



# Transport (Scotland) Act 2019

## 2019 asp 17

### PART 8

#### RECOVERY OF UNPAID PARKING CHARGES

##### *Right to recover unpaid charges from keeper of vehicle*

#### **95 Right in certain circumstances to recover from keeper of vehicle**

- (1) The creditor has the right to recover any unpaid parking charges from the keeper of the vehicle.
- (2) The right under this section applies only if—
  - (a) the conditions specified in sections 96, 97, 102 and 103 (so far as applicable) are met, and
  - (b) the vehicle was not a stolen vehicle at the beginning of the period of parking to which the unpaid parking charges relate.
- (3) For the purposes of the condition in subsection (2)(b), the vehicle is to be presumed not to be a stolen vehicle at the material time, unless the contrary is proved.
- (4) The right under this section may only be exercised after the end of the period of 28 days beginning with the day on which the notice to keeper is given.
- (5) The Scottish Ministers may by regulations prescribe a description of an amount as the maximum that may be recovered from a keeper by virtue of the right conferred by this section.
- (6) Nothing in this section affects any other remedy the creditor may have against the keeper of the vehicle or any other person in respect of any unpaid parking charges (but this is not to be read as permitting double recovery).
- (7) The right under this section is subject to section 104 (which provides for the right not to apply in certain circumstances in the case of a hire vehicle).

#### **96 First condition: lack of knowledge of driver's name and address**

- (1) The first condition for the purposes of section 95 is that the creditor—

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*Status: This is the original version (as it was originally enacted).*

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- (a) has the right to enforce against the driver of the vehicle the requirement to pay the unpaid parking charges, but
  - (b) is unable to take steps to enforce that requirement against the driver because the creditor does not know both the name of the driver and an address at which the driver for the time being resides or can conveniently be contacted.
- (2) Subsection (1)(b) ceases to apply if, at any time after the end of the period of 28 days beginning with the day on which the notice to keeper is given, the creditor begins proceedings to recover the unpaid parking charges from the keeper.

## **97 Second condition: giving of notices to driver and keeper**

- (1) The second condition for the purposes of section 95 is that the creditor (or a person acting for or on behalf of the creditor)—
- (a) has given a notice to driver in accordance with section 98, followed by a notice to keeper in accordance with section 99, or
  - (b) has given a notice to keeper in accordance with section 100.
- (2) If a notice to driver has been given, any subsequent notice to keeper must be given in accordance with section 99.

## **98 Giving of notice to driver**

- (1) A notice which is to be relied on as a notice to driver for the purposes of section 97(1)
- (a) is given in accordance with this section if the following requirements are met.
- (2) The notice contains such information as the Scottish Ministers may by regulations prescribe.
- (3) The notice relates only to a single period of parking (but this does not prevent the giving of separate notices each specifying different parts of a single period of parking).
- (4) The notice is given—
- (a) before the vehicle is removed from the relevant land after the end of the period of parking to which the notice relates, and
  - (b) while the vehicle is stationary,
- by affixing it to the vehicle or by handing it to the person appearing to be in charge of the vehicle.

## **99 Giving of notice to keeper following giving notice to driver**

- (1) A notice which is to be relied on as a notice to keeper for the purposes of section 97(1)
- (a) is given in accordance with this section if the following requirements are met.
- (2) The notice contains such information as the Scottish Ministers may by regulations prescribe.
- (3) The notice relates only to a single period of parking (but this does not prevent the giving of separate notices each specifying different parts of a single period of parking).
- (4) The notice is given to the keeper, by such means as the Scottish Ministers may by regulations prescribe, within the period of 28 days following the period of 28 days beginning with the day after that on which the notice to driver was given.

- (5) When it is given, the notice is accompanied by any evidence prescribed under section 101.

#### **100 Giving of notice to keeper without giving notice to driver**

- (1) A notice which is to be relied on as a notice to keeper for the purposes of section 97(1)(b) is given in accordance with this section if the following requirements are met.
- (2) The notice contains such information as the Scottish Ministers may by regulations prescribe.
- (3) The notice relates only to a single period of parking (but this does not prevent the giving of separate notices each specifying different parts of a single period of parking).
- (4) The notice is given to the keeper, by such means as the Scottish Ministers may by regulations prescribe, within the period of 14 days beginning with the day after that on which the period of parking to which the notice relates ended.
- (5) When it is given, the notice is accompanied by any evidence prescribed under section 101.

#### **101 Notices to keeper: accompanying evidence**

- (1) The Scottish Ministers may by regulations prescribe evidence which must accompany a notice which is to be relied on as a notice to keeper for the purposes of section 97(1)(a) or section 97(1)(b) (as the case may be).
- (2) The regulations may, in particular, make provision as to—
- (a) the means by which any prescribed evidence is to be generated or otherwise produced (which may include a requirement to use equipment of a kind approved for the purpose by a person specified in the regulations), or
  - (b) the circumstances in which any evidence is, or is not, required to accompany a notice to keeper.

#### **102 Third condition: keeper's details obtained from Secretary of State**

- (1) The third condition for the purposes of section 95 is that—
- (a) the creditor (or a person acting for or on behalf of the creditor) has made an application for the keeper's details in relation to the period of parking to which the unpaid parking charges relate,
  - (b) the application was made during the period mentioned in section 99(4) (where notice to the driver has been given) or 100(4) (where no notice to the driver has been given), and
  - (c) the information sought by the application is provided by the Secretary of State to the applicant.
- (2) The third condition applies only if the vehicle is a registered vehicle.
- (3) In subsection (1)(a), “application for the keeper's details” means an application for the following information to be provided to the applicant by virtue of regulations made under section 22(1)(c) of the Vehicle Excise and Registration Act 1994—
- (a) the name of the registered keeper of the vehicle during the period of parking to which the unpaid parking charges relate, and

- (b) the address of that person as it appears on the register (or, if that person has ceased to be the registered keeper, as it last appeared on the register).

**103      Fourth condition: display of notices on relevant land**

- (1) The fourth condition for the purposes of section 95 is that any applicable requirements prescribed under this section were met as regards the relevant land at the beginning of the period of parking to which the unpaid parking charges relate.
- (2) The Scottish Ministers may by regulations prescribe requirements as to the display of notices in relevant land where parking charges may be incurred in respect of the parking of vehicles on the land.
- (3) The provision made under subsection (2) may, in particular, include provision—
  - (a) requiring notices of more than one kind to be displayed on relevant land,
  - (b) as to the content or form of any notices required to be displayed,
  - (c) as to the location of the notices required to be displayed.