

2023 No. 249

ROAD TRAFFIC

The Road Traffic (Permitted Parking Area and Special Parking Area) (North Ayrshire Council) Designation Order 2023

Made - - - - *6th September 2023*

Laid before the Scottish Parliament *8th September 2023*

Coming into force - - *3rd November 2023*

The Scottish Ministers make the following Order in exercise of the powers conferred by paragraphs 1(1), 2(1) and 3(3) of schedule 3 of the Road Traffic Act 1991(a) and all other powers enabling them to do so.

In accordance with paragraphs 1(1)(d) and 2(1)(c) of that schedule the Scottish Ministers have received an application for this Order from North Ayrshire Council.

In accordance with paragraphs 1(3) and 2(3) of that schedule the Scottish Ministers have consulted the chief constable of the Police Service of Scotland.

Citation and commencement

1. This Order may be cited as the Road Traffic (Permitted Parking Area and Special Parking Area) (North Ayrshire Council) Designation Order 2023 and comes into force on 3 November 2023.

Interpretation

2. In this Order—

“the 1991 Act” means the Road Traffic Act 1991, and

“the parking area” means the area designated as a permitted parking area and a special parking area by article 3.

Designation as permitted parking area and special parking area

3. That part of the North Ayrshire local government area(b) specified in schedule 1 is designated as—

(a) a permitted parking area, and

(a) 1991 c. 40 (“the 1991 Act”). Paragraphs 1(1) and 2(1) of schedule 3 were relevantly amended by the Local Government etc. (Scotland) Act 1994 (c. 39) (“the 1994 Act”), schedule 13, paragraph 171. The functions of the Secretary of State under schedule 3 of the 1991 Act, so far as exercisable within devolved competence, were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46).

(b) North Ayrshire local government area was established by section 1(2) and (4) and schedule 1 of the 1994 Act.

(b) a special parking area.

Modifications and application of Part II of the 1991 Act

4. Sections 66, 69 to 74, 79 and 82 and schedule 6 of the 1991 Act apply in relation to the parking area subject to the modifications specified in schedule 2.

Modifications of the Road Traffic Regulation Act 1984

5. The Road Traffic Regulation Act 1984(a) is modified in relation to the parking area as specified in schedule 3.

Disapplication of schedule 1 of the Tribunals and Inquiries Act 1992

6. The reference in paragraph 40(b) of schedule 1 of the Tribunals and Inquiries Act 1992 to a parking adjudicator appointed under section 73(3) of the 1991 Act does not apply in relation to the parking area.

St Andrew's House,
Edinburgh
6th September 2023

FIONA HYSLOP
Authorised to sign by the Scottish Ministers

(a) 1984 c. 27.

SCHEDULE 1

Article 3

SPECIFICATION OF PARKING AREA

1. The North Ayrshire local government area excluding such lengths of the following trunk roads in so far as they fall within the North Ayrshire local government area but not excluding the lengths of those trunk roads specified in paragraphs 2 to 8—

- (a) that length of the A78 trunk road from Dutchhouse Roundabout to the North Ayrshire local government area boundary with the Inverclyde local government area north at Skelmorlie,
- (b) that length of the A737 trunk road from Kilwinning to the North Ayrshire local government area boundary with the Renfrewshire local government area north of Beith,
- (c) that length of the A738 trunk road between Kilwinning and Pennyburn Roundabout.

2. That length of the A78 trunk road at Skelmorlie from a point 41 metres or thereby north of the north kerbline of Station Road continuing in a southwards direction to a point 5 metres or thereby south of the south kerbline of Eglinton Terrace, a distance of 2,190 metres or thereby.

3. That length of the A78 trunk road at Largs from the extended north building line of 210 Greenock Road continuing in a southwards direction to a point 65 metres or thereby south of the south kerbline of Largs Marina Access Road, a distance of 4,885 metres or thereby.

4. That length of the A78 trunk road at Fairlie from a point 30 metres or thereby north of the north kerbline of Baillie Road continuing in a southwards direction to a point 262 metres or thereby south of the south kerbline of Montgomerie Avenue, a distance of 2,330 metres or thereby.

5. That length of the A78 trunk road at West Kilbride from a point 5 metres or thereby north of the extended building line of 51 Snowdon Terrace, continuing in a southwards direction to a point 75 metres or thereby south of the south kerbline of Chapelton View, a distance of 1,897 metres or thereby.

6. That length of the A738 trunk road at Stevenson from a point 100 metres or thereby west of the west kerbline of Ashenyards Park in Stevenson, continuing in a generally eastwards direction to the east kerbline of the A737 Dalry Road, Kilwinning, a distance of 2,070 metres or thereby.

7. That length of the A737 trunk road at Dalry Road, Kilwinning from the north kerbline of Byres Road continuing in a northerly direction to a point 120 metres or thereby north of the north kerbline of Groatholm Way, a distance of 1,130 metres or thereby.

8. That length of the A737 trunk road at Beith from a point 16 metres or thereby north of the north building line of 58 Roebank Road continuing in a southwards direction for a distance of 290 metres or thereby.

SCHEDULE 2

Article 4

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

- 1.**—(1) Section 66 is modified in accordance with sub-paragraphs (2) to (6).
- (2) In subsection (1) omit “in a designated parking place”.
- (3) In subsection (2) omit—
- (a) “For the purposes of this Part of the Act”,
 - (b) paragraphs (a)(i), (b) and (c).
- (4) In subsection (3)—
- (a) in paragraph (d) for “the specified proportion” substitute “one half”,
 - (b) in paragraph (e) for “London” substitute “parking”.
- (5) Omit subsection (4).
- (6) For subsection (5)(b) substitute—
- “(b) the parking authority.”.
- 2.**—(1) Section 69 is modified in accordance with sub-paragraphs (2) and (3).
- (2) In subsection (1)—
- (a) omit “in a designated parking place”,
 - (b) for “specified in section 66(2)(a), (b) or (c) of this Act” substitute “in which a penalty charge is payable,”.
- (3) In subsection (8) for the words from “London” to the end substitute “parking authority.”.
- 3.**—(1) Section 71 is modified in accordance with sub-paragraphs (2) to (4).
- (2) In subsection (1) for “a London” substitute “the parking”.
- (3) For subsection (4) substitute—
- “(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)—
- (a) in paragraph (a) for “a parking adjudicator” substitute “the First-tier Tribunal”,
 - (b) in paragraph (b)—
 - (i) for “a parking adjudicator’s” substitute “the First-tier Tribunal’s”,
 - (ii) for “costs” substitute “expenses”,
 - (iii) for “him” substitute “it”.
- 4.**—(1) Section 72 is modified in accordance with sub-paragraphs (2) to (4).

(2) In subsection (1) for “a parking adjudicator” in both places where it occurs substitute “the First-tier Tribunal”.

(3) Omit sub-sections (2) and (3).

(4) The heading of the section becomes “Appeals to the First-tier Tribunal in relation to decisions under section 71”.

5.—(1) Section 73 is modified in accordance with sub-paragraphs (2) to (7).

(2) Omit subsections (1), (1A), (2) and (3) to (14).

(3) After subsection (3) insert—

“(3A) The parking authority must meet the costs incurred by the Scottish Courts and Tribunals Service—

(a) for the provision of all accommodation and administrative staff and facilities, and

(b) in relation to the remuneration and expenses of legal members required for the operation of the First-tier Tribunal exercising the functions set out in section 72(2) and 73(3) of this Act and paragraph 5(2) of schedule 6 of this Act.”

(4) In subsection (15) for the words from “a parking adjudicator” to the end, substitute “the First-tier Tribunal and Upper Tribunal shall 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”.

(5) In subsection (17)—

(a) for “Joint Committee”, in both places where it occurs, substitute “parking authority”,

(b) for “each parking adjudicator” substitute “the First-tier Tribunal and the Upper Tribunal”,

(c) for “his” substitute “their”.

(6) In subsection (18)—

(a) for “Joint Committee” substitute “parking authority”,

(b) for “the Secretary of State” substitute “the Scottish Ministers”,

(c) for “parking adjudicators” substitute “First-tier Tribunal and the Upper Tribunal”,

(7) The heading of the section becomes “Parking Authority Costs and Administration”.

6. For section 74 substitute—

“74 Fixing of certain parking and other charges for parking area

(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.

(5) The parking authority must publish, in such a 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.”

7.—(1) Section 82 is modified in accordance with sub-paragraphs (2) to (5).

(2) For subsection (1) substitute—

“(1) In this section and sections 66, 69 to 74 and 79 and schedule 6 of this Act—

“First-tier Tribunal” means the First-tier Tribunal for Scotland;

“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) (North Ayrshire Council) Designation Order 2023(c);

“parking attendant” has the same meaning as in section 63A(d) 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)(e) of that Act in relation to the parking place;

(b) in relation to a permitted parking area and special parking area designated by article 3 of the Road Traffic (Permitted Parking Area and Special Parking Area) (North Ayrshire Council) Designation Order 2023, the local authority for the North Ayrshire local government area as constituted by section 2 of the Local Government etc. (Scotland) Act 1994(f);

“penalty charge” means a penalty charge which is payable by virtue of paragraph 3(1) and (2) of schedule 3 of this Act;

“prescribed” means prescribed by regulations made by the Scottish Ministers;

“traffic commissioner” means the traffic commissioner appointed for the Scottish Traffic Area under section 4 of the Public Passenger Vehicles Act 1981(g), and

“Upper Tribunal” means the Upper Tribunal for Scotland.”.

(3) In subsection (5) for “London authority concerned” substitute “parking authority”.

(4) In subsection (6) for “a Minister of the Crown” substitute “the Scottish Ministers”.

(5) In subsection (7) for “either House of Parliament” substitute “the Scottish Parliament”.

8.—(1) Schedule 6 is modified in accordance with sub-paragraphs (2) to (9).

(2) In paragraph 1(1) for “London authority concerned” substitute “parking authority”.

(3) In paragraph 2—

(a) in sub-paragraph (1) for the words from “London” to the end substitute “parking authority”,

(b) in sub-paragraph (2) for the words from “such” to the end substitute “writing”,

(c) in sub-paragraph (3) after “The”, where it first occurs, insert “parking”,

(d) in sub-paragraph (4)(c) for “place” substitute “area”,

(e) in sub-paragraph (7) for “an authority to whom representations are duly made” substitute “the parking authority when representations are duly made to it”.

(4) In paragraph 3(1) and (2) for “London authority concerned” substitute “parking authority”.

(5) In paragraph 4—

(a) for “London authority concerned” substitute “parking authority”,

(a) 1988 c. 53.

(b) 1984 c. 27.

(c) S.S.I. 2023/249.

(d) Section 63A was inserted by the Road Traffic Act 1991 Act (c. 40), section 44(1).

(e) Section 32(4)(a) was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), schedule 13, paragraph 134(4).

(f) 1994 c. 39.

(g) 1981 c. 14.

- (b) for “a parking adjudicator” in both places where it occurs substitute “the First-tier Tribunal”,
 - (c) in sub-paragraph (b)—
 - (i) for “parking adjudicator’s” substitute “the First-tier Tribunal’s”,
 - (ii) for “costs” substitute “expenses”,
 - (iii) for “him” substitute “it”,
 - (d) for “authority consider appropriate” substitute “parking authority considers appropriate”.
- (6) In paragraph 5—
- (a) in sub-paragraph (1)—
 - (i) for “an authority serve” substitute “the parking authority serves”,
 - (ii) for “a parking adjudicator” substitute “the First-tier Tribunal”,
 - (iii) for “authority’s decision” substitute “parking authority’s decision”,
 - (b) omit sub-paragraphs (2) and (3).
- (7) In paragraph 6—
- (a) in sub-paragraph (1) for “authority serving the notice” substitute “parking authority”,
 - (b) in sub-paragraph (2)(b)(ii) for “authority concerned” substitute “parking authority”,
 - (c) in sub-paragraph (2)(c) for “adjudicator’s” substitute “First-tier Tribunal’s”,
 - (d) in sub-paragraph (3) for “adjudicator” substitute “First-tier Tribunal” and for “his” substitute “its”.
- (8) In paragraph 7 for the words from “authority concerned” to the end substitute “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) Omit paragraphs 8 and 9.

SCHEDULE 3

Article 5

MODIFICATIONS OF THE ROAD TRAFFIC REGULATION ACT 1984

1. In section 46(1A)(a) for “Greater London” substitute “the parking area”.
- 2.—(1) Section 55 is modified in accordance with sub-paragraphs (2) and (3).
 - (2) For subsection (1) substitute—
 - “(1) A local authority must 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 must send to the Scottish Ministers a copy of the account for that year.”.
 - (3) Omit subsections (3A) and (3B).
3. In section 63A(4)(b)—
 - (a) for “Greater London” where it first occurs, substitute “the parking area”,
 - (b) for “Greater London authority” substitute “Scottish Ministers.”.
- 4.—(1) Section 101 is modified in accordance with sub-paragraphs (2) to (5).
 - (2) Omit subsection (4).
 - (3) In subsection (4A)(c) for “Greater London” substitute “the parking area”.
 - (4) Omit subsection (5).
 - (5) In subsection (5A)(d) for “Greater London” substitute “the parking area”.
- 5.—(1) Section 102 is modified in accordance with sub-paragraphs (2) to (7).
 - (2) For subsection (1) substitute—
 - “(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 of the Road Traffic Act 1991, the local authority is 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) Omit subsection (2) and (3).
 - (4) For subsection (4) substitute—
 - “(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 is entitled to retain custody of it until that sum has been paid.”.
 - (5) In subsection (5) for “an authority” substitute “the local authority”.
 - (6) Omit subsections (6) and (7).

(a) Section 64(1A) was amended by the Road Traffic Act 1991 (c. 40), (“the 1991 Act”), section 62(2).

(b) Section 63A was inserted by the 1991 Act, section 44(1).

(c) Section 101(4A) was inserted by the 1991 Act, section 67(4).

(d) Section 101(5A) was inserted by the 1991 Act, section 67(6).

(7) In subsection (8), in paragraph (b) of the definition of “appropriate authority”, for the words “outside Greater London” substitute “within the parking area”.

6. In section 142(1)—

(a) after the definition of “owner” insert—

“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) (North Ayrshire Council) Designation Order 2023^(a), 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”.

^(a) S.S.I. 2023/249.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies, to the North Ayrshire local government area, arrangements for enforcing parking controls already available in London and certain other areas in England and in Edinburgh, Glasgow, Perth and Kinross, Aberdeen, Dundee, South Lanarkshire, Renfrewshire, East Ayrshire, South Ayrshire, East Renfrewshire, Fife, East Dunbartonshire, Argyll and Bute, Inverclyde, Highland, East Lothian, Angus, Stirling, North Lanarkshire, Midlothian and Falkirk local government areas.

The Order designates North Ayrshire local government area (with specified exceptions) as a permitted parking area and as a special parking area in accordance with schedule 3 of 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 on-street parking places and, in the case of the special parking area, orders prohibiting or restricting waiting, loading and unloading.

Enforcement will be carried out by parking attendants provided under section 63A of the 1984 Act. The First-tier Tribunal will hear disputes against decisions by the parking authority.

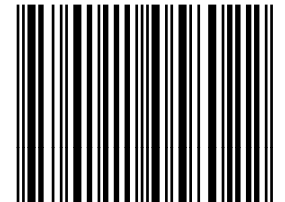
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