

# TRANSPORT (SCOTLAND) ACT 2019

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## EXPLANATORY NOTES

### THE ACT

#### **Part 6 – Pavement Parking, Double Parking and Parking at Dropped Kerbs**

##### **Introduction**

327. This Part of the Act makes provision prohibiting parking on pavements (footways and footpaths), “double” parking (defined as parking more than 50 cm away from the edge of a carriageway), and parking at dropped kerbs.
328. The provisions take into account the concerns that had been identified by the Local Government and Regeneration Committee and stakeholders during Stage 1 of the Footway Parking and Double Parking (Scotland) Bill, which fell in March 2016 due to the Parliament being dissolved for the 2016 election. This Act was taken forward following devolution of legislative competence to the Scottish Parliament via the Scotland Act 2016. The 2016 Act devolves legislative competence for the parking of vehicles on roads to the Scottish Parliament. The Act will also enable local authorities, under order making powers, to exempt footways from the pavement parking prohibition where it is not appropriate given the different circumstances which may prevail across local authority areas, different regions and towns across Scotland.
329. Under the Road Traffic Regulation Act 1984, traffic authorities can use Traffic Regulation Orders (TROs) to apply local restrictions, which are enforceable when the appropriate road signs or markings are displayed. TROs are used by traffic authorities to give effect to traffic management measures on roads within their areas (e.g. single and double yellow lines). The restrictions can be applied for various reasons and could cover particular hotspots or larger areas. They can have the effect at all times or during specific periods, and apply to certain classes of vehicles. Local traffic authorities cite that the work and cost involved in producing TROs and the cost of the associated signage can be a disincentive to implementing pavement parking restrictions.
330. The provisions within the Act will introduce a ban on parking on pavements, double parking and parking at dropped kerbs in Scotland. This replaces the need for each local authority to introduce pavement parking restrictions via TROs.
331. The new duties will require local authorities to assess if necessary, what footways should be exempt from the national prohibition on pavement parking, in accordance with directions to be given by the Scottish Ministers to local authorities.
332. Since Police Scotland’s decision to remove its traffic warden service as a result of a review on resources in 2013, the number of local authorities who have decriminalised parking enforcement (“DPE”) powers has increased (from 14 to 21 as at the end of 2019). DPE is a regime which enables a local authority to enforce its own parking policies using parking attendants employed by the Council or outsourced to a third party on behalf of a Council. The powers enable parking attendants to issue Penalty Charge Notices (PCNs) to motorists breaching parking controls in specific areas. In areas of

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DPE, stationary traffic offences cease to be part of the criminal law enforced by the police and instead become civil matters enforced by local authorities.

333. The Act (and regulations to be made under it) provide for enforcement of the new restrictions to be undertaken by local authorities. The Act confers on local authorities the power to impose penalty charges. As not all local authorities have decriminalised parking enforcement powers and therefore the associated resources and infrastructure to undertake enforcement, the Act will also enable local authorities to engage third parties to enforce the prohibitions on their behalf if they so wish.
334. The Act's provisions enable secondary legislation to be made placing a duty on all local authorities to keep accounts, as well as to prepare and publish statements relating to the income and expenditure local authorities have received in connection with the enforcement of the new restrictions.
335. Currently local authorities with DPE powers have a duty under section 55 of the Road Traffic Regulation Act 1984 to keep accounts of their income and expenditure in connection with decriminalised enforcement in their areas and to "ring-fence" the income. Any "surplus" may only be used to make good any amount charged to the general fund over the preceding 4 years or for certain transport-related purposes including:
- the provision and maintenance of off-street parking;
  - where the local authority considers that further provision of off-street parking is not necessary or desirable, the provision or operation of (or facilities for) public passenger transport services; and
  - road improvement projects in the local authority area.
336. It is the Scottish Government's intention that any "surplus" generated through the enforcement of the new prohibitions should remain within the local authority in whose area the penalty charges were levied and that it should be ring-fenced as is currently arranged for DPE.
337. As there will be considerable preparatory work needed in connection with the new prohibitions, the Act's provisions allow the commencement of these prohibitions on a region by region basis across Scotland depending on the readiness of the local authority.

### **Pavement parking prohibition**

#### **Pavement parking prohibition – [section 50](#)**

338. Subsection (1) of this section provides that a person must not park a motor vehicle on a "pavement", which is defined as meaning a footpath or footway to be construed in accordance with section 151(2) of the Roads (Scotland) Act 1984. A footway is a road (within the meaning of section 151(1) of that Act) which is associated with a carriageway and over which there is a public right of passage by foot only. A footpath is a road (within the same meaning) which is not associated with a carriageway and over which there is a public right of passage by foot only. This prohibition is referred to in this Part of the Act as the "pavement parking prohibition".
339. For the purposes of the pavement parking prohibition, subsection (4) provides that "motor vehicle" has the meaning given by section 185(1) of the Road Traffic Act 1988, meaning a mechanically propelled vehicle intended or adapted for use on roads. But it does not include:
- a mechanically propelled vehicle which is an implement for cutting grass, is controlled by a pedestrian and is not capable of being used or adapted for any other purpose;
  - any other mechanically propelled vehicle controlled by a pedestrian, or an electrically assisted pedal cycle of a class, as may be specified by regulations

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made by the Secretary of State for the purposes of section 136 of the RTRA (and section 189 of the Road Traffic Act 1988) (see, for example, the Electrically Assisted Pedal Cycle (Amendment) Regulations 2015 (S.I. 2015/24) amending the Electrically Assisted Pedal Cycles Regulations 1983 (S.I. 1983/1168)).

340. Furthermore, the definition of “motor vehicle” for the purposes of the pavement parking prohibition also excludes a “heavy commercial vehicle” within the meaning of section 20(1) of the Road Traffic Act 1988, meaning any goods vehicle which has an operating weight exceeding 7.5 tonnes. The pavement parking prohibition does apply to heavy commercial vehicles as section 19 of the Road Traffic Act 1988 provides that it is an offence for those vehicles to park wholly or partly on a footway (with “footway” having the same meaning as in the Roads (Scotland) Act 1984 – see section 192(2) of the Road Traffic Act 1988).
341. In addition, section 185(1) of the Road Traffic Act 1988 is subject to section 20 of the Chronically Sick and Disabled Persons Act 1970 (the “1970 Act”). This means that the definition of “motor vehicle” for the purposes of the pavement parking prohibition does not include an “invalid carriage” (within the meaning of section 20 of the 1970 Act) which complies with requirements set out in regulations made by the Secretary of State and which is being used in accordance with conditions set out in regulations. This is because section 20(1)(a) of the 1970 Act provides that where an “invalid carriage” is mechanically propelled, it is to be treated as not being a motor vehicle for the purposes of the Road Traffic Act 1988. (“Invalid carriage” is defined by section 20(2) of the 1970 Act as meaning “a vehicle, whether mechanically propelled or not, constructed or adapted for use for the carriage of one person, being a person suffering from some physical defect or disability”.)
342. Subsection (2)(a) provides that a motor vehicle is parked on a pavement for the purposes of subsection (1) if it is stationary and one or more of its wheels (or any part of them) is on any part of the pavement.
343. Subsection (2)(b) provides that a motor vehicle is stationary (in order to be considered to be “parked” on a pavement) whether or not the driver of the vehicle is in attendance or the vehicle’s engine is running.
344. The pavement parking prohibition is subject to the exceptions (which also apply to the double parking prohibition) set out in section 55.

Exemption orders – [section 51](#)

345. Subsection (1) provides that a local authority may make an order (“an exemption order”) providing that the pavement parking prohibition does not apply to a footway within its area that is specified in the exemption order.
346. Subsection (2) provides that a local authority may not specify a footway in an exemption order unless the footway, or the carriageway with which the footway is associated, has the characteristics that are specified in a direction given by the Scottish Ministers under section 56(1).
347. While an exemption order may apply to all or part of a footway, it may not apply only at certain times or to certain classes of vehicle or be subject to any conditions (see subsection (3)).
348. Where the local authority that is proposing to make an exemption order is not the traffic authority for the footway concerned, the local authority may not make the order without the traffic authority’s consent (see subsection (4)).
349. An exemption order is not a Scottish statutory instrument within the meaning of section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (the “2010 Act”), so no parliamentary procedure applies to the making (or amendment or revocation) of such an order. But an exemption order is a “Scottish instrument” for the purposes of Part 1 of the 2010 Act, meaning that the power conferred by subsection (1)

to make an order includes a power to revoke, amend or re-enact an exemption order made by virtue of the power conferred by subsection (1) (see section 6 of the 2010 Act). Furthermore, the power may be exercised from time to time (see section 7(1) of the 2010 Act).

Exemption orders: form and procedure – [section 52](#)

350. Subsection (1) confers power on the Scottish Ministers, by regulations subject to the affirmative procedure (see section 128(2)), to make provision in connection with the making, amendment or revocation of an exemption order. Examples of the kind of provision that may be made in these regulations are set out in subsection (2) including the form of an order and the procedure to be followed including publication, consultation and the process for making objections and considering objections to the proposal.

Exemption orders: traffic signs – [section 53](#)

351. Where an exemption order is made under section 51(1), the traffic authority for the footway to which the order relates must place (or secure the placement of) traffic signs in connection with the exemption order and it must maintain (or secure the maintenance of) those signs (see subsections (1) and (2)).
352. Under subsection (3), if the traffic authority is not the local authority that made the exemption order (which would be the case in relation to a trunk road or a special road mentioned in paragraph (b) of the definition of “roads authority” in section 151(1) of the Roads (Scotland) Act 1984), the traffic authority may enter into arrangements with the local authority under which the local authority places (or secures the placement of) traffic signs in connection with the exemption order and maintains (or secures the maintenance of) those signs. Alternatively, the traffic authority could retain the duty to place and maintain the traffic signs but enter into an arrangement with the local authority that made the exemption order for that local authority to assist the traffic authority in relation to the placing and maintenance of traffic signs in connection with the exemption order. This assistance could include the local authority making a financial contribution to the cost of placing (and maintaining) the traffic signs.
353. If the traffic authority enters into an arrangement mentioned in subsection (3)(a) with a local authority, the local authority is obliged to comply with any directions given in connection with the placing of traffic signs under section 65(1) of the Road Traffic Regulation Act 1984 (the “RTRA”).
354. “Traffic signs” is defined in this section as having the meaning given by section 64(1) of the RTRA, meaning that the Scottish Ministers have the power by regulations made under section 64(1)(a) of that Act to specify, or to otherwise authorise, the type of traffic signs that must be placed and maintained under that section in connection with exemption orders.

**Double parking prohibition**

Double parking prohibition – [section 54](#)

355. Subsection (1) of this section provides that a person must not park a motor vehicle in such a way that no part of the motor vehicle is within 50 cm of the edge of the carriageway. This prohibition is referred to as the “double parking prohibition”. “Edge of the carriageway” is defined for the purposes of the double parking prohibition in subsection (5), taking account of the different ways in which the edge of a carriageway is signified, whether it is marked by a painted solid white line or by a kerb, or it is without a painted solid white line or a kerb but falls where the surface of the carriageway meets the verge of the road.
356. A motor vehicle is “parked” for the purposes of the double parking prohibition if it is stationary, whether or not the driver of the vehicle is present or the engine of the vehicle is running (see subsection (2)). However, a motor vehicle is not parked for the purposes of the double parking prohibition if it is stationary due to the necessities of traffic or

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as a result of other circumstances beyond the control of the driver of the vehicle (see subsection (3)).

357. “Motor vehicle” has the same meaning for the purpose of the double parking prohibition as it has for the purpose of the pavement parking prohibition except that in the case of the double parking prohibition it also includes a heavy commercial vehicle.

358. The double parking prohibition is subject to the exceptions (which also apply to the pavement parking prohibition) set out in section 55.

Exceptions to the pavement parking prohibition and double parking prohibition - [section 55](#)

359. This section sets out the exceptions to the pavement parking prohibition and the double parking prohibition.

360. In summary, the pavement parking prohibition and the double parking prohibition do not apply in the following cases:

*Emergency services etc.*

- where the motor vehicle is being used for the purposes of the emergency services or the military etc. and the achievement of those purposes etc. would be likely to be hindered if the motor vehicle were not parked on a pavement or “double parked” (i.e. parked as mentioned in section 54(1)) and no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway.

*Works in roads, removing obstructions, waste collection and postal services*

- the motor vehicle is being used for “works in roads” (defined as meaning “road works”, “works of road purposes” or “major works for road purposes”) or cleaning etc. any equipment or structure placed on or over a road by or on behalf of a roads authority); for the removal of an obstruction to traffic; for the collection of waste by or on behalf of a local authority; or for postal services provided by the Post Office or a private provider;
- in addition, the vehicle cannot reasonably be so used without being parked on the pavement or double parked and it is not parked for any longer than is necessary for that use; and, in addition, no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway.

*Medical professionals*

- the motor vehicle is being used by a registered medical practitioner, registered nurse or registered midwife for or in connection with the provision of urgent or emergency health care, the provision of that care would be likely to be hindered if the motor vehicle were not parked on a pavement or double parked, and the vehicle is parked for no longer than is reasonable in connection with the provision of the care (“registered medical practitioner”, and “registered” in relation to nurse and midwife, each take the meanings given in schedule 1 of ILRA); and no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway.

*Delivery or collection etc. of goods*

- the motor vehicle is being used in the course of business for the purpose of delivering or collecting goods or for loading or unloading the vehicle; that action cannot reasonably be carried out without the vehicle being parked on a pavement or double parked; and the vehicle is not parked for a continuous period of more than 20 minutes; and, in addition, no part of the vehicle is within

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1.5 metres of the pavement edge which is furthest away from the centre of the carriageway.

*Parking in an authorised or designated parking place*

- the motor vehicle is parked wholly within an authorised or designated parking place (authorised or designated under section 32(1)(b) or 45 of the RTRA respectively).

*Permission by a constable*

- the motor vehicle is parked in accordance with permission given by a constable in uniform.

*Saving life or responding to another emergency*

- where a person has parked the motor vehicle for the purpose of saving life or responding to another similar emergency, the achievement of that purpose would be likely to be hindered if the vehicle were not parked on a pavement or double parked, and the vehicle is not parked on a pavement or double parked for longer than is necessary for that purpose.

*Providing assistance at an accident or breakdown*

- where a person has parked the motor vehicle for the purpose of providing assistance at an accident or breakdown, that assistance could not be safely or reasonably provided without the vehicle being parked on a pavement or being double parked; and the vehicle is not parked on a pavement or double parked for longer than is necessary for that purpose; and, in addition, no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway.

361. Subsection (11) defines the term “carriageway” as having the same meaning as section 43(6), so that it is construed in accordance with section 151(2) of the Roads (Scotland) Act 1984.
362. Subsection (12) confers power on the Scottish Ministers to, by regulations, modify this section. The regulations are subject to the affirmative procedure – see section 128(2).

### **Dropped footway parking prohibition**

#### **Dropped footway parking prohibition – [section 56](#)**

363. Subsection (1) of this section provides that a person must not park a motor vehicle on a carriageway adjacent to a footway where the footway has been lowered to meet the level of the footway or the carriageway has been raised to meet the level of the footway. In the Act this rule is referred to as the “dropped footway parking prohibition”. Colloquially, these road features are often referred to as “dropped kerbs”.
364. The terms “carriageway” and “footway” have the same meaning for the dropped footway parking prohibition as they have for the pavement parking prohibition (as defined under sections 51(6) and 50(4) respectively); and “motor vehicle” has the same meaning for the purpose of the dropped footway parking prohibition as it has for the double parking prohibition (as defined under section 54(5)).

#### **Exceptions to dropped footway parking prohibitions – [section 57](#)**

365. This section sets out the exceptions to the dropped footway parking prohibition. Subsection (2) provides that the prohibition does not apply in respect of vehicles parked next to kerbs lowered or carriageways raised to provide access to a driveway or garage. This exception applies to both residential and commercial driveways and garages.

366. Subsection (3) sets out exceptions for emergencies and provides that a person can park adjacent to a dropped footway if they are doing so where necessary and for as long as is necessary for the purpose of saving a life or responding to another similar emergency.

### **Enforcement of parking prohibitions**

#### Imposition of penalty charges – [section 58](#)

367. Subsection (1) provides that a penalty charge is payable where a person parks a motor vehicle in contravention of the pavement parking prohibition, the double parking prohibition or the dropped footway parking prohibition.
368. Subsection (2) provides that where a local authority considers that a penalty charge is payable in respect of a contravention occurring in its area, the local authority may issue a penalty charge notice, which must be issued in accordance with regulations to be made by the Scottish Ministers under section 59(1).
369. Under section 64, a local authority may enter into arrangements with another person for that person to issue a penalty charge notice under subsection (2) on behalf of the local authority.
370. A penalty charge notice may be issued by (or on behalf of) a local authority under subsection (2) only on the basis of either: (a) conduct observed by an authorised enforcement officer (see the definition of “authorised enforcement officer” in subsection (6) – discussed below) or (b) a record produced by an “approved device”, meaning a device approved under or in accordance with regulations made by the Scottish Ministers under section 59(1) in connection with the enforcement of the pavement parking, the double parking prohibition or the dropped footway parking prohibition (see definition of “approved device” in subsection (6)).
371. Subsection (4) provides that a penalty charge imposed by a penalty charge notice is payable by the registered keeper of a motor vehicle (meaning the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 at the time of the contravention to which the penalty charge relates) or, in circumstances that may be specified in regulations made by the Scottish Ministers under subsection (4)(b), by another person who may be specified in those regulations. This regulation making power to specify other persons who are liable to pay a penalty charge is subject to a consultation requirement. It is likely to be used to specify, among other things, that where a hire car is parked in contravention of the pavement parking or double parking prohibition, the driver of the hire car (rather than the car hire company which is likely to be the registered keeper of the vehicle) is responsible for paying the penalty charge.
372. Under subsection (5), the Scottish Ministers have power by regulations (made following consultation) to make provision for or in connection with the amount to be imposed as a penalty charge, which may be used, for example, to prescribe a specific amount that may be imposed by local authorities as a penalty charge, or it could be used to specify a maximum amount that may be imposed as a penalty charge. In addition, the Scottish Ministers may specify in these regulations the discounts or surcharges that may be applied to the amount of a penalty charge, the circumstances in which a surcharge or discount may be applied and the amount of any surcharge or discount that may be applied by a local authority.
373. Under subsection (6), an authorised enforcement officer is a person appointed in connection with the pavement parking or double parking prohibitions by the local authority issuing a penalty charge notice or employed by another person with whom the local authority has entered into arrangements as mentioned in section 64. An authorised enforcement officer is also required to wear a uniform of a type to be determined by the local authority issuing the penalty charge notice (or on whose behalf the penalty charge is issued) and that determination is to be made in accordance with any directions given to the local authority under section 67(1).

#### Enforcement of parking prohibitions – [section 59](#)

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374. Subsection (1) confers power on the Scottish Ministers to make regulations making provision for or in connection with the enforcement of the pavement parking, the double parking prohibition and the dropped footway parking prohibition.
375. Subsection (2) sets out examples of the kind of provision that may be made in these regulations. In particular, the regulations may make provision for or about:
- the devices that may be approved by the Scottish Ministers for use in connection with the detection of the contravention of a parking prohibitions (these devices are likely to include cameras);
  - the notification of penalty charges;
  - timing and manner of payment of a penalty charge;
  - reviews and appeals in connection with the imposition of penalty charges– it is intended that a right of appeal against the a penalty charge will be available to the First-tier Tribunal for Scotland in certain circumstances following an unsuccessful review;
  - the manner of enforcement of a penalty charge;
  - steps that may be taken by (or on behalf of) a local authority following the cancellation of a penalty charge, which may include issuing another penalty charge in respect of the same contravention.
376. The regulations may not confer power to stop motor vehicles (see subsection (3)) but they may create criminal offences to be triable summarily (punishable by a fine of no more than level 5 on the standard scale (currently £5,000) or a lower amount as may be prescribed by the regulations) (see subsection (4)(a)). In addition, the regulations may provide that a penalty charge is not required to be paid, or is to be refunded, where the conduct in respect of which the penalty charge is issued is conduct that is the subject of: criminal proceedings, a fixed penalty notice (within the meaning of section 52(1) of the Road Traffic Offenders Act 1988, issued as an alternative to an offence), or a penalty charge (issued under section 66(1) of the Road Traffic Act 1991 under the decriminalised parking regime which applies in the majority of Scotland’s local authorities) (see subsection (4)(b)).
377. Under subsection (4)(c), the regulations may provide that a record produced by a device that is approved under or in accordance with regulations under section 49(1) is sufficient evidence of the fact that is recorded in that record in the circumstances specified in the regulations.
378. Regulations under subsection (1) are subject to the affirmative procedure where they create a criminal offence and are otherwise subject to the negative procedure – see section 72(3).

Power to install approved devices– [section 60](#)

379. Subsection (1) confers power on a traffic authority to install and maintain “approved devices” on a road in connection with the detection of a contravention of the pavement parking prohibition, the double parking prohibition or the dropped footway parking prohibition.
380. If the traffic authority is not the local authority for the area in which a device is to be installed, the traffic authority may enter into arrangements with the local authority under which the local authority installs (or secures the installation of) the device. Alternatively, the traffic authority could retain the duty to place and maintain the devices but enter into arrangements with the local authority (for the area in which the device is to be installed) to assist the traffic authority in relation to the installation and maintenance of the device. This assistance could include the local authority making a financial contribution to the cost of the installation (and maintenance) of the device.

Removal of motor vehicles parked contrary to parking prohibitions – [section 61](#)



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381. Subsection (1) confers power on the Scottish Ministers to, by regulations, make provision for or about the removal from a road of a motor vehicle which is parked in contravention of the pavement parking, the double parking prohibition or the dropped footway parking prohibition. The regulations will confer power on local authorities (and any person with whom a local authority has entered into arrangements with as mentioned in section 64) to remove such motor vehicles from a road. Note that “road” takes the meaning given by section 151(1) of the Roads (Scotland) Act 1984 (“1984 Act”) (see section 69 of the Act) and includes a “pavement” as defined in this Part. This Part of the Act defines a “pavement” as being a footway or a footpath in terms of section 151(2) of the 1984 Act (see sections 50(4) and 69 of the Act) and section 151(2) (a) and (b) of the 1984 Act defines a footway and a footpath as being a type of road for the purposes of the 1984 Act.
382. Subsection (2) sets out examples of the kind of provision that may be made in regulations under subsection (1) in connection with the removal of motor vehicles, including the notification requirements, storage, return and charges, as well as reviews and appeals processes.
383. Subsection (3) provides that the Scottish Ministers must consult with such persons or organisations as appears to them to be representative of drivers and other road users, and other persons as they consider appropriate before making these regulations.
384. The power under subsection (1) is subject to the negative procedure – see section 128(2).  
Moving motor vehicles parked contrary to parking prohibitions – [section 62](#)
385. Subsection (1) confers power on the Scottish Ministers to, by regulations, make provision for or about moving a motor vehicle which is parked in contravention of the pavement parking, the double parking or the dropped footway parking prohibition from its position on a road to another position on that road or on another road. The regulations will confer power on local authorities (and any person with whom a local authority has entered into arrangements with as mentioned in section 64) to move such motor vehicles.
386. Subsection (2) sets out examples of the kind of provision that may be made in regulations under subsection (1) in connection with the moving of motor vehicles, including on notification, the charges imposed for moving a vehicle, and the reviews and appeals for moving a vehicle.
387. Subsection (3) provides that the Scottish Ministers must consult with such persons or organisations as appears to them to be representative of drivers and other road users, and other persons as they consider appropriate before making these regulations.
388. The power under subsection (1) is subject to the negative procedure – see section 128(2).  
Disposal of removed motor vehicles – [section 63](#)
389. Subsection (1) confers power on the Scottish Ministers to, by regulations, make provision for or about the disposal of a motor vehicle which has been removed from a road pursuant to regulations under section 61(1). The regulations will confer power on local authorities (and any person with whom a local authority has entered into arrangements with as mentioned in section 64) to dispose of such motor vehicles in circumstances as may be specified in the regulations.
390. Subsection (2) sets out examples of the kind of provision that may be made in regulations under subsection (1), which include the procedure that must be followed before a vehicle may be disposed of and the manner in which it may be disposed.
391. Subsection (3) provides that the Scottish Ministers must consult with such persons or organisations as appears to them to be representative of drivers and other road users, and other persons as they consider appropriate before making these regulations.
392. The power under subsection (1) is subject to the negative procedure – see section 128(2).

Arrangements in connection with enforcement – [section 64](#)

393. This section allows local authorities to enter into arrangements (under a contract) with any person for that person to exercise functions relating to the enforcement of the pavement parking, the double parking and the dropped footway parking prohibitions which are conferred on local authorities by or under sections 58(2), 59(1), 61(1), 62(1) or 63(1) of the Act.

**Other provisions relating to parking prohibitions**

Power to share information – [section 65](#)

394. Section 65 enables local authorities to disclose ‘relevant information’ to the Secretary of State (DVLA), a source specified in regulations made by the Scottish Ministers or to an ‘enforcement agent’ who is a person with whom the local authority has entered into arrangements in connection with enforcement (in terms of section 64). The information may be disclosed where it is necessary to enable the local authority or the enforcement agent to perform one of their functions created by this Part of the Act or where necessary in connection with the enforcement of the parking prohibitions. Where the information has been disclosed to an enforcement agent, they may only use it or subsequently disclose it as is necessary for or in connection with the enforcement of the parking prohibitions. Section 65(4) sets out the relevant information for each category of disclosure, such as the make and model of the vehicle alleged to have been parked in contravention of the prohibition, registration details and date of alleged contravention. The relevant information that can then be disclosed to the enforcement agent also includes the name and address of the registered keeper as well as any information or representations provided to the local authority by or on behalf of the registered keeper in connection with any review or appeal.

Accounts – [section 66](#)

395. This section confers power on the Scottish Ministers to by regulations make provision for or about:
- the keeping of accounts by local authorities in connection with their functions under this Part of the Act;
  - the purposes for which any surplus in an account kept by a local authority in accordance with these regulations may be applied; and
  - the publication of a statement of account and the manner in which it must be published.

Ministerial directions – [section 67](#)

396. This section confers a general power of direction on the Scottish Ministers in relation to the exercise of local authorities’ functions under this Part.
397. Subsection (2) sets out some examples of the kind of matters to which directions may relate including the assessments that are to be carried out before an exemption order is made under section 51(1) of the Act, provision relating to the uniforms to be worn by authorised enforcement officers, and the information to be published by local authorities in connection with this Part of the Act. Directions given by the Scottish Ministers under subsection (1) will also specify the characteristics that a footway (or a road with which a footway is associated) must have for the footway to be specified in an exemption order under section 51(1) meaning that the pavement parking prohibition does not apply to that footway (see section 51(2)).
398. Subsection (3)(a) and (b) provides that a direction may be general or relate to a particular function or local authority or it may be given to:
- each local authority;
  - a particular local authority (in relation to the whole or part of its area);

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- local authorities of a particular description.

399. Subsection (3)(c) provides that directions must be in writing and be published, as must any revision or revocation of a direction (see subsection (6)).
400. A direction may be revised or revoked (see subsection (4)) and subsection (5) specifies examples of some of the ways in which a direction may be revised.

Ministerial guidance – [section 68](#)

401. Section 68(1) enables the Scottish Ministers to issue guidance in relation to the exercise of functions conferred on a local authority by virtue of this Part. The Scottish Ministers are to consult with such persons as they consider appropriate prior to issuing this guidance.
402. Subsection (2) requires a local authority to have regard to this written guidance. The Scottish Ministers must publish any such guidance in an appropriate manner and as soon as reasonably practicable after it is given (see subsection (3)).
403. It is intended that written guidance issued to local authorities under section 68 will be published in a single document about parking standards.