



**(Various Streets Kerry)
(Prohibition and Restriction of Waiting and Loading)
Order 2017**

Powys County Council in exercise of its powers under Sections 1, 2, 4, 5, 32, 35, 45, 124 and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 (“the Act”) as amended 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 Act, hereby makes the following Order.

SECTION 1 – PRELIMINARY

Citation and commencement

1. This Order shall come into operation at 00:01 hours on the XXXXXX and may be cited as the Powys County Council (Various Streets Kerry) (Prohibition and Restriction of Waiting and Loading) Order 2017.
2. Powys County Council (Various Streets Kerry) (Prohibition and Restriction of Waiting and Loading) Order 2017 Plans including the Key (the “Plans”) are incorporated into this Order.

Interpretation

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

“**Alternative Approved Method of Payment**” means cashless payments, park and phone, payment by debit or credit card facilitated by on site or remote verification, by, for example, card reader or mobile phone text or phone call or decrementing card if so implemented by the Council;

“**Civil Enforcement Area**” means, in respect of this Order, the locations specifically identified on the Plans;

“Civil Enforcement Officer” means a person employed in accordance with Section 76 of the Traffic Management Act 2004 to carry out the functions therein;

“Clearway” means the Main Carriageway of any of the sides or lengths of roads specified in the Plans where stopping is prohibited during the Restricted Hours provided that the expression Clearway shall not include any Lay-by or Parking Place;

“Council” means Powys County Council and includes any Parking services contractors or authorised agent appointed by or acting on behalf of the Council for the purposes of any function under the provisions of this Order;

“Daily Charge” means the charge imposed by the Council for Parking in a Parking Place on any one day and for a specified period of time as is identified in the scale of charges specified by notices on site;

“Disabled Persons’ Badge” means a badge issued by any Local Authority in accordance with the provisions of The Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (Wales) Regulations 2000 or alternatively a badge having effect under those regulations as if it were a Disabled Persons’ Badge;

“Dispensation Certificate” means a certificate issued on or behalf of the Council under the provisions of this Order permitting a specified vehicle to Park in specified circumstances in a Parking Place, where the Parking of that vehicle would otherwise be restricted or prohibited;

“Driver” in relation to a vehicle Waiting or Parked in a restricted area or Parking Place respectively, means the person driving the vehicle at the time it was Waiting or Parked in the Prohibited or Restricted Parking area or Parking Place;

“Enactment” means any enactment, whether public, general or local, and includes any order, byelaw rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“Event Times” means periods on any specific day when special events are taking place which require regular but temporary prohibition or restriction of Waiting and/or Parking. At event times, appropriate signs under the Traffic Signs Regulations and General Directions 2016 will be in place to indicate the required restrictions;

“Goods” means goods of any kind whether animate or inanimate and includes postal packets of any kind;

“Hackney Carriage” means a vehicle licensed under Section 37 of the Town Police Clauses Act 1847;

“Household” means a house or flat which has its own postal address. In the case of sub-divided properties the establishment of an individual address is subject to any appropriate planning consent having been obtained for the sub-division of the property and the paying of separate Council Tax;

“Key” means the key attached to the Plans to be read in conjunction with the Plans;

“Lay-by” in relation to a Main Carriageway means any area of a highway at the side of the Main Carriageway but not part of it and marked in accordance with the Traffic Signs Regulations and General Directions 2016 intended for the Parking of vehicles, provided that no person shall cause or permit any vehicle to Park in any Lay-By for the purpose of selling Goods or services from that vehicle;

“Light Goods Vehicle” means a motor vehicle under 1500 kg in weight which is constructed or adapted for use for the carriage of Goods or burden of any description the overall height of which does not exceed 2.3 metres and the

overall length of which does not exceed 5.25 metres and is not drawing a trailer;

“Loading Area” means any of the sides or lengths of roads specified on the Plans where activities other than loading are prohibited;

“Main Carriageway” means that part of a public highway used primarily for through traffic provided that the expression Main Carriageway shall not include any Lay-By;

“Motor-Cycle” has the same meaning as that in Section 136 of the Act;

“No Loading Hours” means in relation to any No Loading Road the hours during which loading and unloading is restricted on the Plans;

“No Loading Road” means any of the sides or lengths of roads specified on the Plans where loading is prohibited provided that the expression ‘No Loading Road’ shall not include any Parking Place;

“No Stopping Hours” means in relation to any No Stopping Road the hours during which stopping is restricted on the Plans;

“No Stopping Road” means any of the sides or lengths of roads (including Clearways) specified on the Plans where stopping is prohibited provided that the expression “No Stopping Road” shall not include any Parking Place;

“One-Way Street” means a highway in which the driving of vehicles otherwise than in one direction is prohibited;

“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 or her employment and who is entitled to use such vehicle as though he or she were the registered keeper thereof;

“Park” and **“Parked”** refer to the stopping of a vehicle and it remaining at rest for some time whether or not the Driver is still in the vehicle and a vehicle shall be deemed to be Parked for any period in the same Parking Place if any part of it is below the vehicle or the vehicle’s load (if any) whether or not the vehicle is moved during that period;

“Parking Device” has the meaning given by Sections 35(3)(b) and Section 51(4) of the Act;

“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 Parking has begun;

“Parking Place” means an area of a highway designated by this Order for the Parking of vehicles of specific classes;

“Passenger Vehicle” means a motor vehicle (other than a Motor-Cycle or invalid carriage) constructed or adapted solely for the carriage of not more than twelve passengers (exclusive of the Driver) and their effects and not drawing a trailer;

“Pay and Display Ticket Machine” means an apparatus of a type approved by the Secretary of State for issuing a ticket indicating the payment of a charge, the date on which the ticket is valid and the time by which the vehicle is required to leave the Parking Place;

“Pay and Display Ticket” means a ticket issued by a Pay and Display Ticket Machine relevant to the Parking Place in which a vehicle has been Parked;

“Penalty Charge” has the same meaning as in Section 72 of the Traffic Management Act 2004 or any subsequent legislation so enabling;

“Parking Permit” means any permit issued by the Council under the provisions of this Order which has printed on its face the registration mark of the vehicle to which it relates and the date it expires;

“Permit Holder” means a person to whom a Parking Permit has been issued under the provisions of this Order;

“Permitted Hours” means the periods specified for each Parking Place during which Parking by vehicles of a specific class is permitted as specified on the Plans;

“Plans” means collectively the plans, schematics, drawings, diagrams or any other graphical representation indicating the location of all highways subject to this Order as digitally recorded from time to time and retained by the Council and associated Key;

“Prohibited Road” means any of the sides or lengths of roads specified on the Plans where Waiting is prohibited provided that the expression “Prohibited Road” shall not include any Parking Place;

“Relevant Position” in respect of a vehicle displaying a valid Disabled Persons’ Badge, Parking Permit, or Dispensation Certificate means:

- (a) in the case of a vehicle fitted with a dashboard or fascia panel, the Disabled Persons’ Badge is exhibited thereon so that Part 1 (the front of the Disabled Persons’ Badge) or the Dispensation Certificate or the Parking Permit is legible from the outside of the vehicle; or
- (b) in the case of a vehicle not fitted with a dashboard or fascia panel, the Disabled Persons’ Badge is exhibited thereon so that Part 1 (the front of the Disabled Persons’ Badge) or the Dispensation Certificate or the Parking Permit is exhibited in a conspicuous position on the vehicle so that Part 1 (the front of the Disabled Persons’ Badge) or the Dispensation Certificate is legible from the outside of the vehicle

“Resident” means a person whose usual residence is at a Household of which is in any road or part of road encompassed within the plans;

“Restricted Hours” means in relation to any restricted road the hours during which Waiting is restricted or specific activities are restricted as specified on the Plans;

“Restricted Road” means any of the sides or lengths of roads specified on the Plans where Parking or Waiting is restricted or specific activities are restricted during the Restricted Hours provided that the expression “Restricted Road” shall not include any Parking Place;

“Specific Parking Places” means any Parking Place as identified on the Plans to be used exclusively by the type of Driver as specified by notice at or close to that Parking Place;

“Taxi Rank” means an area of carriageway which is indicated by road markings complying with diagram 1028.2 in the Traffic Signs Regulations and General Directions 2016 for use by Hackney Carriages;

“Wait” and **“Waiting”** refer to the stopping of a vehicle and it remaining at rest for some time whether or not the Driver is still in the vehicle;

4. Any reference in this Order to a numbered Article shall, unless the context requires otherwise, be construed as a reference to the Article bearing that number in this Order and any reference to the Plans is a reference to the Plans incorporated into this Order.
5. 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.
6. The Interpretation Act 1978 shall apply to the interpretation of this Order as it applies for the interpretation of an Act of Parliament and as if for the purposes

of Section 21 of that Act this Order were an Act of Parliament and the Orders revoked by this Order were Acts of Parliament thereby repealed.

7. The restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirements imposed by any regulations made or having effect as if made under the Act or by or under any other Enactment.
8. If any court, the Department for Transport, the Traffic Penalty Tribunal or the Traffic Enforcement Centre declares any part of this Order to be invalid or unenforceable, such declaration shall not invalidate the remainder of the Order.

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SECTION 2 – PROHIBITION AND RESTRICTION OF WAITING AND LOADING

Prohibition of Waiting

9. Save as provided in Articles 15 to 23 no person shall, except upon the direction or with the permission of a police officer in uniform, cause or permit any vehicle to Wait or Park at any time on any Prohibited Road as specified on the Plans.

Restriction of Waiting

10. Save as provided in Articles 15 to 23 no person shall, except upon the direction or with the permission of a police officer in uniform, cause or permit any vehicle or a vehicle of a specific class to Wait on any Restricted Road during the Restricted Hours as specified on the Plans.

Loading Areas

11. Save as provided in Articles 15, 16 and 21 no person shall, except upon the direction or with the permission of a police officer in uniform, cause or permit any vehicle to Wait during the Restricted Hours in any Loading Area specified on the Plans unless it is of the specified class and except for the loading or unloading of Goods in connection with nearby trade or business premises.
12. Where there is specified in the Plans a maximum period during the Restricted Hours for which Loading or Unloading is permitted, no person shall, except upon the direction or with the permission of a police officer in uniform, cause or permit any vehicle to Wait on any Loading Area,
 - (a) for longer than is necessary for Goods to be loaded onto or unloaded from the vehicle
 - (b) for a period longer than specified on the Plans, or
 - (c) if a period less than that specified on the Plans as being the period in which the vehicle shall not return has elapsed since a previous period of Waiting by the same vehicle on the same side of length of road.

Restriction on loading and unloading

13. Save as provided in Articles 15, 16 and 21 no person shall, except upon the direction or with the permission of a police officer in uniform, cause or permit any vehicle or a vehicle of a specific class to for the purpose of enabling Goods to be loaded to or unloaded from the vehicle on any No Loading Road during the No Loading Hours as specified on the Plans.

Restriction on stopping

14. Save as provided in Articles 15, 16 and 21 no person shall, except upon the direction or with the permission of a police officer in uniform, cause or permit any vehicle to stop on any No Stopping Road or Clearway during the No Stopping Hours as specified on the Plans.

Event only prohibitions and restrictions

15. Save as provided in Articles 17, 21 and 23 no person shall, except upon the direction or with the permission of a police officer in uniform, cause or permit any vehicle to Park in any Prohibited or Restricted Road at Event Times as indicated on the Plans when there are displayed on the Prohibited or Restricted Road signs as prescribed by the Traffic Signs Regulations and General Directions 2016 or signs specially authorised by the Department of Transport indicating prohibition or restriction of Parking.
16. At Event Times, the provisions for the normal prohibitions and restrictions of Parking as indicated on the Plans on roads affected by the Event Time restrictions are suspended.

Emergencies

17. Nothing in Articles 9 to 14 shall render it unlawful to cause or permit any vehicle to Wait or Park in any of the roads, lengths of road or on the sides of road 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:

General exemptions

18. Nothing in Articles 9 to 14 shall render it unlawful to cause or permit any vehicle to Wait or Park in any of the roads, lengths of road or on the sides of road specified therein for so long as may be necessary to enable:

(a) the vehicle, if it cannot conveniently be used for such purpose in any other road, to be used in connection with any of the following operations, namely:-

- (i) Building, shop fitting, industrial or demolition operations; or
- (ii) The removal of any obstruction to traffic; or
- (iii) The maintenance, improvement or reconstruction of the said lengths or sides of road; or
- (iv) The laying, erection, alteration or repair in or on land adjacent to the said lengths or sides of road of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunications system by a statutory undertaker; or
- (v) vehicles essential to filming operations; or
- (vi) Other circumstances in which the Council may reasonably regard the requirement to be essential
- (vii) Furniture removals

(b) the vehicle, not being a Passenger Vehicle, if it cannot conveniently be used for such purposes in any other road, to be used in the service of a local authority or its contractors in pursuance of that authority's statutory powers or duties;

(c) the vehicle of the Royal Mail or other universal service provider (as defined in section 4(3) and (4) of the Postal Services Act 2000) to be used for the purpose of delivering and/or collecting mail; or

(d) in any case where the person in control of the vehicle,

- (i) is required by law to stop;
- (ii) is obliged to stop so as to prevent an accident, or
- (iii) is prevented from proceeding by circumstances outside his/her control.

Loading and unloading

19. Nothing in Articles 9 to 12 shall render it unlawful to cause or permit any vehicle to Wait in any of the roads, lengths of road or on the sides of road or Loading Areas specified therein for so long as may be necessary to enable Goods to be loaded to or unloaded from a vehicle (or Goods or merchandise to be delivered or collected).

Board and alight from a vehicle

20. Nothing in Articles 9 to 10 shall render it unlawful to cause or permit any vehicle to Park or Wait in any of the roads, lengths of road or on the sides of road specified therein for so long as may be necessary to enable a person to board or alight from the vehicle.

Funerals and weddings

21. Nothing in Articles 9 to 10 shall render it unlawful to cause or permit any vehicle to Wait or Park, if it cannot safely and conveniently do so elsewhere, in any of the roads, lengths of road or on the sides of road specified therein if it is an official vehicle being used for funerals or weddings.

Parking Places

22. Nothing in Articles 9 to 14 shall render it unlawful to cause or permit any vehicle to Park upon a designated Parking Place.

Waiting or Parking by Disabled Persons' vehicle

23. Nothing in Articles 9 to 10 shall render it unlawful to cause or permit a vehicle which displays in the Relevant Position a Disabled Persons' Badge and a Parking Disc, on which the Driver or other person in charge of the vehicle has marked the time at which the period of Waiting or Parking began, to Wait or Park in a Prohibited Road or a Restricted Road for a period not exceeding 3 hours (not being a period separated by an interval of less than that specified on the Plans from a previous period of Waiting or Parking by the same vehicle in the same length of road or on the same side of road on the same day) **PROVIDED THAT** the vehicle immediately before or after the act of Waiting or Parking has been or is about to be driven or used by the person to whom the badge has been issued or, as the case may be, used for the carrying of disabled person(s) as passenger(s).

Taxi Ranks

24. Nothing in Articles 9 and 10 and 14 shall prevent any person from causing or permitting a licensed Hackney Carriage to Park or Wait in any duly authorised Taxi Rank during the period of operation specified on the Plans.
25. No person shall cause or permit any vehicle other than a Hackney Carriage to Park or Wait on a Taxi Rank during the period of operation.
26. No person shall cause or permit a Hackney Carriage to Park or Wait on a Taxi Rank during the period of operation other than for the purpose of plying for hire.

General conditions of Waiting

27. No person shall cause or permit any vehicle to Park or Wait unless all wheels are on the carriageway and, if conditions dictate that the vehicle should Park or Wait parallel to the kerb, so that the distance between the edge of the carriageway and the nearest wheel of the vehicle is not more than 50cms.

28. No person shall cause or permit any vehicle to Park or Wait so that any part of the vehicle obstructs any dropped kerb or any vehicular means of ingress to or egress from premises adjacent to the side of the road on which the vehicle is Waiting.

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SECTION 3 - GENERAL

General conditions of Waiting or Parking in unregulated situations

29. In any road or lengths of road within the Civil Enforcement Area without any specific regulation, no person shall cause or permit any vehicle to be Parked or Wait unless all wheels are on the carriageway and, if conditions dictate that the vehicle should be Parked parallel to the kerb, so that the distance between the edge of the carriageway and the nearest wheel of the vehicle is not more than 50cms.
30. In any road or lengths of road within the Civil Enforcement Area without any specific regulation, no person shall cause or permit any vehicle to be Parked or Wait so that any part of the vehicle obstructs any dropped kerb or any vehicular means of ingress to or egress from premises adjacent to the side of the road on which the vehicle is Parked or Waiting.

Pedestrian crossings

31. Nothing in the provisions of this Order shall be taken as authorising anything which would be a contravention of any regulations made or having effect as if made under Section 25 of the Act.

SECTION 4 - CONTRAVENTION AND PENALTY CHARGE

Contravention

32. If a vehicle is Waiting or Parked in a Prohibited or Restricted Road or Parking Place respectively without complying with the requirements of this Order, a contravention shall have occurred and a Penalty Charge shall be payable.

Indications as evidence

33. The particulars given in any notice served on a vehicle in contravention of any provision of this Order shall be treated as evidence in any proceedings relating to failure to pay such Penalty Charge.

Restriction on removal of notices

34. Where a notice has been attached to a vehicle in accordance with the provisions of this Order no person, not being the Driver of the vehicle, a police officer in uniform, a Civil Enforcement Officer or some other person duly authorised by the Council shall remove the notice from the vehicle unless authorised to do so by the keeper of the vehicle.

Immobilisation

35. If a vehicle is left or Parked after a Penalty Charge has been incurred, a Civil Enforcement Officer or other person duly authorised by the Council may attach to the vehicle an immobilisation device and a notice in accordance with the provisions of the Traffic Management Act 2004 or any subsequent legislation so enabling and that vehicle shall only be released from the device on payment of the Penalty Charge along with such release fee as may be required by the Council.

Removal of vehicle

36. Where a Civil Enforcement Officer or other person duly authorised by the Council has removed or caused to be removed a vehicle in accordance with the provisions of this Order,
- (a) he or she shall provide for the safe custody of the vehicle;
 - (b) the Council shall be entitled to recover from the Driver 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 Act as amended shall apply to the disposal of such vehicles removed by or on behalf of the Council.
37. Nothing in respect of immobilisation or removal of a vehicle shall apply in respect of a vehicle displaying in a Relevant Position a valid Disabled Persons' Badge.
38. The restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirements imposed by any regulations made or having effect as if made under the Act or by or under any other Enactment.

SECTION 5 – REVOCATIONS AND MODIFICATIONS

39. All the traffic regulation orders or parts of traffic regulation orders imposing the following restrictions:

- (a) Prohibition and restrictions of Parking and loading and unloading;
- (b) Prohibition of Stopping,
- (c) Loading Areas,
- (d) Restrictions on Parking Places,
- (e) Restrictions on Specific Parking Places, and
- (f) Restrictions on Motor-Cycle Parking Places

as they relate to roads in the Kerry area as defined in the Orders or Schedules or Plans made prior to this Order are hereby modified to incorporate the modifications referred to within this order.

The common seal of **POWYS**)
COUNTY COUNCIL was)
hereunto affixed in the)
presence of:

Authorised Signatory

Dated this **XXXXXX**