article 5 of this Order shall prevent any person from causing or permitting a vehicle to wait in the said lengths of road referred to in that Article;
- (a) for so long as may be necessary for the purpose of delivering or collecting goods or merchandise or loading or unloading the vehicle at premises adjoining that road provided that no vehicle engaged in delivering or collecting goods or merchandise or being loaded or unloaded shall wait

for a longer period than thirty minutes in the same place and no such vehicle shall wait for a longer period than ten minutes in the same place without goods being loaded onto or unloaded from the vehicle;

(b) notwithstanding anything in paragraph (a) of this Article, the driver of a vehicle waiting for the purpose of delivering or collecting goods or merchandise or loading or unloading the vehicle shall move the same on the instruction of a police constable in uniform whenever such moving may be reasonably necessary for the purpose of preventing an obstruction.

8. Nothing in Article 5 of this Order shall apply to any disabled person's vehicle which is not causing an obstruction and which displays a disabled person's badge issued by a local authority in exercise of its powers under Section 21 Chronically Sick and Disabled Persons Act 1970, as amended, notwithstanding, the driver of a vehicle waiting shall move the said vehicle on the instruction of a police constable in uniform or a parking attendant in uniform, whenever such moving may be reasonably necessary for the purpose of preventing an obstruction or danger to others.

Alteration of Position of a Vehicle

9. Where any vehicle is standing in contravention of the provisions of Article 5, a police constable in uniform, a parking attendant in uniform, or a person duly authorised by the Council may alter, or cause to be altered, the position of the vehicle in order that the manner of standing of the said vehicle shall comply with the aforementioned provisions.

Removal of a Vehicle

10. Where a police constable in uniform, a parking attendant in uniform, or a person duly authorised by the Council is of the opinion that any of the provisions contained in Article 5 have been contravened or have not been complied with in respect of a vehicle left in a length of road described by this Order, he or she may remove the vehicle, or cause the vehicle to be removed, from the length of road and, where it is so removed, shall provide for the safe custody of the vehicle.

Movement of a Vehicle in an emergency

11. Any person duly authorised by the Council, or a police constable in uniform or a parking attendant in uniform, may move or cause to be moved, in case of an emergency, to any place they think fit, any vehicles left in any length of road described by this Order.

Contraventions

12. If a vehicle is left on any of the roads specified in any of the Schedules to this Order or any parking place without complying with the requirements of this Order, a contravention shall have occurred and a penalty charge shall be payable. A penalty Charge Notice showing the information required by the appropriate legislation may then be issued by a parking attendant in accordance with the requirements of the legislation or any subsequent applicable legislation or the vehicle may be removed from the location.
13. The particulars given in the penalty charge notice attached to a vehicle in accordance with Article 12 shall be treated as evidence in any proceedings relating to failure to pay such penalty charge.
14. Where a penalty charge notice has been attached to a vehicle in accordance with the provisions of Article 12 no person, not being the driver of the vehicle, a parking attendant in uniform, or some other person duly authorised by the Council, shall remove the notice from the vehicle unless authorised to do so by the owner of the vehicle.
15. Where a parking attendant has moved or removed, or caused to be moved or removed, a vehicle in accordance with Articles 10, 11, or 12 -
 - (a) he/she shall provide for the safe custody of the vehicle;
 - (b) the Council shall be entitled to recover from the person responsible such charges in respect of the removal, storage and disposal of the vehicle as it might prescribe from time to time;
 - (c) the provisions of the 1984 Act as amended shall apply to the disposal of such vehicles removed by or on behalf of the Council pursuant to this Article.

Abandoned Vehicles

16. Subject to Article 17, the Council may as respects a vehicle which has been removed from any of the roads specified in any of the Schedules to this Order or any parking place in pursuance of Articles 10, 11, or 12, if it appears to them to have been abandoned, sell or otherwise dispose of the vehicle after having made reasonable enquiry to ascertain the name and address of the owner of the vehicle and to inform the owner of their intention.

17. The Council will be deemed to have made reasonable enquiry to ascertain the name and address of the owner of any vehicle to which Article 16 applies provided that they have taken such steps in relation to that vehicle that may be prescribed by any Regulations for the time being in force under Section 99 or 101 of the 1984 Act, for authorising the Council to sell or otherwise dispose of the vehicle if it had been left on a road and if it appeared to the Council that it had been abandoned.

Revocations

18. The Order specified in Schedule 2 to this Order is hereby revoked.

This Order together with the Schedules annexed and signed as relative hereto is subscribed for and on behalf of South Ayrshire Council by Wynne Stewart Carlaw, our Legal and Democratic Manager, one of our officers authorised in that respect, at Ayr on the First day of August Two thousand and Twelve before this witness Laura Anne McChristie (subscribing her usual signature "Laura McChristie"), Solicitor with South Ayrshire Council at County Buildings, Wellington Square, Ayr.

Laura McChristie (WITNESS)

Wynne S Carlaw

SCHEDULE 1

NO WAITING AT ANY TIME

**Length of Road
in South Ayrshire within
the Town of Loans**

**Side of road to which
Restriction applies**

Crossburn Drive

1. From the extended west kerblineline of Crossburn Terrace-
westwards to the extended east kerblineline of Main
Street.

Both

Wynne Searlow

This is Schedule 1 referred to in the foregoing Order.

SCHEDULE 2

ORDER TO BE REVOKED

Name of Order

Extent of revocation

South Ayrshire Council
(Crossburn Drive, Loans)
(Waiting Restrictions) Order 2011

Entire order

Wynne S Carlaw

This is Schedule 2 referred to in the foregoing Order.