

SCHEDULE 2

Article 4

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

- 1.—(1) Section 66 is modified as follows.
 - (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”; and
 - (b) paragraphs (a)(i), (b) and (c).
 - (4) In subsection (3)—
 - (a) in paragraph (d) for “the specified proportion” substitute “one half”; and
 - (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 as follows.
 - (2) In subsection (1)—
 - (a) omit “in a designated parking place”; and
 - (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 as follows.
 - (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)(b) for “costs” substitute “expenses”.
- 4.—(1) Section 73 is modified as follows.
 - (2) Omit subsections (1), (1A) and (2).
 - (3) For subsection (3) substitute—

Status: This is the original version (as it was originally made).

“(3) The traffic commissioner must, with the consent of the Lord Advocate, appoint persons to act as parking adjudicators.”.

(4) After subsection (3) insert—

“(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) must—

(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) for the words from “have” to the end substitute “be an advocate or solicitor of at least five years’ standing”.

(6) In subsection (5) for “appointing authorities” substitute “traffic commissioner”.

(7) For subsections (8) to (10) substitute—

“(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” substitute “The Scottish Ministers”.

(9) In subsection (12)—

(a) in each of paragraphs (i) and (j) for “costs” substitute “expenses”; and

(b) in paragraph (j) for “county” substitute “sheriff”.

(10) In subsection (15) for the words from “if a” to the end substitute “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, substitute “parking authority”.

(12) In subsection (18)—

(a) for “Joint Committee” substitute “parking authority”; and

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

5. 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 by them.

(5) The parking authority must 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 is modified as follows.

(2) For subsection (1) substitute—

“(1) In this section and sections 66, 69 to 74 and 79 of, and schedule 6 of, this Act(1)—
“hiring agreement” and “vehicle-hire firm” have the same meanings as in section 66 of the Road Traffic Offenders Act 1988(2);

“immobilisation device” has the same meaning as in section 104(9) of the Road Traffic Regulation Act 1984(3);

“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) (Midlothian Council) Designation Order 2018(4);

“parking attendant” has the same meaning as in section 63A(5) 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(6) of that Act;

“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; and

“traffic commissioner” means the traffic commissioner appointed for the Scottish Traffic Area under section 4 of the Public Passenger Vehicles Act 1981(7).”.

(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”.

7.—(1) Schedule 6 is modified as follows.

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

(3) In paragraph 2—

(a) in subparagraph (1) for the words from “London” to the end substitute “parking authority”;

(b) in subparagraph (2) for the words from “such” to the end substitute “writing”;

(c) in subparagraph (3) after “The”, where it first occurs, insert “parking”;

(1) Road Traffic Act 1991 c.40.

(2) 1988 c.53.

(3) 1984 c.27.

(4) S.S.I. 2018/60.

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

(6) Section 121A was inserted by the New Roads and Street Works Act 1991 (c.22), schedule 8, paragraph 70.

(7) 1981 c.14.

Status: This is the original version (as it was originally made).

- (d) in subparagraph (4)(c) for “place” substitute “area”; and
 - (e) in subparagraph (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” in each place where it occurs substitute “parking authority”.
- (5) In paragraph 4—
- (a) for “London authority concerned” substitute “parking authority”;
 - (b) in subparagraph (b), for “costs” substitute “expenses”; and
 - (c) for “authority consider appropriate” substitute “parking authority consider appropriate”.
- (6) In paragraph 5—
- (a) in subparagraph (1)—
 - (i) for “an authority” substitute “the parking authority”; and
 - (ii) for “authority’s decision” substitute “parking authority’s decision”;
 - (b) in subparagraph (2) for “London authority concerned” substitute “parking authority”; and
 - (c) in subparagraph (3) for the words from “any” to the end substitute “the parking authority to comply with any direction given to it under subparagraph (2) above”.
- (7) In paragraph 6—
- (a) in subparagraph (1) for “authority serving the notice” substitute “parking authority”; and
 - (b) in subparagraph (2)(b)(ii) for “authority concerned” substitute “parking authority”.
- (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 paragraph 8.