



Vehicle Clamping Act 2015

Complaints Procedure

Deireadh Fogmhair/October 2017

1. Introduction

The Vehicle Clamping Act 2015 provides for the regulation by the National Transport Authority (NTA) of vehicle clamping activities throughout the State. Among the matters included in the Act is the establishment of a Complaints Procedure (or Procedure) to consider complaints from members of the public.

The NTA has adopted this Procedure in accordance with the Act and all parking controllers and clamping operators are required to fully adhere to the provisions of the Procedure.

There is no fee payable by any person who wishes to make a complaint in accordance with this Complaints Procedure.

2. Glossary of Terms

“Act” means the Vehicle Clamping Act 2015;

“clamp” means a device or appliance designed or adapted for fixing to a vehicle for the purpose of preventing it from being driven or otherwise put in motion;

“clamping” means fixing a clamp to a parked vehicle;

“clamping activities” means, clamping, removing a clamp from a vehicle, relocating a vehicle and imposing charges;

“clamping operator” means a person who is authorised by a parking controller to carry out clamping activities on behalf of the parking controller and includes an employee of a clamping operator or any other person engaged by a clamping operator to carry out such activities on his or her behalf and, in respect of clamping activities carried out under section 101B of the Road Traffic Act 1961 (as inserted by section 32 of the Vehicle Clamping Act 2015, includes a clamping officer (within the meaning of that section); and

“parking controller”, in relation to a clamping place, means the person who as regards that clamping place is responsible for enforcement of the law or rules applicable to parking in that place, but does not include a member of An Garda Síochána or a traffic warden authorised in that behalf.

In this document, where a masculine pronoun is used it may also refer to the feminine and vice versa as the case may be.

3. Complaints

3.1 Introduction

Any member of the public may make a complaint in respect of any or all of the following-

- The discharge of responsibilities by parking controllers;
- The conduct, behaviour and identification of clamping operators;
- Unnecessary delay on the part of parking controllers or clamping operators in responding to complaints or other communication from members of the public; and
- The identification of vehicles used by clamping operators (including logos, stickers and advertisement on such vehicles).

3.2 Making a Complaint to the NTA

All complaints must be made **in writing and be submitted on the official form** – “Form for Complaint Concerning Clamping” – (available at www.nationaltransport.ie) to the NTA for consideration. Complaints must be made within 60 days of the incident or incidents being complained of.

The completed complaint form (in either Irish or English) should be addressed to-

**Clamping Regulation Section,
National Transport Authority,
1st Floor,
Dún Scéine,
Harcourt Lane,
Dublin 2.**

or it may be sent by e-mail to:

clamping@nationaltransport.ie

The NTA will independently examine and determine complaints made regarding clamping activities as set out above.

The NTA carries out its functions regarding the consideration of complaints entirely independently of the parking controller and its determinations are influenced only by the statutory obligations of the parties concerned and the principles of impartiality, fairness and consistency of approach.

The complainant should ensure that the written complaint is fully comprehensive and includes all matters relevant to the complaint. The complainant may include witness statements, photographs, video recordings, maps, plans etc. with the complaint submission.

The complainant should submit only copies of such documentation as submissions will not be returned. The complainant should retain all original documents.

The NTA will issue a formal acknowledgement of the complaint to the complainant no later than 5 days following its receipt.

3.3 Complaint Process

The complaint will be treated confidentially and considered objectively by the NTA. The NTA will explore fully all relevant issues and documentation provided by the person making the complaint and where the Authority deems it necessary, it will arrange site inspections and/or interviews with the personnel involved in the incident which gave rise to the complaint.

The NTA may request additional information or documentation in relation to the complaint from the complainant or the parking controller or both if it considers that this is necessary in order to fully understand all the circumstances and Authority will specify a reasonable period within which this information or documentation should be submitted.

The NTA may, at its absolute discretion, decide to interview the complainant, witnesses or representatives of the parking controller or the clamping operator, or it may consider that this is not necessary. There will be no obligation on the NTA to provide a personal hearing in any case.

Failure on the part of any party to comply with reasonable requests from the NTA may adversely affect and/or delay the consideration of the complaint with regard to that party.

The NTA, when considering complaints, may have regard to any previous incidences of complaints concerning the particular location, the parking controller, the clamping operator or the complainant or other such matters, if it considers these to be relevant to the complaint under consideration.

3.4 Complaint Determination

On receipt of the complaint and any further requested information and/or documentation, the NTA will consider the matter, make its determination in writing (in hard copy or electronic form or in both forms) and issue written confirmation of this, together with the reasons for the decision, to both the complainant and the parking controller within 28 days of receipt of the complaint or of additional requested information/documentation, or the expiry of the period for receipt of additional requested information/documentation, whichever is the later.

The NTA's decision will be one of the following:

- The complaint is upheld;

- The complaint is partly upheld; or
- The complaint is not upheld.

If the complaint is upheld or partly upheld, the NTA may request the parking controller to-

- Amend procedures to prevent a recurrence of the circumstances which gave rise to the complaint;
- Arrange re-training for the staff involved in the incident;
- Make a small ex gratia payment to the complainant in recognition of any distress, cost or inconvenience that may have been caused by the circumstances which gave rise to the complaint or by the way in which the initial complaint was dealt with by the parking controller; or
- Take such other action as the NTA considers appropriate to address the issue giving rise to the complaint and/or to prevent its reoccurrence.

Where the NTA has made a request that an ex gratia payment be made, this request should be complied with by the parking controller within 14 days of the issue of the decision notification or such other period as the NTA may set out in its determination.

The NTA's determination of a complaint will be final and there will be no further avenue of complaint under this Procedure. The determination does not, however, preclude any party from exercising statutory rights and accessing the courts system.

In cases where a complaint and an appeal of a clamping or relocation decision relate to the same incident, a decision on the complaint will issue only following the completion of the appeal process.

3.5 Records

The NTA will retain all records relating to complaints received for a period of not less than 3 years from the date a decision was made on the complaint. These records may be retained in electronic form only.

4. Note on Enforcement & Proceedings

The NTA is empowered under Part 4 of the Act to appoint persons as authorised persons for the purposes of enforcement of the Act and of regulations and any code of conduct made under the Act. Where necessary the NTA may take proceedings against parking controllers and clamping operators for breaches of their statutory duties. This action may be taken arising from complaints investigated in accordance with the Complaints Procedure or following independent enquiries initiated by the NTA or otherwise arising.