

RHONDDA CYNON TAFF COUNTY BOROUGH COUNCIL

(DAN Y BRYN ROAD, TREFOREST)

(VARIATION AND WAITING RESTRICTIONS) ORDER 2019

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The Rhondda Cynon Taff County Borough Council in exercise of its powers under Sections 1, 2, 4 and Part IV of Schedule 9 to the Road Traffic Regulation Act 1984 (hereinafter referred to as "the 1984 Act") and of all other enabling powers and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the 1984 Act hereby makes the following Order

1. Commencement and Citation

This Order shall come into operation on 28th October 2019 and may be cited as the "Rhondda Cynon Taff County Borough Council (Dan y Bryn, Treforest) (Variation and Waiting Restrictions) Order 2019"

The provisions of this Order shall be in addition to and not in derogation from any restriction or requirement imposed by any regulation made or having effect as if made under the 1984 Act or by any other enactment

2. Interpretation

In this Order, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:

"Authorised Vehicle" shall mean a police, fire, ambulance or other emergency vehicle, a vehicle belonging to a universal service provider, electricity, gas, water or other statutory undertaker or any vehicle belonging to Rhondda Cynon Taff County Borough Council or any vehicle authorised by the highway authority engaged in legitimate business of their respective employers

"Charge Certificate" means the statement that the Penalty Charge has been increased by 50% in accordance with Regulation 13 of the Civil Enforcement of Parking Contraventions (Penalty Charge Notices, Enforcement and Adjudication) (Wales) Regulations 2008

"Civil Enforcement Officer" means a person authorised by or on behalf of the Council to supervise and enforce the provisions of this Order

"the Council" means Rhondda Cynon Taff County Borough Council and shall include its employees agents and partners

"Disabled Person's Badge" and **"Disabled Person's Vehicle"** shall have the same meaning as in the Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000 and the Local Authorities Traffic Orders (Disabled Persons) (Wales) Regulations 2000

"Driver" in relation to a vehicle waiting on a road or length of road, means the person driving the vehicles at the time it was left on a road or length of road

"Owner" in relation to a vehicle which is required to be licensed under the provisions of the Vehicle Excise and Registration Act 1994 means the person in whose name the vehicle was registered under that Act on the date on which the vehicle was left in contravention of this Order

"Parking Card for People with Disabilities" means a card issued in accordance with EC Recommendation 2008/205/EC and for the purposes of this Order a vehicle displaying a Parking Card for People with Disabilities shall be treated the same as a Disabled Persons Vehicle or a vehicle displaying a Disabled Person's Badge

"Parking Disc" has the same meaning as in the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (Wales) Regulations 2000 which is capable of showing the quarter hour period during which a period of waiting has begun

"Penalty Charge" means a charge imposed in accordance with the provisions of the 2004 Act and the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013

"Penalty Charge Notice" or **"PCN"** means a Penalty Charge notice issued or served by a Civil Enforcement Officer or posted by or on behalf of the Council pursuant to the provisions of section 78 of the 2004 Act and the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013

"the Regulations" means the "Local Authorities Traffic Orders (Exemptions for Disabled Persons) (Wales) Regulations 2000"

"the Representations and Appeals Regulations" means the Civil Enforcement of Parking Contraventions (Representations and Appeals) (Wales) Regulations 2013

"Vehicle" means any motorcar, motorcycle or other mechanically propelled automobile

3. Any reference in this Order to a numbered Article is a reference to the Article bearing that number in this Order, and any reference in this Order to 'the Schedule' is a reference to the particular Schedule annexed to this Order
4. Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, applied, consolidated, re-enacted by or as having effect by virtue of any subsequent enactment
5. The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament

Variation

6. The Traffic Regulation Order specified in Schedule 1 to this Order is hereby varied

Prohibition of Waiting at any time

7. No person shall except upon the direction of a police officer in uniform or a Civil Enforcement Officer in uniform, cause or permit any vehicle to wait at any time on the lengths of roads identified in Schedule 2 to this Order

Exemptions

8. Nothing in Article 7 shall render it unlawful to cause or permit any vehicle to wait on the roads, lengths of roads or on the sides of lengths of roads specified therein for so long as may be necessary to enable the vehicle to be used in an emergency for fire and rescue, ambulance or police purposes
9. Nothing in Article 7 shall render it unlawful to cause or permit a vehicle to wait in any of the lengths of road so referred to for as long as necessary to enable
 - i. persons to board or alight from the vehicle;
 - ii. goods to be loaded onto or unloaded from the vehicle
 - iii. the vehicle, if it cannot conveniently be used for such purposes in any other road, to be used in connection with any of the following operations, namely:-
 - a) building, industrial or demolition operations;
 - b) the removal of any obstruction to traffic;
 - c) the maintenance, improvement, reconstruction, inspection or survey of any part or parts of the said lengths of road; or
 - d) the laying, erection, alteration or repair on, or on land adjacent to the said side of lengths of 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
 - iv. the vehicle if it cannot conveniently be used for such a purpose in any other road, to be used in the service of a local authority or a water authority in pursuance of statutory powers or duties;
 - v. the vehicle to be used for the purpose of delivering or collecting postal packets by a universal service provider as defined in the Postal Services Act 2000;
 - vi. the vehicle to wait at or near to any premises situated on or adjacent to the said lengths of road for so long as such waiting by that vehicle is reasonably necessary as part of a funeral cortege or otherwise in connection with a funeral provided the vehicle is owned by a funeral director or by an owner of funeral vehicles;

- vii. the vehicle to wait at or near to any premises situated on or adjacent to the said sides of lengths of road for so long as such waiting is reasonably necessary in connection with medical practitioners and veterinary surgeons visiting premises while "on call";
 - viii. In any case where the person in control of the vehicle:-
 - a) is required by law to stop;
 - b) is obliged to stop so as to prevent an accident; or
 - c) is prevented from proceeding by circumstances outside his/her control
10. Article 7 of this Order shall not render it unlawful to cause or permit any vehicle to wait in any of the said lengths of road for a maximum period of three hours (not being a period separated by an interval of less than one hour from a previous period of waiting by the same vehicle in the same road or part of a road on the same day) if the vehicle is being used for the conveyance of a disabled person and is displaying a disabled person's badge in accordance with the Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000 and a Parking Disc as defined in the Local Authorities Traffic Orders (Exemptions for Disabled Persons) (Wales) Regulations 2000, (hereinafter called "the Regulations") both of which are displayed in accordance with the Regulations

Suspension

- 11. Where a police officer in uniform or a Civil Enforcement Officer in uniform is of the opinion that the provisions this Order have been contravened he may remove or cause to be removed the vehicle from the highway and where it is so removed shall provide for the safe custody of the vehicle
- 12. A police officer in uniform or a Civil Enforcement Officer in uniform may move or cause to be moved in the case of emergency to any place he thinks fit any vehicle left in contravention of this Order
- 13. Where a vehicle is removed in accordance with Articles 11 and 12 a charge at the level of Band 2 as set out in Regulation 2 of the Civil Enforcement Parking Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013 shall be payable

Contravention of Order

- 14. If a vehicle is left waiting in a road or length of road in contravention of the provisions of this Order, a Penalty Charge shall be payable and/or the vehicle may be removed from its location
- 15. Where in this Order reference is made to a Penalty Charge this shall mean an amount ascertained in accordance with the following: -
 - i. If there is any contravention of any of the provisions of this Order then and in any such case a Penalty Charge at the level of Band 2 as set out in Regulation 1 of the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013 shall be payable
 - ii. The Penalty Charge shall be paid in accordance with Article 14 not later than the last day of the period of 28 days beginning with the date on which the notice was served
 - iii. In the event of payment being received in accordance with Article 14 not later than the last day of the period of 14 days beginning with the day on which the notice is served the amount of the charge shall be reduced by 50%
 - iv. The Penalty Charge shall be increased by 50% on the issue of a Charge Certificate in accordance with Regulation 13 of the Civil Enforcement of Parking Contraventions (Penalty Charge Notices, Enforcement and Adjudication) (Wales) Regulations 2008 ("the 2008 Regulations")
 - v. The Payment of the Penalty Charge (whether or not reduced under the provisions of Article 15 (iii)) will not exonerate any person from payment of any expenses incurred under Article 13 and recoverable in respect of the removal and disposal of the Vehicle and any statutory provisions for the time being in force or from any claim to damages which the Council may have in respect of damage incurred in relation to the parking of the Vehicle howsoever arising
 - vi. The current Penalty Charge rates shall be displayed on the Council's website
- 16. In the case of a Vehicle in respect of which a Penalty Charge may have been incurred it shall be the duty of a Civil Enforcement Officer in uniform to attach to the vehicle in a conspicuous position a Penalty Charge Notice or PCN which shall include the following particulars:

- i. The date on which the Penalty Charge Notice is served;
- ii. The name of the enforcement authority;
- iii. The registration mark of the vehicle involved in the alleged contravention;
- iv. The date and time at which the alleged contravention occurred;
- v. The grounds on which the Civil Enforcement Officer in uniform issuing the notice believes that a Penalty Charge is payable;
- vi. The amount of the Penalty Charge
- vii. That the Penalty Charge must be paid before the end of the period of 28 days beginning with the date on which the notice is served
- viii. That if the Penalty Charge is paid before the end of the 14 days beginning with the date on which the notice is served, the Penalty Charge will be reduced by the amount of any applicable discount;
- ix. The manner in which the Penalty Charge must be paid;
- x. That if the Penalty Charge is not paid before the end of the period of 28 days referred to in subparagraph (vii), a notice to owner may be served by the enforcement authority on the Owner of the vehicle;
- xi. That, if representations against the Penalty Charge are received at such address as may be specified for the purpose before a notice to owner is served,
 - a. Those representations will be considered;
 - b. But that, if a notice to owner is served notwithstanding those representations, representations against the Penalty Charge must be made in the form and manner and at the time specified in the notice to owner
- xii. That a person on whom a notice to owner is served will be entitled to an adjudicator if those representations are rejected

17. Where a Penalty Charge Notice is served by post it shall include the following particulars:

- i. The date of the notice;
- ii. The matters specified in Article 16 (ii), (iii), (iv), (vi) and (xi);
- iii. The grounds on which the enforcement authority believes that a Penalty Charge is payable;
- iv. That the Penalty Charge must be paid not later than a specified date which must be the last day of the period of 28 days beginning with the date on which the Penalty Charge Notice will be taken to have been served;
- v. That if the Penalty Charge is paid before the end of the applicable period, the Penalty Charge will be reduced by the amount of any applicable discount
- vi. That if after the date specified in accordance with subparagraph (iv)
 - a. No representation have been made in accordance with regulation 4 of the Representations and Appeals Regulations; and
 - b. The Penalty Charge has not been paid;

The enforcement authority may increase the Penalty Charge by the amount of any applicable surcharge and take steps to enforce payment of the charge as so increase; and

- vii. That the Penalty Charge Notice is being served by post for whichever of the following reasons applies
 - a. That the Penalty Charge Notice is being served by post on the basis of a record produced by an approved device;

- b. That it is being so fixed, because a Civil Enforcement Officer attempted to serve a Penalty Charge Notice by affixing to a vehicle or giving it to the person in charge of the vehicle but was prevented from doing so by some person; or
 - c. That it is being so served because a Civil Enforcement Officer had begun to prepare a Penalty Charge Notice in accordance with regulation 5 of the 2008 Regulations, but the vehicle was driven away from the place in which it was stationary before the Civil Enforcement Officer had finished preparing the Penalty Charge Notice or had served it in accordance with regulation 5 of the 2008 Regulations
18. The Penalty Charge may be paid to the South Wales Parking Group (SWPG) by cheque, online payment, money or postal order. Payment may also be made by debit card or credit card via the telephone. All payment instructions for the SWPG can be found on the back of the Penalty Charge Notice
19. When a Penalty Charge Notice has been attached to a Vehicle in accordance with any of the foregoing provisions of this Order no person other than a person so authorised by the Council in that behalf or the Driver or a person so authorised by the Driver in that behalf shall remove the notice from that Vehicle

SCHEDULE 1 – Variation

1. Vary the "Rhondda Cynon Taff County Borough Council (Prohibition and Restriction of Waiting and Loading and On Street Parking Places) Consolidation Order 2012" so that the order referred to in the Schedule of Orders as 'Mid Glamorgan County Council (Various Streets, Treforest) (Prohibition of Waiting) Order 1994' has the following removed from the schedule:

"Unnamed Lane leading from Kingsland Terrace to Dan Y Bryn Cottages both sides from its junction with Kingsland Terrace north westwards for a distance of 115 metres (126 yards)"

SCHEDULE 2 – Prohibition of Waiting At Any Time

- a. Southern side of Dan Y Bryn Road, from its junction with Kingsland Terrace, north westward for a distance of 116 metres
- b. Northern side of Dan Y Bryn Road, from its junction with Kingsland Terrace north westward for a distance of 105 metres
- c. Both sides of the unnamed road leading to the former Gene Metals site south westwards for a distance of 10 metres

THE COMMON SEAL of
 RHONDDA CYNON TAFF
 COUNTY BOROUGH COUNCIL
 was hereunto affixed
 on the 23rd October 2019
 in the presence of:-

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Cynllwr Cymryo/ Schedule of Regulations	
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Authorized Signatory

