Transport (Scotland) Act 2019

2019 asp 17

PART 8

RECOVERY OF UNPAID PARKING CHARGES

Key concepts

91 Meaning of "relevant obligation"

In this Part, "relevant obligation" means—

(a) an obligation arising under the terms of a relevant contract, or

(b) an obligation arising, in circumstances in which there is no relevant contract, as a result of a trespass or other delict committed by parking the vehicle on the relevant land.

92 Meaning of "parking charge"

(1) In this Part, "parking charge" means—

(a) in the case of a relevant obligation arising under the terms of a relevant contract, a sum in the nature of a fee or charge,

(b) in the case of a relevant obligation arising as a result of a trespass or other delict, a sum in the nature of damages,

however the sum in question is described.

(2) The reference to a sum in the nature of damages is to a sum of which adequate notice was given to drivers of vehicles (when the vehicle was parked on the relevant land).

(3) For the purposes of subsection (2), "adequate notice" means notice given by—

(a) the display of one or more notices in accordance with any applicable requirements prescribed in regulations under section 103 for, or for purposes including, the purposes of subsection (2), or

(b) where no such requirements apply, the display of one or more notices which—

(i) specify the sum as the charge for unauthorised parking, and

(ii) are adequate to bring the charge to the notice of drivers who park vehicles on the relevant land.

93 Meaning of "relevant contract"

In this Part, "relevant contract" means a contract (including a contract arising only when the vehicle was parked on the relevant land) between the driver and a person who is—

(a) the owner or occupier of the land, or

(b) authorised, under or by virtue of arrangements made by the owner or occupier of the land, to enter into a contract with the driver requiring the payment of parking charges in respect of the parking of the vehicle on the land.

94 Meaning of "relevant land"

(1) In this Part, "relevant land" means any land (including land above or below ground level) other than—

(a) a public road within the meaning of section 151(1) of the Roads (Scotland) Act 1984,

(b) a parking place which is provided or controlled by the Secretary of State, the Scottish Ministers or a local authority,

(c) any land, not falling within paragraph (a) or (b), on which the parking of a vehicle is subject to statutory control.

(2) In subsection (1)(b), "parking place" has the meaning given by section 32(4)(b) of the Road Traffic Regulation Act 1984.

(3) For the purposes of subsection (1)(c), the parking of a vehicle on land is "subject to statutory control" if any enactment imposes a liability (whether criminal or civil, and whether in the form of a fee or charge or a penalty of any kind) in respect of the parking on that land of vehicles generally or of vehicles of a description that includes the vehicle in question.