

Parking (Code of Practice) Act 2019

CHAPTER 8

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Parking (Code of Practice) Act 2019

2019 CHAPTER 8

An Act to make provision for and in connection with a code of practice containing guidance about the operation and management of private parking facilities; and for connected purposes. [15th March 2019]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Code of practice

1 Parking code

(1) The Secretary of State must prepare a code of practice containing guidance about the operation and management of private parking facilities.

(2) The code must contain, among other things—

(a) guidance that promotes good practice in the operation and management of private parking facilities, and

(b) guidance about appeals against parking charges imposed by, or on behalf of, persons providing private parking facilities.

(3) For the purposes of this section "good practice" means such practice in the operation or management of private parking facilities as appears to the Secretary of State to be desirable having regard to the interests of persons using such facilities.

2 Parking code: procedure

(1) Before preparing a code under section 1, the Secretary of State must consult—

(a) persons who appear to the Secretary of State to represent the interests of those who provide, operate or manage private parking facilities,

(b) persons who appear to the Secretary of State to represent the interests of those who use, or may use, private parking facilities, and

(c) such other persons as the Secretary of State considers appropriate.

(2) After preparing a code under section 1, the Secretary of State must lay the code before Parliament.

(3) If, within the 40-day period, either House of Parliament resolves not to approve the code—

(a) the code is not to be issued, and

(b) the Secretary of State must prepare another code under section 1.

(4) If no such resolution is passed within that period, the Secretary of State must issue the code.

(5) A code issued under subsection (4) comes into force at the end of the period of 21 days beginning with the day on which it is issued.

(6) In this section "the 40-day period" means the period of 40 days beginning with the day on which the code is laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the 2 days on which it is laid).

(7) In calculating the 40-day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.

3 Review and revision of parking code

(1) The Secretary of State must keep the parking code under review.

(2) The Secretary of State may—

(a) prepare an alteration to the parking code, or

(b) prepare a replacement code under section 1.

(3) Section 2 (other than subsection (3)(b)) applies to an alteration prepared under this section (and to the preparing of such an alteration) as it applies to a code prepared under section 1 (and to the preparing of such a code).

4 Publication of parking code

(1) The Secretary of State must publish each code issued under section 2(4).

(2) Where an alteration of the parking code is so issued, the Secretary of State must publish either—

(a) the alteration, or

(b) the parking code as altered by it.

5 Effect of parking code

(1) A failure on the part of any person to act in accordance with any provision of the parking code does not of itself make that person liable to any legal proceedings in any court or tribunal.

(2) But the Secretary of State must have regard to a failure to act in accordance with the parking code when deciding—

(a) whether to disclose any particulars contained in the register to a person under regulation 27 of the Road Vehicles (Registration and Licensing) Regulations 2002 (S.I. 2002/2742);

(b) whether a person should be, or should continue to be, an accredited parking association.

(3) A person is an "accredited parking association" for the purposes of this Act if—

(a) the person ("the association") represents the interests of persons who provide, operate or manage private parking facilities, and

(b) the Secretary of State considers that it is appropriate for particulars contained in the register to be disclosed to persons who are members of the association.

(4) In this Act "the register" means the record kept by or on behalf of the Secretary of State of the vehicles registered under section 21 of the Vehicle Excise and Registration Act 1994.

(5) The parking code is admissible in evidence in any legal proceedings.

6 Delegation of functions

(1) The Secretary of State may—

(a) enter into an agreement with a public authority authorising the authority to perform any functions of the Secretary of State under sections 1 to 4 (other than the function of laying a code or alteration before Parliament);

(b) enter into an agreement with a person authorising that person to perform any functions relating to investigating whether persons have failed to act in accordance with the parking code.

(2) An agreement under this section may provide for payments to be made by the Secretary of State in respect of the performance of a function.

(3) An agreement under this section—

(a) may be cancelled by the Secretary of State at any time, and

(b) does not prevent the Secretary of State from performing a function to which the agreement relates.

(4) A person authorised by an agreement under this section to perform a function may not authorise any other person to perform that function.

(5) Where by virtue of this section a public authority prepares a code under section 1, or an alteration under section 3, the authority must—

(a) consult the Secretary of State, and

(b) submit the code or alteration to the Secretary of State for approval.

(6) Once the Secretary of State has approved the code or alteration, the Secretary of State must lay the code or alteration before Parliament (and section 2(3) to (7) applies accordingly).

Appeals

7 Appeals against parking charges

(1) This section applies if the parking code contains guidance recommending that all parking appeals are dealt with by a single person who is independent of persons providing private parking facilities.

(2) The Secretary of State may, for the purpose of enabling or facilitating persons to act in accordance with that guidance, enter into an agreement with any person who appears to the Secretary of State to be so independent for that person to deal with parking appeals.

(3) An agreement under this section may provide—

(a) for payments to be made by the Secretary of State in respect of dealing with parking appeals;

(b) for the person to have power to charge fees, payable by persons providing private parking facilities, for dealing with parking appeals;

(c) for the maximum amount of any fee chargeable by virtue of paragraph (b).

(4) A person authorised by an agreement under this section to deal with parking appeals may not authorise any other person to perform that function.

(5) In this section "parking appeals" means appeals against parking charges imposed by, or on behalf of, persons providing private parking facilities.

Levy

8 Levy for recovery of administrative and investigation costs

(1) The Secretary of State may make regulations requiring accredited parking associations to pay a levy for the purposes of meeting costs incurred, or expected to be incurred, in connection with—

(a) the discharge of the Secretary of State's functions under this Act;

(b) investigating whether persons have failed to act in accordance with the parking code;

(c) where the Secretary of State has entered into an agreement with a person under section 7 (appeals against parking charges), the establishment and maintenance by the person of a service for dealing with parking appeals (within the meaning of that section).

(2) The provision that may be made by regulations under subsection (1) includes, among other things—

(a) provision for determining the amount of levy payable by an accredited parking association;

(b) provision as to the times at which, or periods in respect of which, levy is to be paid;

(c) provision as to the person or persons to whom levy is to be paid;

(d) provision about the manner in which levy is to be paid;

(e) provision for interest to be charged (at a rate specified in, or determined in accordance with, the regulations) in respect of unpaid amounts of levy;

(f) provision for levy, together with any interest charged, to be recoverable as a debt;

(g) provision about the consequences of any failure to pay levy, including (among other things) provision for such failure to be taken into account when making a relevant decision (see subsection (4));

(h) provision for the making of repayments of levy in specified circumstances.

(3) The provision that may be made by regulations under subsection (1) also includes, among other things—

(a) provision requiring specified information to be provided by an accredited parking association in connection with the determination of the amount of levy to be paid by the association;

(b) provision about the consequences of non-compliance with provision under paragraph (a), including (among other things)—

(i) provision enabling the making of assumptions as to the information that would otherwise have been provided by the association;

(ii) provision for such non-compliance to be taken into account when making a relevant decision (see subsection (4));

(c) provision about certification of the accuracy of information provided by virtue of paragraph (a);

(d) provision requiring specified information to be provided to accredited parking associations;

(e) provision about the manner and timing of the provision of information under the regulations;

(f) provision requiring the publication by specified persons of specified information.

(4) In this section—

"relevant decision" means—

(a) a decision whether to disclose any particulars contained in the register to a person under regulation 27 of the Road Vehicles (Registration and Licensing) Regulations 2002 (S.I. 2002/2742);

(b) a decision whether a person should be, or should continue to be, an accredited parking association;

"specified" means specified in regulations under subsection (1).

Supplementary and final provisions

9 Regulations

(1) Any power to make regulations under this Act is exercisable by statutory instrument.

(2) Regulations under section 8(1) may—

(a) make different provision for different purposes;

(b) contain incidental, supplemental, consequential or transitional provision or savings;

(c) provide for a person to exercise a discretion in dealing with any matter.

(3) A statutory instrument containing regulations under section 8(1) is subject to annulment in pursuance of a resolution of either House of Parliament.

10 Interpretation

(1) In this Act—

"accredited parking association" has the meaning given by section 5(3);

"parking charge" has the meaning given by subsection (2);

"the parking code" means the code issued under section 2(4) (as altered or replaced from time to time);

"private parking facilities" means facilities for the parking of vehicles on relevant land;

"public authority" means a public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal;

"the register" has the meaning given by section 5(4);

"relevant land" has the meaning given by subsection (3);

"vehicle" means a mechanically-propelled vehicle or a vehicle designed or adapted for towing by a mechanically-propelled vehicle.

(2) "Parking charge" has the meaning given by paragraph 2 of Schedule 4 to the Protection of Freedoms Act 2012 (recovery of unpaid parking charges), but in relation to Scotland that paragraph has effect for the purposes of this Act with the following modifications—

(a) references to tort are to be read as references to delict,

(b) in paragraph 2(3), paragraph (a), and the words "where no such requirements apply," in paragraph (b), are to be treated as omitted, and

(c) "relevant land" has the meaning given by subsection (3) below.

(3) "Relevant land" has the meaning given by paragraph 3 of Schedule 4 to the Protection of Freedoms Act 2012, but in relation to Scotland that paragraph has effect for the purposes of this Act with the following modifications—

(a) the reference in paragraph 3(1)(a) to a highway maintainable at the public expense is to be read as a reference to a public road within the meaning of section 151(1) of the Roads (Scotland) Act 1984,

(b) the reference in paragraph 3(1)(b) to a parking place which is provided or controlled by a traffic authority is to be read as a reference to a parking place provided or controlled by—

(i) the Secretary of State,

(ii) the Scottish Ministers, or

(iii) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, and

(c) the reference in paragraph 3(4) to an Act is to be taken to include an Act of the Scottish Parliament.

11 Application to the Crown

(1) This Act binds the Crown and applies in relation to any Crown land as it applies in relation to any other land.

(2) For the purposes of this section "Crown land" means land an interest in which—

(a) belongs to Her Majesty in right of the Crown or in right of Her private estates,

(b) belongs to Her Majesty in right of the Duchy of Lancaster,

(c) belongs to the Duchy of Cornwall,

(d) belongs to a government department or is held in trust for Her Majesty for the purposes of a government department, or

(e) belongs to an office-holder in the Scottish Administration or is held in trust for Her Majesty for the purposes of the Scottish Administration by such an office-holder.

(3) In subsection (2)—

(a) the reference to Her Majesty's private estates is to be read in accordance with section 1 of the Crown Private Estates Act 1862;

(b) "office-holder in the Scottish Administration" has the meaning given by section 126(7) of the Scotland Act 1998.

12 Commencement, extent and short title

(1) The following provisions of this Act come into force on the day on which this Act is passed—

(a) section 9 and this section;

(b) any power to make regulations under this Act.

(2) The remaining provisions of this Act come into force on such day as the Secretary of State may by regulations appoint.

(3) Regulations under subsection (2) may—

(a) appoint different days for different purposes;

(b) contain incidental, supplemental, consequential or transitional provision or savings.

(4) This Act extends to England and Wales and Scotland.

(5) This Act may be cited as the Parking (Code of Practice) Act 2019.

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