



**TRANSPORT
SCOTLAND**
CÒMHDHAIL ALBA

Pavement, Double & Dropped Kerb Parking Standards Guidance

Enforcement Chapters

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CHAPTER 1

Introduction

The Transport (Scotland) Act 2019 (“the Act”) was passed by the Scottish Parliament on 10th October 2019, receiving Royal Assent on 15th November 2019. The Act provides local authorities with powers to enforce the new National parking prohibitions introduced by the Act. The new prohibitions place restrictions on pavement parking, double parking and parking at dropped kerbs at known crossing points.

This guidance has been developed in association with the Parking Standards Group which was set up by Transport Scotland in 2018 as an advisory group for the purpose of designing the new parking prohibitions. This group includes representatives from a wide range of stakeholders including local authorities, COSLA, SPT, Living Streets Scotland, Cycling Scotland and the Mobility and Access Committee Scotland (MACS).

This guidance is designed to be the second of two documents and gives advice on the types of issue local authorities should consider when issuing Penalty Charge Notices (PCNs) for the enforcement of the new parking prohibitions. The first guidance document was issued to the Parking Standards Group in December 2022 along with Ministerial Directions and [The Pavement Parking Prohibition \(Exemption Orders Procedure\) \(Scotland\) Regulations 2022](#). This gave guidance on the areas local authorities need to consider if they wish to exempt areas of pavement from the parking prohibitions. In due course both of these documents will be amalgamated into one document.

Purpose

The key aim of the Act is to improve accessibility, particularly for vulnerable road users, by allowing walkers and wheelers the ability to use pavements and dropped kerbs without being impeded by parked vehicles.

Provision was made in the Act for Ministers to issue written guidance to local authorities following consultation with such persons as they consider appropriate. Both “Parking Standards” publications set out Ministerial guidance to local authorities to aid consistent operation and enforcement of the pavement parking, double parking and dropped kerb parking prohibitions.

The Act states that a local authority must have regard to any written guidance issued by Scottish Ministers about the exercise of functions conferred on them by the Act. It also states that Scottish Ministers must publish any such guidance in such a manner as they consider appropriate as soon as reasonably practicable after it is given.

Ministerial guidance

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.

Figure 1 – Extract from The Transport (Scotland) Act 2019

Pre-Transport (Scotland) Act 2019 Legislation

Parking in Scotland is regulated by primary and secondary legislation, including the Road Traffic Regulation Act 1984, the Roads (Scotland) Act 1984, the Road Traffic Act 1991, the Road Traffic Act 1988 as well as Traffic Regulation Orders (TROs) made by roads authorities.

Because of the wealth of legislation, there was often confusion as to what was prohibited and who was responsible for enforcement in certain areas. For example, it was illegal to drive on a pavement but not illegal to park there unless causing an obstruction. The Transport (Scotland) Act 2019 included national prohibitions on pavement, dropped kerb & double parking in order to clarify this confusion and make it clear that you can be subject to a PCN for these types of inconsiderate parking offences.

CHAPTER 2

Pavement Parking

The Act includes provision to restrict the parking of a vehicle on “a pavement”. A “pavement” means a footway or footpath. This is commonly referred to as a ban on parking on the “pavement” or “footway” and this national ban covers all of Scotland. The Act also makes provision for local authorities to apply exemptions to areas of footway if certain criteria are met. Local authorities cannot put in place blanket exemptions and must consider each street on its individual merits while considering it in the context of the immediate area. The powers to make Exemption Orders are set out in section 51 of the Act, supported by regulations made under Section 52 of the Act which govern the process for making such orders.

The measures within the Act do not take precedence over existing Traffic Regulation Orders. For example, a delivery vehicle cannot make use of a 20 minute exemption to park on a pavement to unload where an existing double yellow line TRO is already in place.

In addition to the possibility of making Exemption Orders, there are also some exceptions to the parking prohibitions set out in the Act as detailed below.

Pavement Parking Exceptions

It was recognised through the development of the Act that there may be circumstances in which it is necessary or expedient for motor vehicles being used by certain bodies, or in certain circumstances, to park on the pavement. Therefore, the Act provides that the motor vehicles and trailers being used as described below in figure 2 are excepted from the restriction:

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—

(12)(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,

(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.

Figure 2 – Extract from The Transport (Scotland) Act 2019

In respect of the exceptions above we have had previous discussions with local authorities on how they should enforce these and wish to provide some clarity on the common issues raised below:

‘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)’

In order to be clear that a vehicle isn't within the 1.5 metres mentioned above it would be good practice for local authorities to equip all enforcement officers with a suitable measuring device such as a measuring tape or clearly marked foldable measuring chart to ensure that the minimum distance has been contravened. Photographic evidence of this could be recorded if a local authority felt it was necessary for clarity of the contravention.

‘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.’

Although generally we would not expect an observation period to be required in respect of a pavement parking violation, this one exception may require a period of monitoring before a PCN is issued. If a delivery/collection is being actively undertaken and only in the exceptional circumstances where no other parking area is reasonably practicable, then a delivery driver may park partially on the pavement for no longer than 20 minutes to undertake that task. A distance of 1.5 metres of pavement must also be left clear so that pedestrians can pass by on the pavement.

If an active delivery/collection is observed that meets the above exception regulations, an enforcement officer will wish to ensure that the 20 minute time limit is not being exceeded.

CHAPTER 3

Double Parking

The Act includes provision to restrict parking on the carriageway otherwise than adjacent to the edge of the carriageway. This parking is commonly referred to as double parking. Within the Act a vehicle is classed as double parked if no part of the vehicle is within 50 centimetres of the edge of the carriageway.

Double parking is restricted across Scotland although, as with the pavement parking restriction, certain specified motor vehicles being used in the specified manner will be exempted from the double parking restriction. Please see below an extract from the Act which details the 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.

Figure 3 – Extract from The Transport (Scotland) Act 2019

Double Parking Exceptions

As with the pavement parking prohibition, the same exceptions also apply to the double parking prohibition. Details of the exceptions can be found in Chapter 2 of this document.

CHAPTER 4

Dropped Footway Parking

The Act includes provision to restrict parking at dropped kerbs at known crossing points.

The policy restricts a vehicle being parked on a carriageway adjacent to a footway where, for the purpose of assisting pedestrians or cyclists to cross the carriageway, the footway has been lowered to meet the level of carriageway, or the carriageway has been raised to meet the level of the footway. This does not apply to dropped kerbs which form the entrance to a driveway or a garage whether on commercial or residential premises.

The following extract details the 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).*

Figure 4 – Extract from The Transport (Scotland) Act 2019

Dropped Footway Parking Exceptions

Similarly to the pavement parking and double parking prohibitions, there are also exceptions to the dropped footway parking prohibition. It is acknowledged that there may be circumstances in which it is necessary for motor vehicles being used in certain circumstances, to park adjacent to a dropped kerb. It should also be noted that parking next to a drop kerb in front of the access to a driveway that is not a known crossing point is also permitted. The Act therefore ensures the prohibition does not apply in the circumstances described below:

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.

Figure 5 – Extract from The Transport (Scotland) Act 2019

CHAPTER 5

Enforcement of the Parking Prohibitions

Enforcement

The Act allows Scottish Ministers to make provision in connection with the enforcement of the parking prohibitions. The detail of the procedure is set out in Regulations made under the Act. Section 59 states:

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, 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 the 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.*

Figure 6 – Extract from The Transport (Scotland) Act 2019

This chapter examines in more detail the process provided to enable local authorities to enforce the parking prohibitions on roads in their area, which is similar to the

existing enforcement regime in respect of Decriminalised Parking Enforcement (DPE).

Who is Liable to Pay a Penalty Charge Notice

The enforcement process is set out in The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023 and the relevant sections are shown below and details who a penalty charge is payable by:

Person by whom a penalty charge is to be paid

3.—(1) *A penalty charge is payable by a person other than the registered keeper of the relevant vehicle in the circumstances specified in paragraphs (2) to (5).*

(2) *Where the relevant vehicle is not registered in terms of section 21 (registration of vehicles) of the Vehicle Excise and Registration Act 1994(b), a penalty charge is payable by the person by whom the relevant vehicle was used or kept at the time of the contravention.*

(3) *Where the registered keeper sold or transferred the relevant vehicle before the time of the contravention, a penalty charge is payable by the person by whom the relevant vehicle was used or kept at the time of the contravention.*

(4) *Where at the time of the contravention—*

- (a) the registered keeper of the relevant vehicle was a vehicle hire firm, and*
- (b) the relevant vehicle was hired to a person under a hiring agreement with the vehicle hire firm, a penalty charge is payable by the person hiring the relevant vehicle.*

(5) *Where at the time of the contravention the relevant vehicle was used or kept by a person who was a vehicle trader and that vehicle trader was not the registered keeper, a penalty charge is payable by that person.*

(6) *In this regulation—*

“hiring agreement” means an agreement for the hire of a vehicle—

- (a) under the terms of which the vehicle is let to the hirer for a fixed period of any duration (whether or not that period is capable of extension by agreement between the parties or otherwise),*
- (b) which contains such particulars as may for the time being be prescribed for the purpose of section 66 (hired vehicles) of the Road Traffic Offenders Act 1988(a), and*
- (c) which is not a hire-purchase agreement within the meaning given to that term by section 189(1) (definitions) of the Consumer Credit Act 1974(b),*

“vehicle trader” has the same meaning as in regulation 3(1) (interpretation) of the Road Vehicle (Registration and Licensing) Regulations 2002(c).

Figure 7 – Extract from The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

Steps an Enforcement Officer Must Take

The extract below from the Regulations details the steps an authorised Enforcement Officer must take when issuing a PCN:

Penalty charge notices: notification by authorised enforcement officer

4.—(1) Where an authorised enforcement officer has reason to believe that a penalty charge is payable in respect of a contravention, that officer may give notification of the penalty charge by—

- (a) fixing a penalty charge notice to the relevant vehicle, or
- (b) giving a penalty charge notice to the person appearing to the authorised enforcement officer to be in charge of the relevant vehicle.

(2) A penalty charge notice given under this regulation must contain the information set out in paragraph 2 of the schedule.

Figure 8 – Extract from The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

Interference With a Penalty Charge Notice and When a Charge is Not Payable

The extract below from the Regulations details the steps a local authority can take if someone has removed or interfered with a PCN fixed to a vehicle and circumstances where a charge is not payable or is to be refunded:

Removal of, or interference with, a penalty charge notice

7.—(1) A penalty charge notice fixed to a vehicle in accordance with regulation 4(1)(a) must not be removed or interfered with except by or under the authority of—

- (a) the registered keeper or person in charge of the vehicle, or
- (b) the local authority.

(2) A person who contravenes paragraph (1) is—

- (a) guilty of an offence, and
- (b) liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Circumstances in which a charge is not payable or is to be refunded

8.—(1) No penalty charge is payable in relation to a contravention where the conduct in respect of which the penalty charge is imposed is the subject of—

- (a) criminal proceedings,
- (b) a fixed penalty notice (within the meaning of section 52(1) (fixed penalty notices) of the Road Traffic Offenders Act 1988), or
- (c) a penalty charge notice issued under section 66(1) (parking penalties in London) of the Road Traffic Act 1991(a) (as applied by an order under paragraph 1 or 2 of schedule 3 of that Act).

(2) Where, despite paragraph (1)—

- (a) a penalty charge is paid in respect of a contravention, and
- (b) the conduct in respect of which the penalty charge is imposed is the subject of proceedings or a notice as mentioned in paragraph (1)(a) to (c),

the local authority must, as soon as reasonably practicable after the circumstances in subparagraph (b) come to its notice, refund the amount of the penalty charge which has been paid.

Figure 9 – Extract from The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

Local Authorities Without Decriminalised Parking Enforcement

The Act allows local authorities to enter into arrangements with others, whether that be other local authorities or third party companies, to enforce the parking prohibitions on the local authority's behalf. Section 64 states:

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).

Figure 11 – Extract from The Transport (Scotland) Act 2019

It is up to each local authority to decide what the best method is for enforcing the parking prohibitions. Below are some examples of how a local authority can undertake enforcement:

In-House

A local authority may wish to carry out in-house enforcement of the parking prohibitions. This option may suit local authorities who have existing parking attendants employed to manage their off-street car parks.

Outsourcing

A local authority may wish to outsource enforcement to a third party while keeping in mind any decisions throughout the enforcement process that the local authority would prefer to keep internal.

Shared Service

There are a number of local authorities in Scotland that have expertise and vast experience of processing PCNs. Some of these authorities may have sufficient resources available to accommodate additional demand should a local authority wish to share services with a neighbouring local authority.

Mixed Approach

This is an option for local authorities who may wish to outsource the back office required for processing a PCN to the private sector while the enforcement of the parking prohibitions is kept in-house.

Enforcement of the Trunk Road Network

Scottish Ministers do not have powers to undertake any type of enforcement in relation to parking matters and are therefore reliant on a partnership with local authorities to ensure that parking measures are enforced on trunk roads. Local authorities are able to enforce the new parking prohibitions on areas of trunk road which do not fall under their direct remit as roads authority but are in the local authority area. This type of enforcement would only normally occur in built up areas where a trunk road passes through a city, town or village.

This type of collaboration is already common place where local authorities have DPE powers and enforce existing Traffic Regulation Orders on part of the trunk road network.

Enforcement on Private Roads

In addition to the section above on enforcement of the trunk road network, local authorities may also wish to note that the pavement parking prohibition applies to 'pavements' and the prohibition can be enforced by the local authority in their area. Pavement means footpath or footway as defined in section 151(2) of the Roads (Scotland) Act 1984. That section refers to footways and footpaths over which there is a public right of passage which differs to the definition of a public road.

As the prohibition applies to pavements over which there is a public right of passage by foot only, in particular circumstances this may apply to a private road.

Enforcement on verges

Local authorities may wish to note, that in circumstances where a pavement is associated with a carriageway and there is a verge between the carriageway and the pavement, it is possible to issue a PCN for parking on that verge. This is not the case where there is no pavement associated with the carriageway.

As an example the car pictured below could be subject to enforcement action as they have parked on the verge between a pavement and the carriageway that the pavement is associated with:



CHAPTER 6

Penalty Charge Notices (PCNs)

The Act allows Scottish Ministers to make provision in connection with the imposition of penalty charges, setting the amounts of those charges and provide for surcharges and discounts. The detail of these charges is set out in the Regulations made under the Act.

Section 58 of the Transport (Scotland) Act 2019 enables all 32 local authorities to issue a PCN for a contravention of the parking prohibitions, whether they operate DPE regimes or not. Section 58 states:

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.

Figure 12 – Extract from The Transport (Scotland) Act 2019

This chapter examines in more detail the level of PCN for a contravention of the parking prohibitions as well as any discounts and surcharges. Two flow charts appear in the annexes to this document which shows the procedures that should be followed when a PCN is issued by an enforcement officer (**Annex B**) or issuing an Enforcement Notice via the post when the issuing of a PCN has been started but the officer is unable to complete the process (**Annex C**).

Enforcement Notice Via Post When PCN Issue Not Possible

The regulations allow for an Enforcement Notice to be issued via post in certain circumstances where the issuing of a PCN has been started but could not be finished. For example, if an Enforcement Officer has started to draft a ticket for pavement parking but the vehicle is moved before the issuing of the PCN is complete, the local authority have the option of issuing an Enforcement Notice via the post should they wish. It would be prudent for Enforcement Notices to be issued via recorded delivery in light of the fact that this will be the first contact the vehicle owner had received in respect of the contravention. More information and the wording of the regulations is covered in Chapter 7 below.

Penalty Charge Notice Levels

The PCN levels, discounts and surcharges are set out in [The Parking Prohibitions \(Enforcement and Accounts\) \(Scotland\) Regulations 2023](#) and the relevant sections are shown below. It should be noted that this is a set level that must be charged for the three new parking prohibitions:

<i>Amount of penalty charge</i>
<i>2.—(1) The penalty charge payable in respect of a contravention is £100.</i>
<i>(2) If a penalty charge is paid before the end of a period of 14 days beginning with the date on which notice of a penalty charge is given under regulation 4 or served under regulation 5, the penalty charge is reduced by 50 percent.</i>
<i>(3) Where a charge certificate is served under regulation 9(2), the penalty charge is increased by 50 percent.</i>

Figure 13 – Extract from The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

The extract above from the Regulations details the PCN levels for a contravention of the parking prohibitions. The table below sets out the discount a member of the public would receive if they paid a PCN within 14 days and the surcharges if paid late.

Paid within 14 Days	Paid between 15 days and service of Notice to Owner	Paid between issue of Notice to Owner and service of charge certificate	Paid after service of charge certificate
£50	£100	£100	£150

Table 1

Number of PCNs to be Issued Per Calendar Day

A local authority may wish to only issue one PCN per calendar day, if the vehicle remains in the same location. In instances where a vehicle has parked illegally and received a PCN, then moved to a separate location and parked illegally again, a local authority may consider issuing more than one PCN per calendar day.

Information to be Included in PCNs

The below Schedule details the information to be included in PCNs where the authorised enforcement officer has affixed the PCN to a vehicle or handed to the driver of the vehicle. Where they have attempted to issue a PCN but have been prevented from doing so or the vehicle has driven away, the local authority may issue an Enforcement Notice without issuing a PCN or applying a discount period. This is covered in more detail in Chapter 7 below:

SCHEDULE – Information to be included in notices

Meaning of “regulatory matters”

1. In this schedule “the regulatory matters” means—

- (a) the name of the local authority,*
- (b) the registration mark of the vehicle involved in the alleged contravention,*
- (c) the date on and the time at which the alleged contravention occurred,*
- (d) the amount of the penalty charge, and*
- (e) the manner in which the penalty charge must be paid.*

Information to be included in a penalty charge notice given under regulation 4

2. A penalty charge notice given under regulation 4 must—

- (a) specify the date on which the notice is given,*
- (b) include the regulatory matters,*
- (c) specify the grounds on which the authorised enforcement officer issuing the notice believes that a penalty charge is payable,*
- (d) state that the penalty charge must be paid within the period of 28 days beginning with the date on which the alleged contravention occurred,*
- (e) state that if the penalty charge is paid before the end of a period of 14 days beginning with the date of notice being given of the penalty charge, the penalty charge will be reduced by 50 percent,*
- (f) state that if the penalty charge is not paid within the period of 28 days referred to in subparagraph (d), an enforcement notice under regulation 6 may be served by the local authority on the registered keeper of the vehicle or such other person as mentioned in regulation 3,*

(g) state that a person on whom an enforcement notice under regulation 6 is served may, in accordance with these Regulations, make representations to the local authority against the decision to serve that notice and, if those representations are rejected, appeal to the First tier Tribunal,

(h) state that if, before an enforcement notice under regulation 6 is served, representations against the penalty charge are received at such postal or e-mail address as may be specified in the notice given under regulation 4, those representations will be considered by the local authority, and

(i) state that if an enforcement notice under regulation 6 is served despite the representations mentioned in sub-paragraph (h) having been made, representations against the decision to serve the enforcement notice must be made in the form and manner and within the timescale specified in the notice served under regulation 6.

Figure 14 – Extract from The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

Photographic Evidence

The need for photographic evidence is not a requirement included within The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023. However, a local authority may wish to take photographic evidence of a contravention of the parking prohibitions contained in the Transport (Scotland) Act 2019.

Contravention Codes

Transport Scotland advise all local authorities to use the following contravention codes for the new parking prohibitions in order to ensure consistency across all local authority areas. We have also included suggested W codes for any warning notices that local authorities may wish to issue.

Code	Suffixes	Description
100		Parked on a pavement
101		Parked adjacent to dropped kerb at a known crossing point.
102		Parked where no part of the vehicle is within 50 centimetres of the edge of the carriageway.
W100		Warning notice - Parked on a pavement.
W101		Warning notice - Parked adjacent to dropped kerb at a known crossing point.
W102		Warning notice - Parked where no part of the vehicle is within 50

		centimetres of the edge of the carriageway.
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Table 2

CHAPTER 7

Enforcement Notice & Charge Certificates

Enforcement Notice

An Enforcement Notice can be served in a number of circumstances such as, when a PCN has not been paid (covered under Regulation 6), or where the serving of a PCN wasn't possible after the process of serving the PCN had begun (covered under Regulation 5). We will take each of these circumstances in turn and look at what the regulations say regarding when an Enforcement Notice should be issued and what should be included in such a notice.

The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023 lays out in full when an Enforcement Notice can be issued and what should appear on such a notice.

Where Payment is Not Made Following a PCN Being Issued to a Vehicle or Driver

Where a PCN has been issued and not paid, the procedure for serving an Enforcement Notice is laid out below:

Enforcement notices: service where payment is not made following notification under regulation 4

6.—(1) This regulation applies where—

- (a) notification of a penalty charge has been given under regulation 4, and
- (b) the period of 28 days specified in the notice as the period within which the penalty charge is to be paid has expired without that charge being paid.

(2) Where this regulation applies, an enforcement notice may be served on—

- (a) the registered keeper of the relevant vehicle, or
- (b) a person by whom the penalty charge is payable under regulation 3.

(3) An enforcement notice served under this regulation must contain the information set out in paragraph 4 of the schedule.

Figure 15 – Extract from The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

An Enforcement Notice must contain the information as laid out in the Schedule below:

Information to be included in an enforcement notice served under regulation 6

4. An enforcement notice served under regulation 6 must—

- (a) specify the date of the notice, which must be the date on which it is posted,

- (b) include the regulatory matters,*
- (c) specify the date on which the penalty charge notice was given under regulation 4,*
- (d) specify the grounds on which the authorised enforcement officer who gave the penalty charge notice under regulation 4 believed that a penalty charge was payable,*
- (e) state that the penalty charge must be paid within the payment period, unless representations have been made under regulation 10(1),*
- (f) state that representations may be made, on any of the grounds specified in regulation 10(4), to the local authority against the decision to serve the enforcement notice, but that representations made outside the payment period may be disregarded,*
- (g) specify the form in which representations must be made and the manner in which they must be submitted,*
- (h) state the amount of the increased charge which may be payable if, before the end of the relevant period determined under regulation 9(3)—*
 - (i) the penalty charge is not paid, or*
 - (ii) no representations have been made in accordance with regulation 10(1),*
- (i) state that if representations made under regulation 10(1) are rejected, an appeal may be made to the First-tier Tribunal against the decision to serve an enforcement notice on any of the grounds specified in regulation 10(4).*

Figure 16 – Extract from the Schedule to The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

Where an Enforcement Officer Has Started the Process of Issuing a PCN But Was Unable to Complete the Serving of That PCN

Where the serving of a PCN had started but the Enforcement Officer was unable to serve the PCN, the local authority may decide to issue an Enforcement Notice by post to the keeper of the vehicle. We would recommend that this is done via recorded delivery given this is the first time the keeper will have been notified of the infringement. The procedure for serving an Enforcement Notice under these circumstances is laid out in the regulations shown below:

Enforcement notices: service where notification under regulation 4 is not completed

- 5.—(1) *This regulation applies where—*
- (a) an authorised enforcement officer attempted to give a penalty charge notice in accordance with regulation 4 but was prevented from doing so by any person, or*
 - (b) an authorised enforcement officer had begun to prepare a penalty charge notice to be given in accordance with regulation 4, but the relevant vehicle was driven away from the place where it was stationary before the officer had finished preparing the notice or had given it in accordance with regulation 4.*
- (2) For the purposes of paragraph 1(b), an authorised enforcement officer who observes conduct which appears to constitute a contravention is not because of that observation to be taken to have begun to prepare a penalty charge notice.*

(3) Where this regulation applies, an enforcement notice may be served on— (a) the registered keeper of the relevant vehicle, or (b) a person by whom the penalty charge is payable under regulation 3.

(4) An enforcement notice served under this regulation must contain the information set out in paragraph 3 of the schedule.

(5) An enforcement notice served in accordance with this regulation must be served before the end of the period of 28 days beginning with the contravention date.

Figure 17 – Extract from The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

An Enforcement Notice must contain the information as laid out in the Schedule below:

Information to be included in an enforcement notice served under regulation 5

3. An enforcement notice served under regulation 5 must—

(a) specify the date of the notice, which must be the date on which it is posted,

(b) include the regulatory matters,

(c) specify the grounds on which the local authority believes that a penalty charge is payable,

(d) state that the penalty charge must be paid within the payment period, unless representations have been made under regulation 10(1),

(e) state that if the penalty charge is paid before the end of a period of 14 days beginning with the date of service of the enforcement notice, the penalty charge will be reduced by 50 percent,

(f) state that the enforcement notice is being served by post for whichever of the following reasons applies—

(i) because an authorised enforcement officer attempted to serve a penalty charge notice by affixing it to the vehicle or giving it to the person in charge of the vehicle in accordance with regulation 4 but was prevented from doing so by some person,

(ii) because an authorised enforcement officer had begun to prepare a penalty charge notice for service in accordance with regulation 4 but the vehicle was driven away from the place in which it was stationary before the authorised enforcement officer had finished preparing the penalty charge notice or had served it in accordance with that regulation,

(g) state that representations may be made, on any of the grounds specified in regulation 10(4), to the local authority against the decision to serve the enforcement notice, but that representations made outside the payment period may be disregarded,

(h) specify the form in which representations must be made and the manner in which they must be submitted,

(i) state the amount of the increased charge which may be payable if, before the end of the relevant period determined under regulation 9(3)—

(i) the penalty charge is not paid, or

(ii) no representations have been made in accordance with regulation 10(1),

(j) state that if representations made under regulation 10(1) are rejected, an appeal may be made to the First-tier Tribunal against the decision to serve an enforcement notice on any of the grounds specified in regulation 10(4).

Figure 18 – Extract from the Schedule to The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

Charge Certificates

Where an Enforcement Notice has previously been issued and no payment has been received, the local authority may issue a Charge Certificate. The level of fine increases from £100 to £150 at this stage. The circumstances of when a Charge Certificate can be issued is laid out in the regulations and shown below:

Charge certificates

9.—(1) This regulation applies where—

- (a) an enforcement notice is served on a person, and*
- (b) the penalty charge to which it relates is not paid before the end of the relevant period.*

(2) Where this regulation applies, the local authority that served the enforcement notice may serve on that person a statement (a “charge certificate”) to the effect that the penalty charge to which the notice relates is increased by 50 percent.

(3) The “relevant period” for the purposes of paragraph (1) means—

- (a) where a notice of rejection is served under regulation 11(3) but no appeal is made under regulation 12, the period of 28 days beginning with the date of service of the notice of rejection,*
- (b) where there has been an unsuccessful appeal against the service of an enforcement notice to the First-tier Tribunal and no subsequent application for review, or review, of the First tier Tribunal’s decision or appeal to the Upper Tribunal, the period of 28 days beginning with the date on which the decision of the First-tier Tribunal is sent to the appellant,*
- (c) where an application for review of the decision of the First-tier Tribunal in an appeal against the service of an enforcement notice has been rejected and there has been no subsequent appeal to the Upper Tribunal, the period of 28 days beginning with the date on which the decision rejecting the application for review is sent to the applicant,*
- (d) where there has been an unsuccessful review of the decision of the First-tier Tribunal in an appeal against the service of an enforcement notice and no subsequent appeal to the Upper Tribunal, the period of 28 days beginning with the date on which the decision refusing the review is sent to the applicant,*
- (e) where there has been an unsuccessful appeal against the service of an enforcement notice to the Upper Tribunal, the period of 28 days beginning with the date on which the decision of the Upper Tribunal is sent to the appellant,*
- (f) where an appeal to either the First-tier Tribunal or Upper Tribunal is withdrawn, the period of 14 days beginning with the date on which it is withdrawn,*
- (g) where no representations are made under regulation 10(1) within the payment period, that period.*

(4) If representations are received by a local authority after the payment period and taken account of under regulation 10(3), the local authority must cancel a charge certificate served under paragraph (2).

(5) Where in relation to an enforcement notice—

- (a) the relevant period for the purposes of paragraph (1) has expired, and*
- (b) the increased charge for which the charge certificate provides is not paid before the end of the period of 14 days beginning with the date on which the certificate is served,*

the local authority may recover the increased charge as if it were payable under an extract registered decree arbitral bearing a warrant for execution issued by the sheriff for any sheriffdom.

Figure 19 – Extract from The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

CHAPTER 8

Roles and Responsibilities

Parking Attendants

Under the Transport (Scotland) Act 2019, local authorities are responsible for considering any representations against PCNs. Consistently high enforcement standards should keep the number of representations at a minimum.

Local authorities should make it clear to parking attendants that their job is to enforce the parking prohibitions fairly with a view to achieving high levels of compliance. This means that local authorities need to ensure that parking attendants, whether employed or contracted, are:

- Competent and willing;
- Supervised effectively; and
- Properly trained and clearly instructed about their conduct.

Training

Local authorities should ensure that all parking attendants, including supervisors and managers are properly trained to enforce the parking prohibitions fairly, accurately and consistently. This requirement applies whether the parking attendants are employed by the local authority or through a third party.

As part of the training, it is recommended that local authorities should make sure that parking attendants understand all the primary and secondary legislation associated with the parking prohibitions. This includes understanding the detail of the pavement parking, double parking and dropped kerb parking legislation as well as any exemptions and exceptions to the prohibitions.

Local authorities should ensure that the training given to parking attendants equips them with the interpersonal, conflict resolution and communication skills needed to perform their jobs effectively and without undue stress or personal danger. Parking attendants should undergo regular refresher training. Training will be based on existing qualifications, but local authorities should look to supplement these with further training relevant to local needs and policies.

The following training list may be useful for parking attendants and third parties:

- Introduction to the role and duties of parking attendants;
- Understanding the objectives of the new parking prohibitions and how the system works in practice;
- The different type of parking prohibition contraventions;
- The PCN level for contraventions of the parking prohibitions;
- Exceptions to the parking prohibitions;
- Exemptions orders promoted by the local authority;
- Use of hand-held computers;

- The vehicle registration system, including foreign and diplomatic registrations;
- Requirements concerning parking attendants' uniforms;
- Dealing with the general public, including conflict management and aggressive motorists;
- The need to operate within the law and, in particular, not to break traffic regulations whilst enforcing them; and
- The adjudication service, including the preparation of witness statements.

Equipment

Hand-held Devices

Parking attendants typically use a hand-held device to issue PCNs. However, to ensure business continuity, they should still be able to write them by hand if necessary.

Each local authority will be best placed to decide how they issue PCNs for contraventions of the parking prohibitions in their area.

Body Cameras

Local authorities may wish to consider using body cameras to provide additional evidence of a parking contravention and service of the PCN.

Local authorities may also wish to consider the use of body cameras for health and safety reasons and for training purposes. The footage captured may also be used as secondary evidence for adjudication purposes.

Digital Cameras

In addition to body cameras, local authorities may wish to take photographs from digital cameras to help reduce the potential for appeals. They reduce the likelihood of an appeal and if an appeal is held, they improve the speed and quality of justice. The cameras may be particularly useful in cases where, for example, a vehicle is not parked correctly within a marked bay for an Exemption Order or one or more of its wheels contravenes the parking legislation. They can also be useful to rebut claims that a PCN was not attached to a vehicle.

Uniforms

The uniform should be readily distinguishable from those worn by the police, and clearly show:

- That the wearer is engaged in parking enforcement;
- The name of the local authority/authorities on whose behalf the enforcement officer is acting; and
- A personal identity number

When undertaking enforcement action, a parking attendant must be clearly identifiable and in full uniform.

For local authorities with DPE powers, it is expected that existing uniforms would be utilised.

CHAPTER 9

Representations and Appeals

The Act allows Scottish Ministers to make provision in connection with the enforcement of the parking prohibitions. The detail of the procedure is set out in the Regulations made under the Act.

This chapter examines in more detail the grounds for representation that can be made to a local authority, what a local authority must consider in the response to any representations received and information about when a member of the public can lodge an appeal to the First-tier Tribunal for Scotland.

Representations

In the first instance, if a recipient of a PCN wishes to appeal, they may do so by submitting formal written representations to the local authority that issued the PCN. If the local authority rejects the representations, it must issue a Notice of Rejection.

The extract below from the Regulations details the specific grounds a recipient can make representations to the local authority about if they feel that a PCN for one of the new parking prohibitions has been issued in error:

Representations against an enforcement notice

10.—(1) *The recipient of an enforcement notice may make representations within the payment period to the local authority against the decision to serve that notice on any of the grounds specified in paragraph (4).*

(2) *Where representations are made under paragraph (1), the recipient of the enforcement notice must include any available evidence relevant to the specified ground relied upon.*

(3) *The local authority may, if it considers it appropriate to do so, take account of representations made under paragraph (1) which are received by them after the end of the payment period.*

(4) *The specified grounds are—*

(a) *that the alleged contravention did not occur,*

(b) *that the penalty charge exceeds the amount payable in the circumstances of the case,*

(c) *that the penalty charge—*

(i) *is payable by a person other than the registered keeper of the relevant vehicle, and*

(ii) *is instead payable by a person specified in regulation 3,*

(d) *that the recipient—*

(i) *never was the registered keeper of the relevant vehicle, or*

(ii) *became the registered keeper after the alleged contravention occurred,*

(e) *that at the time that the alleged contravention occurred, the relevant vehicle was in the control of a person who did not have the consent of the registered keeper,*

(f) *that the conduct in respect of which the penalty charge is imposed is the subject of proceedings or a notice as mentioned in regulation 8(1)(a) to (c),*

(g) *that the enforcement notice should not have been served because—*

(i) the penalty charge has been paid in full, or

(ii) in the circumstances specified in regulation 2(2), the reduced penalty charge has been paid before the end of the period of 14 days specified in that regulation,

(h) that, in the case of an enforcement notice which is served under regulation 5(1)(a), no person prevented an authorised enforcement officer from—

(i) fixing a penalty charge notice to the relevant vehicle, or

(ii) handing such a notice to the person appearing to the officer to be in charge of the relevant vehicle,

(i) that, in the case of an enforcement notice which is served under regulation 5(1)(b), an authorised enforcement officer had not begun to prepare a penalty charge notice when the relevant vehicle was driven away,

(j) that, whether or not any of the grounds specified in paragraph (4)(a) to (i) apply, there are compelling reasons why, in the particular circumstances of the case, the local authority should cancel the penalty charge and refund any sum paid to it on account of the penalty charge.

(5) Where the ground mentioned in paragraph (4)(c) is relied on in any representations made under paragraph (1), those representations must (if the information is known by the recipient) include a statement of the name and address of the person who is considered by the recipient of the penalty charge notice to be responsible for payment of the penalty charge.

Figure 20 – Extract from The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

A person responsible for the vehicle (usually the keeper of the vehicle) may appeal the issuing of a PCN following its receipt, or if a notice to the registered keeper has been served, or when formal representation has been rejected by the local authority. In this case, the recipient may appeal against the Enforcement Notice to the First-tier Tribunal for Scotland.

It is important that local authorities resolve any appeals with the registered keeper of the vehicle at the earliest possible stage and should always give representations a fair and impartial consideration.

It is also important that good quality data is readily available to staff who are considering any appeals to PCNs.

This means that parking staff have access to all appropriate information, including:

- A copy of the original PCN data;
- Any photographic evidence;
- Parking attendant's notes;
- Up to date keeper details;
- Any relevant TROs or Exemption Orders;
- Equipment maintenance records;
- Records of the condition of lines and signs; and
- Any other similar information which could be helpful.

Where necessary, local authorities may find it appropriate to check the conditions of signs and lines on-site, as there can often be appeals on the basis of a lack of signage or faded road markings.

Local authorities should act fairly and proportionately when exercising their powers under Section 10(6) (j) of the Regulations to cancel a PCN, if deemed to be appropriate based on the circumstances of the case.

Response to Representations

The extract below from the Regulations details what a local authority should consider when responding to any representations:

Response to representations

11.—(1) *Where representations are made to a local authority under regulation 10(1) within the payment period, or taken account of by the local authority under regulation 10(3), it must—*

- (a) consider those representations and any supporting evidence provided,*
- (b) serve on the person by whom the representations were made a notice under paragraph (2) or, as the case may be, paragraph (3).*

(2) Where a local authority accepts that at least one of the grounds specified in regulation 10(4) is established, it must—

- (a) cancel the enforcement notice,*
- (b) serve a notice on the person by whom the representations were made—*
 - (i) stating that the enforcement notice has been cancelled,*
 - (ii) explaining the local authority's decision, and its reasons for that decision, on each of the grounds on which representations were made, 7*
- (c) refund any penalty charge paid in relation to the cancelled enforcement notice.*

(3) Where a local authority is satisfied that none of the grounds on which representations are made is established, it must serve on the person by whom those representations were made a notice of rejection.

(4) The notice of rejection must—

- (a) state the reasons for the local authority's decision on each ground on which representations were made,*
- (b) state that an appeal against the decision to serve an enforcement notice may be made to the First-tier Tribunal within the appeal period, or such longer period as the First-tier Tribunal may allow,*
- (c) state the grounds upon which an appeal may be made (being the same grounds as are specified in regulation 10(4)),*
- (d) describe in general terms the manner and form for making an appeal,*
- (e) state that the First-tier Tribunal has power to make an award of expenses,*
- (f) state that unless, before the end of the appeal period—*
 - (i) the penalty charge is paid, or*
 - (ii) an appeal is made to the First-tier Tribunal against the decision to serve an enforcement notice,*

the local authority may issue a charge certificate under regulation 9(2) (and describe the effect of that regulation were it to do so).

(5) The cancellation of an enforcement notice under this regulation does not prevent the local authority from serving a new enforcement notice on another person (other than the person on whom the original enforcement notice was served).

(6) Regulation 5 applies in relation to a notice served under paragraph (5) as if—

(a) for paragraph (5) there were substituted—

“(5) An enforcement notice given in accordance with this regulation must be served before the end of the period of 28 days beginning with the date on which notification of cancellation of an enforcement notice is given under regulation 11(2).”

(b) for sub-paragraph (a) of paragraph (6) there were substituted—

“(a) within 14 days of the date on which notification of cancellation of an enforcement notice is given, a local authority has made a request to the Secretary of State for the supply of relevant information.”,
and

(c) in paragraph (6)(b), the reference to paragraph (5) were a reference to that paragraph as modified by sub-paragraph (a) of this paragraph.

(7) In this regulation and regulation 12—

“the appeal period” means the period of 28 days beginning with the date of service of the notice of rejection.

Figure 21 – Extract from The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

If a local authority accepts one of the grounds of representations, they must cancel the Enforcement Notice, send a notice to the person who made the representation, advising that the Enforcement Notice has been cancelled, explaining the local authority’s decision and refund any monies paid.

If a local authority feels that none of the grounds of representation are met, they must issue a notice of rejection. The notice of rejection must contain the information detailed in 4 (a) to (f) from the extract above.

Local authorities can apply discretion to late representations and it is advisory that where a vehicle owner provides a valid reason for the delay and has strong grounds for representations, then discretion should be applied.

The need for cancellation policies to cover the use of discretion is recommended. When a motorist accepts that the contravention did occur, but argues that the PCN should be cancelled on grounds of extenuating circumstances, individual local authorities will have the choice of exercising discretion.

Appeals to the First-Tier Tribunal for Scotland

The extract below details when a member of the public can appeal to the FTT:

<p><i>Appeal to the First-tier Tribunal</i></p> <p><i>12. A person on whom an enforcement notice has been served may, on any of the grounds set out in regulation 10(4) and before the end of the appeal period, or such longer period as the First tier Tribunal may allow, appeal to the First-tier Tribunal against the decision to serve an enforcement notice if—</i></p> <p style="padding-left: 40px;"><i>(a) that person has made representations to the local authority under regulation 10(1), and</i></p> <p style="padding-left: 40px;"><i>(b) that person has received from the local authority a notice of rejection under regulation 11(3).</i></p>
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Figure 22 – Extract from The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

The recipient of the Notice of Rejection may appeal to the First-tier tribunal for Scotland and must do within 28 days of the date of receipt of the Notice of Rejection.

An appeal may be made on any of the grounds which may form the basis of representations made to the local authority and the local authority must have issued the notice of rejection as per the regulations before an appeal can be lodged.

Further details on how to appeal a PCN to the FTT can be found at:

<https://generalregulatorychamber.scot/home/transportappeals/before-you-appeal>

The Rules of Procedure for the First-tier Tribunal and information on decisions, review of decisions and the consideration of applications for permission to appeal to the Upper Tribunal can be found within [The First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Appeals \(Rules of Procedure\) Regulations 2020](#).

CHAPTER 10

Accounts

Keeping and Publication of Accounts

The Act allows Scottish Ministers to make provision in connection with the keeping and publication of accounts in relation to the enforcement of the parking prohibitions. The detail of the procedure is set out in the Regulations made under the Act. Section 66 states:

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.*

Figure 23 – Extract from The Transport (Scotland) Act 2019

This chapter examines in more detail the keeping of accounts by local authorities, what any surplus made can be applied to and the publication of a statement of account.

Accounts and application of surplus

13.—(1) *A local authority must—*

(a) prepare a statement of account showing, for each financial year—

- (i) their income and expenditure in connection with their functions under Part 6 of the Act,*
- (ii) how any surplus in such an account has been applied,*

(b) publish the statement of account, in such manner as is required by proper accounting practices, in the annual accounts of the authority for the financial year,

(c) send a copy of the statement of account to the Scottish Ministers.

(2) *A statement of account prepared under this regulation must be—*

- (a) based on adequate accounting records, and*
- (b) in such form as is required by proper accounting practices.*

(3) *A local authority may apply any surplus in the account only for the purposes—*

- (a) of facilitating the local authority's local transport strategy,*
- (b) specified in section 55(4)(b) to (d) (financial provisions relating to designation orders) of the Road Traffic Regulation Act 1984(a).*

(4) *In this regulation—*

“adequate accounting records” has the meaning given in regulation 6 (accounting records and control systems) of the Local Authority Accounts (Scotland) Regulations 2014(b),

“local transport strategy” has the meaning given in section 82(1) (interpretation) of the Transport Scotland Act 2001(c),

“proper accounting practices” has the meaning given in section 12(2) (proper accounting practices) of the Local Government in Scotland Act 2003(d),

“surplus” means the amount of money (if any) by which the gross amount received by the local authority in charges under Part 6 of the Act for a financial year exceeds the expenditure incurred by the local authority during that year in connection with their functions under that Part.

Figure 24 – Extract from The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023

In relation to the statement of accounts, local authorities will be expected to provide their annual statement to the Road Policy Team in Transport Scotland by September/October to enable the Scottish Ministers to produce their annual report by the end of the calendar year. This will tie in with the current DPE reporting schedule. That will allow Transport Scotland to collate all enforcement information for the parking prohibitions and DPE to produce a comprehensive report covering all types of PCNs.

As noted in the extract above, a local authority may apply any surplus for the purposes of facilitating the local authority’s local transport strategy or the transport related purposes specified in sections 55 (4)(b) to (d) of the Road Traffic Regulation Act 1984. Not all local authorities in Scotland have a local transport strategy, therefore in those instances the local authority may only use the surplus for the transport related purposes detailed in the Road Traffic Regulation Act 1984.

Regular and consistent reporting allows for transparency and should assist the public in understanding the enforcement process. Monitoring also helps us to evaluate and identify where there is a need for improvement in the legislation and regulations.

Specifically in relation to the parking prohibitions, the information that local authorities will be required to provide for the statement of account should include:

- The number of Penalty Charge Notices (PCNs) issued by each local authority, these should be broken down by pavement parking, double parking or parking at dropped kerbs;
- Breakdown of income and expenditure costs in the enforcement of the new parking prohibitions;
- Set up costs for local authorities;
- Total surplus or deficit for enforcement of the parking prohibitions; and
- Details on how any financial surplus has been spent.

The information provided by all local authorities will be used for an annual report, which will be published by Scottish Ministers. A template has been provided below and this will be issued to all local authorities in due course for completion before the end of 2024 and thereafter annually.

Annex A

Template of Statement of Accounts

TRANSPORT (SCOTLAND) ACT 2019 – PARKING PROHIBITIONS – INCOME AND EXPENDITURE – 202X/XX

Local Authority:

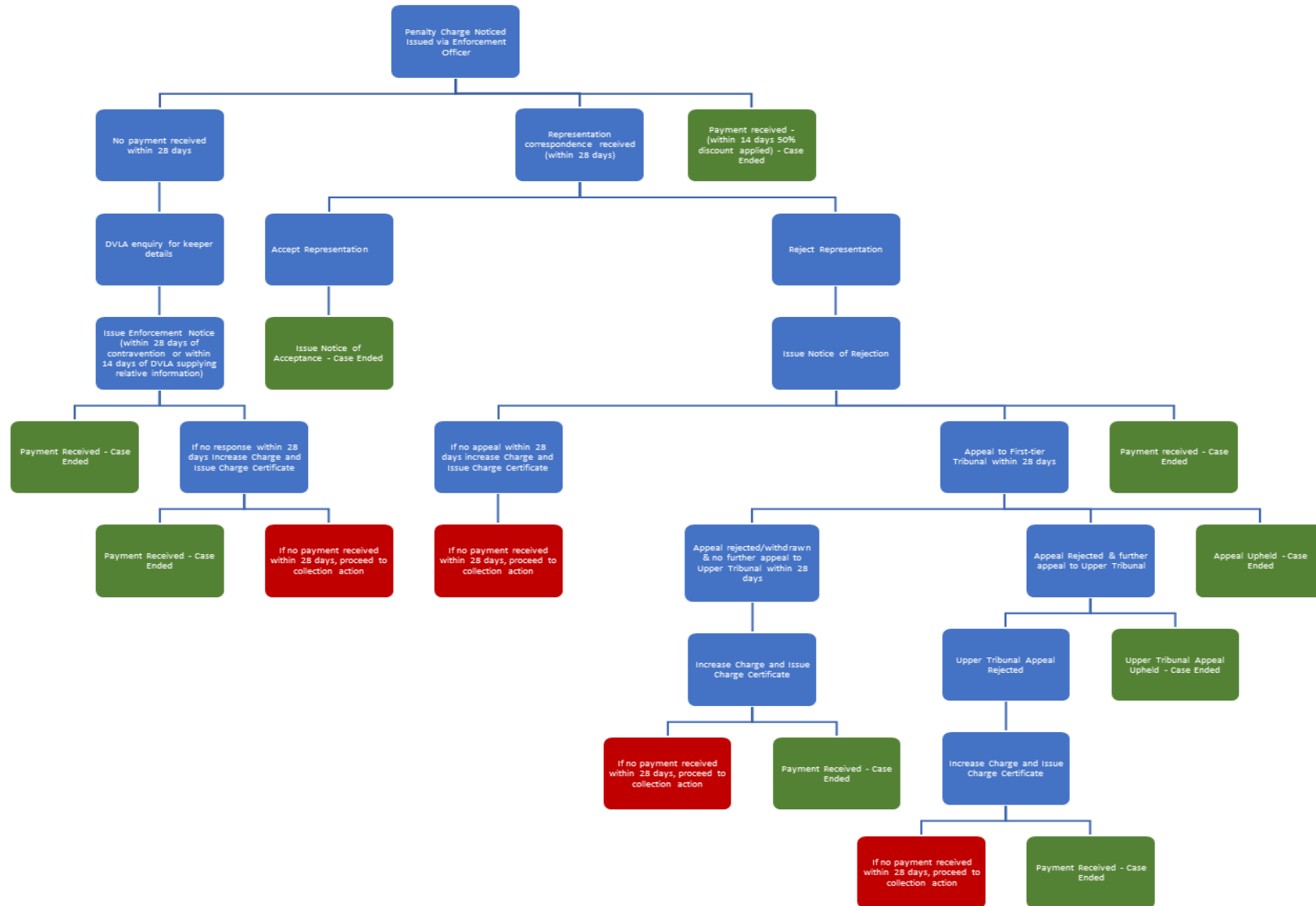
No. of tickets issued for 202X/XX	
No. of Penalty Charge Notices for Pavement Parking	
No. of Penalty Charge Notices for Double Parking	
No. of Penalty Charge Notices for Parking at Dropped Kerbs	

Income and Expenditure (£)	
Income generated from PCNs	
Expenditure from enforcing the parking prohibitions	

Information on what surplus income was used for (if applicable)

Figure 25

Annex B – PCN Issued by Enforcement Officer



Annex C – PCN issued via Post

