



Transport (Scotland) Act 2019

2019 asp 17

PART 6

PARKING PROHIBITIONS

Pavement parking prohibition

50 Pavement parking prohibition

- (1) A person must not park a motor vehicle on a pavement (in this Part, this prohibition is referred to as the “pavement parking prohibition”).
- (2) For the purposes of the pavement parking prohibition—
 - (a) a motor vehicle is parked on a pavement if—
 - (i) it is stationary, and
 - (ii) one or more of its wheels (or any part of them) is on any part of the pavement,
 - (b) a stationary motor vehicle is parked whether or not—
 - (i) the driver of the vehicle is in attendance at the vehicle,
 - (ii) the engine of the vehicle is running.
- (3) The pavement parking prohibition is subject to the exceptions set out in section 55.
- (4) In this section—

“footpath” is to be construed in accordance with section 151(2) of the Roads (Scotland) Act 1984 (and does not include a footpath mentioned in subsection (3) (a) or (b) of that section),

“footway” is to be construed in accordance with section 151(2) of that Act,

“motor vehicle” has the meaning given by section 185(1) of the Road Traffic Act 1988, except that—

 - (a) section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of that Act, and
 - (b) it does not include a heavy commercial vehicle (within the meaning given by section 20(1) of that Act) (but see section 19(1) of that Act),

“pavement” means a footpath or footway.

51 Exemption orders

- (1) A local authority may make an order (in this Part, an “exemption order”) providing that the pavement parking prohibition does not apply to a footway within the local authority’s area which is specified in the order.
- (2) A footway may not be specified in an exemption order unless it, or the carriageway with which it is associated, has the characteristics specified by the Scottish Ministers in a direction under section 67(1).
- (3) An exemption order—
 - (a) may apply to all or part of a footway,
 - (b) must apply—
 - (i) at all times, and
 - (ii) to all motor vehicles,
 - (c) may not be subject to conditions.
- (4) If the local authority is not the traffic authority for the footway to which an exemption order is to apply, the local authority may not make the order unless the traffic authority for the footway consents to the making of the order.
- (5) Subsection (4) applies to an order amending or revoking an exemption order as it applies to an exemption order.
- (6) In subsection (2), “carriageway” is to be construed in accordance with section 151(2) of the Roads (Scotland) Act 1984.

52 Exemption orders: form and procedure

- (1) The Scottish Ministers may by regulations make provision in connection with the making, amendment and revocation of exemption orders.
- (2) Regulations under subsection (1) may, in particular, make provision about—
 - (a) the form of an exemption order (or an order amending or revoking an exemption order),
 - (b) the procedure to be followed in connection with the making, amendment or revocation of an exemption order,
 - (c) publication of a proposal for the making, amendment or revocation of an exemption order (a “proposal”),
 - (d) persons who must be consulted about a proposal and the manner and timing of that consultation,
 - (e) the process for making objections to a proposal,
 - (f) the process for considering any such objections, including the holding of inquiries and the appointment of a person to hold an inquiry,
 - (g) modification of a proposal (whether in consequence of an objection or otherwise),
 - (h) notice to be given or published of the making, amendment or revocation of an exemption order and the effect of the exemption order (or its amendment or revocation).

53 Exemption orders: traffic signs

- (1) This section applies where a local authority (the “exempting authority”) makes an exemption order in relation to all or part of a footway.
- (2) The traffic authority for the footway must—
 - (a) place, or secure the placement of, traffic signs in connection with the exemption order, and
 - (b) maintain, or secure the maintenance of, those signs.
- (3) Where the traffic authority for the footway is not the exempting authority, the traffic authority may enter into an arrangement with the exempting authority under which the exempting authority is to—
 - (a) exercise the functions under subsection (2), or
 - (b) assist the traffic authority in connection with the exercise of those functions.
- (4) Where the exempting authority enters into an arrangement mentioned in subsection (3)
 - (a), section 65(1) of the Road Traffic Regulation Act 1984 (powers and duties of traffic authorities as to placing of traffic signs) applies to the exempting authority as it applies to the traffic authority for the footway.
- (5) In subsection (2), “traffic signs” has the meaning given by section 64(1) of the Road Traffic Regulation Act 1984 (general provisions as to traffic signs).

*Double parking prohibition***54 Double parking prohibition**

- (1) A person must not park a motor vehicle on a carriageway in such a way that no part of the vehicle is within 50 centimetres of the edge of a carriageway (in this Part, this prohibition is referred to as the “double parking prohibition”).
- (2) For the purposes of the double parking prohibition, a stationary motor vehicle is parked whether or not—
 - (a) the driver of the vehicle is in attendance at the vehicle,
 - (b) the engine of the vehicle is running.
- (3) But a motor vehicle is not parked for those purposes if it is stationary—
 - (a) due to the necessities of traffic, or
 - (b) otherwise as a result of circumstances beyond the driver’s control.
- (4) The double parking prohibition is subject to the exceptions set out in section 55.
- (5) In subsection (1)—

“carriageway” has the meaning given by section 51(6),

“edge of a carriageway” means—

 - (a) where the edge of the carriageway is marked by a painted solid white line, the edge of the painted line furthest from the centre of the carriageway,
 - (b) where the edge of the carriageway is not marked by a painted solid white line and is bounded by a kerb, the edge of the kerb closest to the centre of the carriageway,

- (c) in any other case, where the surface of the carriageway meets the verge of the carriageway,
 “motor vehicle” has the meaning given by section 185(1) of the Road Traffic Act 1988, except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of that Act.

Exceptions to pavement parking prohibition and double parking prohibition

55 Exceptions to pavement parking prohibition and double parking prohibition

- (1) This section sets out exceptions to the pavement parking prohibition and the double parking prohibition.
- (2) The pavement parking prohibition and the double parking prohibition do not apply where the motor vehicle—
 - (a) is being used—
 - (i) for police purposes, including for the purposes of the National Crime Agency,
 - (ii) for ambulance purposes or for the purpose of providing a response to an emergency at the request of the Scottish Ambulance Service Board,
 - (iii) for or in connection with the exercise of any function of the Scottish Fire and Rescue Service or Her Majesty’s Coastguard, or
 - (iv) for naval, military or air force purposes,
 - (b) the achievement of the purposes, or the exercise of the function, would be likely to be hindered if the vehicle were not parked on a pavement or, as the case may be, as mentioned in section 54(1), and
 - (c) no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway (however that edge is bounded).
- (3) The pavement parking prohibition and the double parking prohibition do not apply where the motor vehicle—
 - (a) is being used for or in connection with—
 - (i) the undertaking of works in roads,
 - (ii) the removal of an obstruction to traffic,
 - (iii) the collection of waste by or on behalf of a local authority,
 - (iv) postal services (within the meaning of section 125(1) of the Postal Services Act 2000),
 - (b) cannot reasonably be so used without being parked on a pavement or, as the case may be, as mentioned in section 54(1),
 - (c) is so parked for no longer than is necessary for that use, and
 - (d) no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway (however that edge is bounded).
- (4) In subsection (3)(a)(i), “works in roads” includes—
 - (a) road works within the meaning given by section 107(3) of the New Roads and Street Works Act 1991,

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

- (b) works for roads purposes within the meaning given by section 145(2) of that Act,
 - (c) major works for roads purposes with the meaning given by section 145(3) of that Act,
 - (d) cleaning, placing, removing or adjusting by or on behalf of a roads authority (within the meaning given by section 151(1) of the Roads (Scotland) Act 1984) of any equipment or structure which is placed on or over a road.
- (5) The pavement parking prohibition and the double parking prohibition do not apply where—
 - (a) 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,
 - (b) the provision of the care would be likely to be hindered if the vehicle were not parked on a pavement or, as the case may be, as mentioned in section 54(1),
 - (c) the vehicle is so parked for no longer than is reasonable in connection with the provision of the care, and
 - (d) no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway (however that edge is bounded).
- (6) The pavement parking prohibition and the double parking prohibition do not apply where—
 - (a) the motor vehicle is, in the course of business—
 - (i) being used for the purpose of delivering goods to, or collecting goods from, any premises, or
 - (ii) being loaded from or unloaded to any premises,
 - (b) the delivery, collection, loading or unloading cannot reasonably be carried out without the vehicle being parked on a pavement or, as the case may be, as mentioned in section 54(1),
 - (c) no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway (however that edge is bounded),
 - (d) the vehicle is so parked for no longer than is necessary for the delivery, collection, loading or unloading and in any event for no more than a continuous period of 20 minutes.
- (7) The pavement parking prohibition and the double parking prohibition do not apply where the motor vehicle is parked wholly within a parking place that is—
 - (a) authorised by order under section 32(1)(b) of the Road Traffic Regulation Act 1984, or
 - (b) designated by order under section 45 of that Act.
- (8) The pavement parking prohibition and the double parking prohibition do not apply where the motor vehicle is parked in accordance with permission given by a constable (within the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012) in uniform.
- (9) The pavement parking prohibition and the double parking prohibition do not apply where—
 - (a) the person has parked the motor vehicle for the purpose of saving life or responding to another similar emergency,

- (b) the achievement of that purpose would be likely to be hindered if the vehicle were not parked on a pavement or, as the case may be, as mentioned in section 54(1), and
 - (c) the vehicle is so parked for no longer than is necessary for that purpose.
- (10) The pavement parking prohibition and the double parking prohibition do not apply where—
- (a) the person has parked the motor vehicle for the purpose of providing assistance at an accident or breakdown,
 - (b) the assistance could not be safely or reasonably provided if the vehicle were not parked on a pavement or, as the case may be, as mentioned in section 54(1),
 - (c) the vehicle is so parked for no longer than is necessary for that purpose, and
 - (d) no part of the vehicle is within 1.5 metres of the pavement edge which is furthest away from the centre of the carriageway (however that edge is bounded).
- (11) In this section, “carriageway” has the meaning given by section 51(6).
- (12) The Scottish Ministers may by regulations modify this section.

Dropped footway parking prohibition

56 Dropped footway parking prohibition

- (1) A person must not park a motor vehicle on a carriageway adjacent to a footway where, for the purpose of assisting pedestrians or cyclists to cross the carriageway—
- (a) the footway has been lowered to meet the level of the carriageway, or
 - (b) the carriageway has been raised to meet the level of the footway.
- (2) In this Part, the prohibition in subsection (1) is referred to as the “dropped footway parking prohibition”.
- (3) In this section and section 57—
- “carriageway” has the meaning given by section 51(6),
 - “footway” has the meaning given by section 50(4),
 - “motor vehicle” has the meaning given by section 54(5).

57 Exceptions to dropped footway parking prohibition

- (1) This section sets out exceptions to the dropped footway parking prohibition.
- (2) The dropped footway parking prohibition does not apply where the footway has been lowered or the carriageway has been raised as described in section 56(1) for the purpose of access to a driveway or to a garage (whether on commercial or residential premises).
- (3) The dropped footway parking prohibition does not apply where—
- (a) the person has parked the motor vehicle for the purpose of saving life or responding to another similar emergency,
 - (b) the achievement of that purpose would be likely to be hindered if the vehicle were not parked as mentioned in section 56(1),
 - (c) the vehicle is so parked for no longer than is necessary for that purpose.

Enforcement of parking prohibitions

58 Imposition of penalty charges

- (1) Where a person parks a motor vehicle in contravention of the pavement parking prohibition, the double parking prohibition or the dropped footway parking prohibition, a penalty charge is payable in respect of the contravention.
- (2) Where a local authority considers that a penalty charge is payable under subsection (1) in respect of a contravention occurring in its area, it may issue a notice imposing a penalty charge (a “penalty charge notice”) in accordance with regulations under section 59(1).
- (3) A penalty charge notice may be issued under subsection (2) only on the basis of—
 - (a) conduct observed by an authorised enforcement officer, or
 - (b) a record produced by an approved device.
- (4) A penalty charge imposed under subsection (2) is payable—
 - (a) by the registered keeper of the motor vehicle, or
 - (b) in such circumstances, following consultation with such persons as they consider appropriate, as may be specified in regulations made by the Scottish Ministers, by such other person as may be so specified.
- (5) The Scottish Ministers may by regulations, following consultation with such persons as they consider appropriate, make provision for or in connection with the amount that may be imposed as a penalty charge, which may include provision for discounts and surcharges.
- (6) In this section—
 - “approved device” means a device approved under or in accordance with regulations under section 59(1),
 - “authorised enforcement officer” means an individual—
 - (a) appointed in connection with the enforcement of the pavement parking prohibition, the double parking prohibition or the dropped footway parking prohibition—
 - (i) by the local authority, or
 - (ii) by a person with whom the local authority has entered into arrangements as mentioned in section 64, and
 - (b) in a uniform of a type determined by the local authority in accordance with any directions given under section 67(1),
 - “registered keeper”, in relation to a penalty charge imposed in connection with a motor vehicle, means 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.

59 Enforcement of parking prohibitions

- (1) The Scottish Ministers may by regulations, following consultation with such persons as they consider appropriate, make provision for or in connection with the enforcement of the pavement parking prohibition, the double parking prohibition and the dropped footway parking prohibition.
- (2) Regulations under subsection (1) may, in particular, make provision for or about—

- (a) the approval by the Scottish Ministers of devices to be used in connection with the detection of a contravention of a prohibition,
 - (b) the notification of a penalty charge, including the form, content and method of notification,
 - (c) the timing and manner of payment of a penalty charge,
 - (d) reviews and appeals (including grounds of review or appeal) in connection with the imposition of penalty charges,
 - (e) the manner in which a penalty charge may be enforced,
 - (f) steps that may be taken following the cancellation of a penalty charge, which may include the issuing of another penalty charge in respect of the same contravention.
- (3) Regulations under subsection (1) may not confer power to stop motor vehicles.
- (4) Regulations under subsection (1) may include provision—
- (a) creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be prescribed by the regulations,
 - (b) securing 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 imposed is the subject of—
 - (i) criminal proceedings,
 - (ii) a fixed penalty notice (within the meaning of section 52(1) of the Road Traffic Offenders Act 1988),
 - (iii) a penalty charge notice issued under section 66(1) of the Road Traffic Act 1991 (as applied by an order under paragraph 1 or 2 of schedule 3 of that Act),
 - (c) securing that a record produced by an approved device is sufficient evidence of the fact recorded in the record in such circumstances as may be specified in the regulations.

60 Power to install approved devices

- (1) A traffic authority may install and maintain, or secure the installation and maintenance of, approved devices on a road for use in connection with the detection of a contravention of—
- (a) the pavement parking prohibition,
 - (b) the double parking prohibition, or
 - (c) the dropped footway parking prohibition.
- (2) The traffic authority may remove, or secure the removal of, anything installed under subsection (1).
- (3) Where 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 an arrangement with that local authority under which the local authority is to—
- (a) exercise the functions under subsection (1) in relation to the device, or
 - (b) assist the traffic authority in connection with the exercise of those functions.
- (4) In subsection (1), “approved devices” has the meaning given by section 58(6).

Removal, moving and disposal of motor vehicles

61 Removal of motor vehicles parked contrary to parking prohibitions

- (1) The Scottish Ministers may 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 prohibition, the double parking prohibition or the dropped footway parking prohibition.
- (2) Regulations under subsection (1) may, in particular, make provision for or about—
 - (a) notification of the removal of a motor vehicle,
 - (b) storage of a motor vehicle that has been removed,
 - (c) circumstances in which a motor vehicle that has been removed is to be returned,
 - (d) charges that may be imposed in connection with the removal or storage of a motor vehicle,
 - (e) reviews and appeals (including grounds of review or appeal) in connection with the removal of a motor vehicle.
- (3) Before making regulations under subsection (1), the Scottish Ministers must consult—
 - (a) such persons or organisations as appear to them to be representative of drivers and other road users, and
 - (b) such other persons as they consider appropriate.

62 Moving motor vehicles parked contrary to parking prohibitions

- (1) The Scottish Ministers may by regulations make provision for or about the moving, from a position on a road to another position on the road or on another road, of a motor vehicle which is parked in contravention of—
 - (a) the pavement parking prohibition,
 - (b) the double parking prohibition, or
 - (c) the dropped footway parking prohibition.
- (2) Regulations under subsection (1) may, in particular, make provision for or about—
 - (a) notification of the moving of a motor vehicle,
 - (b) charges that may be imposed in connection with the moving of a motor vehicle,
 - (c) reviews and appeals (including grounds of review or appeal) in connection with the moving of a motor vehicle.
- (3) Before making regulations under subsection (1), the Scottish Ministers must consult—
 - (a) such persons or organisations as appear to them to be representative of drivers and other road users, and
 - (b) such other persons as they consider appropriate.

63 Disposal of removed motor vehicles

- (1) The Scottish Ministers may 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).

- (2) Regulations under subsection (1) may, in particular, make provision for or about—
 - (a) the procedure to be followed before a motor vehicle may be disposed of,
 - (b) the manner in which a motor vehicle may be disposed of,
 - (c) charges that may be imposed in connection with the disposal of a motor vehicle,
 - (d) the application of any proceeds of the disposal of a motor vehicle, including any deductions from such proceeds,
 - (e) reviews and appeals (including grounds of review or appeal) in connection with the disposal of a motor vehicle,
 - (f) the effect of the disposal of a motor vehicle on any right of the Crown (based on the Crown’s right of ownership in lost or abandoned property) in such a vehicle.
- (3) Before making regulations under subsection (1), the Scottish Ministers must consult—
 - (a) such persons or organisations as appear to them to be representative of drivers and other road users, and
 - (b) such other persons as they consider appropriate.

Arrangements in connection with enforcement

64 Arrangements in connection with enforcement

A local authority may enter into arrangements with any person for the exercise by that person of any function conferred on the local authority by or under section 58(2), 59(1), 61(1), 62(1) or 63(1).

Information sharing

65 Power to share information

- (1) A local authority may, in the circumstances mentioned in subsection (2), disclose relevant information to—
 - (a) the Secretary of State,
 - (b) a source specified in regulations made by the Scottish Ministers,
 - (c) the local authority’s enforcement agent.
- (2) The circumstances are that disclosure of the relevant information is—
 - (a) necessary to enable the local authority or enforcement agent to perform a function conferred by virtue of this Part, or
 - (b) otherwise necessary for or in connection with the enforcement of any of the parking prohibitions.
- (3) Where relevant information is disclosed to an enforcement agent—
 - (a) the agent may only use the information, or subsequently disclose it to any other person, as is necessary for or in connection with the enforcement of any of the parking prohibitions, and
 - (b) any other person to whom the information is subsequently disclosed may only use it for the same purpose.
- (4) In this section, “relevant information” means—

- (a) in relation to disclosure under subsection (1)(a) or (b)—
 - (i) the make and model of a vehicle alleged by a local authority (or its enforcement agent) to have parked in contravention of any of the parking prohibitions,
 - (ii) details of which of those prohibitions is alleged to have been contravened,
 - (iii) the registration mark of that vehicle (assigned under section 23 of the Vehicle Excise and Registration Act 1994),
 - (iv) the date on which the alleged contravention took place,
 - (b) in relation to disclosure under subsection (1)(c)—
 - (i) the information mentioned in sub-paragraphs (i) to (iv) of paragraph (a),
 - (ii) the name and address of the registered keeper of the vehicle alleged by a local authority (or its enforcement agent) to have parked in contravention of any of the parking prohibitions,
 - (iii) the location where the vehicle is alleged to have parked in contravention of any of the parking prohibitions,
 - (iv) any record of an alleged contravention of any of the parking prohibitions produced by an approved device,
 - (v) any information or representations provided to the local authority by or on behalf of the registered keeper of a vehicle in connection with any review or appeal made by virtue of regulations made under section 49(1).
- (5) For the purposes of this section—
- (a) an “enforcement agent” is a person with whom the local authority has entered into arrangements by virtue of section 64,
 - (b) the “parking prohibitions” are the pavement parking prohibition, the double parking prohibition and the dropped footway parking prohibition.
- (6) Nothing in this section authorises a disclosure of any information that would be in contravention of the Data Protection Act 2018.

Accounts

66 Accounts

The Scottish Ministers may by regulations make provision for or about—

- (a) the keeping of accounts by local authorities in connection with their functions under this Part,
- (b) the purposes for which a surplus in such an account may be applied, and
- (c) the publication of a statement of account, and the manner in which it must be published.

*Ministerial directions and guidance***67 Ministerial directions**

- (1) The Scottish Ministers may direct local authorities in connection with the exercise of their functions under this Part.
- (2) A direction under subsection (1) may, in particular—
 - (a) specify assessments to be carried out in connection with the making of exemption orders,
 - (b) make provision relating to uniforms to be worn by authorised enforcement officers,
 - (c) specify information to be published by local authorities in connection with this Part.
- (3) A direction under subsection (1)—
 - (a) may be general or relate to a particular function or local authority,
 - (b) may be given to—
 - (i) each local authority,
 - (ii) a particular local authority in relation to the whole or part of the area of the local authority,
 - (iii) local authorities of a particular description,
 - (c) must—
 - (i) be in writing,
 - (ii) be published in such manner as the Scottish Ministers consider appropriate as soon as reasonably practicable after it is given.
- (4) The Scottish Ministers may revise or revoke a direction under subsection (1).
- (5) The Scottish Ministers may, in particular, revise a direction under subsection (1) which is given to each local authority so that it—
 - (a) ceases to apply to—
 - (i) a particular local authority in relation to the whole or part of the area of the local authority,
 - (ii) local authorities of a particular description,
 - (b) applies with modifications to—
 - (i) a particular local authority in relation to the whole or part of the area of the local authority,
 - (ii) local authorities of a particular description.
- (6) Subsection (3)(c) applies to the revision or revocation of a direction under subsection (1) as it applies to such a direction.
- (7) In subsection (2)(b), “authorised enforcement officers” has the meaning given by section 58(6).

68 Ministerial guidance

- (1) The Scottish Ministers may, following consultation with such persons as they consider appropriate, issue written guidance in relation to the exercise of functions conferred on a local authority (whether as a local authority or as a traffic authority) by virtue of this Part.

- (2) A local authority must have regard to any written guidance given by the Scottish Ministers about the exercise of functions conferred on it (whether as a local authority or as a traffic authority) by virtue of this Part.
- (3) The Scottish Ministers must publish any such guidance in such manner as they consider appropriate as soon as reasonably practicable after it is given.

Interpretation of Part 6

69 Interpretation of Part 6

In this Part—

- “double parking prohibition” has the meaning given by section 54(1),
- “dropped footway parking prohibition” has the meaning given by section 56(2),
- “exemption order” has the meaning given by section 51(1),
- “footway” has the meaning given by section 50(4),
- “motor vehicle”—
 - (a) in relation to the pavement parking prohibition, has the meaning given by section 50(4),
 - (b) in relation to the double parking prohibition and the dropped footway parking prohibition, has the meaning given by section 54(5),
- “pavement” has the meaning given by section 50(4),
- “pavement parking prohibition” has the meaning given by section 50(1),
- “road” has the meaning given by section 151(1) of the Roads (Scotland) Act 1984,
- “traffic authority” means, in relation to a footway, the body which has the function of making traffic regulation orders under section 1 of the Road Traffic Regulation Act 1984.