

## SCHEDULE 2

## Article 4

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

**1.**—(1) Section 66 shall be modified as follows.

(2) In subsection (1), “in a designated parking place” shall be omitted.

(3) In subsection (2)—

(a) “For the purposes of this Part of the Act”; and

(b) paragraphs (a)(i),(b) and (c),

shall be omitted.

(4) In subsection (3)—

(a) in paragraph (d) for “the specified proportion” there shall be substituted “one half”; and

(b) in paragraph (e) for “London” there shall be substituted “parking”.

(5) Subsection (4) shall be omitted.

(6) In subsection (5), for paragraph (b) there shall be substituted—

“(b) the parking authority.”.

**2.**—(1) Section 69 shall be modified as follows.

(2) In subsection (1)—

(a) “in a designated parking place” shall be omitted; and

(b) for “specified in section 66(2)(a), (b) or (c) of this Act” there shall be substituted “in which a penalty charge is payable”.

(3) In subsection (8), from “London” to the end there shall be substituted “parking authority”.

**3.**—(1) Section 71 shall be modified as follows.

(2) In subsection (1) for “a London” there shall be substituted “the parking”.

(3) For subsection (4) there shall be substituted—

“(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)(b) for “costs” there shall be substituted “expenses”.

**4.**—(1) Section 73 shall be modified as follows.

(2) Subsections (1), (1A) and (2) shall be omitted.

(3) For subsection (3) there shall be substituted—

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- “(3) The traffic commissioner shall, with the consent of the Lord Advocate, appoint persons to act as parking adjudicators for the purposes of this Part of this Act.”.
- (4) After subsection (3) there shall be inserted the following subsections:—
- “(3A) A parking adjudicator appointed by virtue of this section is authorised to act as a parking adjudicator in relation to the parking area.
- (3B) The parking authority, after consultation with the traffic commissioner—
- (a) shall—
- (i) provide or enter into arrangements for the provision of accommodation and administrative staff for the parking adjudicators acting in relation to the parking area; and
- (ii) determine the places at which such parking adjudicators are to sit; and
- (b) may enter into arrangements for the remuneration of such parking adjudicators.”.
- (5) In subsection (4) from “have” to the end there shall be substituted “be an advocate or solicitor of at least five years' standing”.
- (6) In subsection (5), for “appointing authorities” there shall be substituted “traffic commissioner”.
- (7) For subsections (8) to (10) there shall be substituted—
- “(8) The reasonable expenses of the traffic commissioner incurred in connection with the discharge of the duties imposed on him by this section, shall be met by the parking authority.”.
- (8) In subsection (11), for “The Secretary of State” there shall be substituted “The Scottish Ministers”.
- (9) In subsection (12)—
- (a) in each of paragraphs (i) and (j), for “costs” there shall be substituted “expenses”; and
- (b) in paragraph (j) for “county” there shall be substituted “sheriff”.
- (10) In subsection (15), from “if a” to the end there shall be substituted “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”.
- (11) In subsection (17) for “Joint Committee”, in each place where it occurs, there shall be substituted “parking authority”.
- (12) In subsection (18)—
- (a) for “Joint Committee”, there shall be substituted “parking authority”.
- (b) for “The Secretary of State” there shall be substituted “The Scottish Ministers”.
5. For section 74 there shall be substituted the following section:—

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

- 74.—**(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 by them.

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

6.—(1) Section 82 shall be modified as follows.

(2) For subsection (1) there shall be substituted—

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

“hiring agreement” and “vehicle hire firm” have the same meanings as in section 66 of the Road Traffic Offenders Act 1988(1);

“immobilisation device” has the same meaning as in section 104(9) of the Road Traffic Regulation Act 1984(2);

“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) (Dundee City Council) Designation Order 2004(3);

“parking attendant” has the same meaning as in section 63A(4) 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) of that Act in relation to the parking place;

(b) in any other case, the traffic authority (other than the Scottish Ministers) as defined by section 121A(5) of that Act;

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

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

“traffic commissioner” means the traffic commissioner appointed for the Scottish Traffic Area under section 4 of the Public Passenger Vehicles Act 1981(6).”.

(3) In subsection (5), for “London authority concerned” there shall be substituted “parking authority”.

(4) In subsection (6), for “a Minister of the Crown” there shall be substituted “the Scottish Ministers”.

(5) In subsection (7), for “either House of Parliament” there shall be substituted “the Scottish Parliament”.

7.—(1) Schedule 6 shall be modified as follows.

(2) In paragraph 1(1), for “London authority concerned” there shall be substituted “parking authority”.

(3) In paragraph 2—

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(1) 1988 c. 53.

(2) 1984 c. 27.

(3) S.S.I. 2004/87.

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

(5) Section 121A was inserted by the New Roads and Street Works Act 1991 (c. 22).

(6) 1981 c. 14.

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- (a) in sub paragraph (1), from “London” to the end there shall be substituted “parking authority”;
  - (b) in sub paragraph (2), from “such” to the end there shall be substituted “writing”;
  - (c) in sub paragraph (3), after “The”, where it first occurs there shall be inserted “parking”;
  - (d) in sub paragraph (4)(c), for “place” there shall be substituted “area”; and
  - (e) in sub paragraph (7), for “an authority to whom representations are duly made” there shall be substituted “the parking authority when representations are duly made to it”.
- (4) In paragraph 3(1) and (2), for “London authority concerned” in each place where it occurs there shall be substituted “parking authority”.
- (5) In paragraph 4—
- (a) for the words “London authority concerned” and “authority” there shall be substituted “parking authority”; and
  - (b) in sub paragraph (b), for “costs” there shall be substituted “expenses”.
- (6) In paragraph 5—
- (a) in sub paragraph (1), for “an authority” there shall be substituted “the parking authority” and for “authority’s decision” there shall be substituted “parking authority’s decision”;
  - (b) in sub paragraph (2), for “London authority concerned” there shall be substituted “parking authority”; and
  - (c) in sub paragraph (3), from “any” to the end there shall be substituted “the parking authority to comply with any direction given to it under sub paragraph (2) above”.
- (7) In paragraph 6—
- (a) in sub paragraph (1), for “authority serving the notice” there shall be substituted “parking authority”; and
  - (b) in sub paragraph 2(b)(ii), for “authority concerned” there shall be substituted “parking authority”.
- (8) In paragraph 7, from “authority concerned” to the end there shall be substituted “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) Paragraph 8 shall be omitted.