



## **Vehicle Clamping Act 2015**

### **Appeals Procedure**

**April 2019**

## ***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 an Appeals Procedure (or Procedure) to determine appeals from persons whose vehicles have been clamped or relocated.

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

There is no fee payable by any person who wishes to lodge an appeal in accordance with this Appeals Procedure.

A person whose vehicle has been clamped in a clamping place or relocated within or from a clamping place may appeal against the decision to clamp or relocate the vehicle.

A two-stage appeals procedure is in operation; the appellant makes an initial appeal to the parking controller and, if not satisfied by the outcome of that appeal, may submit a further appeal to the Clamping Appeals Officer, who is a person appointed by the NTA to deal with clamping appeals. An appeal may be solely determined by one Clamping Appeals Officer or jointly determined by two or more Clamping Appeals Officers.

## ***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 notice” means a notice affixed to a vehicle in accordance with section 13 of the Act;

“clamping place” means a statutory clamping place or a non-statutory clamping place, or both, as the case may be;

“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; and

“relevant charge” means a clamp release charge or a relocation charge or both.

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

### ***3. Appeals to the Parking Controller (First-Stage Appeals)***

#### **3.1. Introduction**

Any person who wishes to make an appeal against an incidence of clamping activity undertaken in respect of a vehicle owned or under his or her control must make an appeal, in the first instance, to the parking controller involved in the clamping of the vehicle. Details of the parking controller's appeals procedure (including the correspondence address of the parking controller) are provided on the clamping notice and are available from the parking controller. The NTA will assist any person who requires information on how to contact a parking controller in accordance with this Procedure.

#### **3.2 First- Stage Appeal to the Parking Controller**

On request to a parking controller, a printed form of the procedures in place for the purposes of making an appeal will be made available by the parking controller free of charge to any person whose vehicle has been clamped in a clamping place or relocated within or from a clamping place.

The appeal to the parking controller must –

- Be in writing and be posted, hand-delivered to the address of the parking controller or e-mailed or otherwise submitted by electronic means to the parking controller;
- Be submitted no later than 60 days from the date of the occurrence of the clamping activity being appealed;
- Give the name, full postal address, email address (if any) and telephone number of the person making the appeal;
- State the registration number of the vehicle involved;
- Include the date of the clamping incident;
- Provide an adequate description of the location where the incident occurred;
- State clearly the grounds of the appeal; and
- Include any documentation (e.g. witness statements, photographs, video recordings, parking tickets or receipts, doctor's certificate, maps, plans) considered relevant by the person making the appeal. The appellant should submit only copies of such documentation as submissions may not be returned. The appellant should retain all original documents.

### **3.3 Determination by Parking Controller**

The parking controller will consider the matter, make his determination and issue written confirmation of this to the appellant within 21 days of receipt of the appeal.

The parking controller may make one of the following determinations –

- The appeal is allowed and the decision to clamp or relocate the vehicle is revoked;
- The appeal is not allowed; or
- The appeal is not allowed and the decision is confirmed, but having regard to the circumstances, a decision is made to refund the relevant charge in full or in part.

Where the determination is that the appeal is allowed, or the appeal is not allowed but a full or partial refund of the relevant charge is decided, the appropriate refund must be made by the parking controller to the appellant or the person who paid the charge, as appropriate. This payment should be made at the same time as the notification of the result of the appeal is sent to the appellant.

Where the determination is that the appeal is not allowed or is not allowed but a decision is made to issue a partial refund, the parking controller must include adequate information on how the matter may be appealed to the Clamping Appeals Officer in the written notification to the appellant of the appeal decision.

### **3.4 Records**

The parking controller will retain all records relating to appeals received by the parking controller (1<sup>st</sup> stage appeals) for a period of not less than 3 years from the date the appeal was determined. These records may be retained in electronic form only.

## **4. Appeals to the Clamping Appeals Officer (2<sup>nd</sup> Stage Appeals)**

### **4.1 Introduction**

A person who is dissatisfied with the outcome of an appeal to a parking controller may make a further appeal to the Clamping Appeals Officer not later than 30 days after receipt of the parking controller's determination. The Clamping Appeals Officer has been designated by the NTA to independently examine and determine all 2<sup>nd</sup> stage clamping and relocation appeals.

The Clamping Appeals Officer carries out his functions entirely independently of both the parking controller and the NTA and his determinations and orders are guided by the statutory obligations of the parties concerned and the principles of impartiality, fairness and consistency of approach.

The Clamping Appeals Officer can only deal with an appeal which has already been determined by a parking controller. A parking controller is required to accept the determination of the Clamping Appeals Officer in every instance.

### **4.2 Making a Second-Stage Appeal to the Clamping Appeals Officer**

A second-stage appeal must be made by **completing (in either Irish or English) the Form for Appeal to the Clamping Appeals Officer** which is available on the NTA website: [www.nationaltransport.ie](http://www.nationaltransport.ie). The completed and signed<sup>1</sup> form, together with any supporting documentation, should be returned by post to:

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

or it may be sent by e-mail to:

[clamping@nationaltransport.ie](mailto:clamping@nationaltransport.ie)

**The completed and signed form must be received by the NTA within 30 days of receipt by the motorist of the parking controller's letter of determination (decision) on the first-stage appeal.**

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<sup>1</sup> Note that an original signature is required.

The appellant should ensure that the written appeal is clearly legible, fully comprehensive and includes all matters relevant to the appeal. The appellant should provide all documentation relating to the first stage appeal when submitting the completed Form of Appeal to the Clamping Appeals Officer, **including the letter of determination received from the parking controller**. The appellant may also include witness statements, photographs, video recordings, parking tickets or receipts, doctor's certificate, maps, plans etc. with the appeal submission. **The appellant should submit only copies of such documentation as submissions will not be returned.** The appellant should retain all original documents.

When submitting supporting information to [clamping@nationaltransport.ie](mailto:clamping@nationaltransport.ie), the appellant should note that only the following file formats are acceptable: JPEG, GIF, PNG, IMG, MP3, MP4 & MOV. Portable media can also be facilitated subject to appropriate anti-virus measures. It should be noted that the NTA email server will automatically reject emails incorporating files in EXE, DLL or MSI formats. The NTA server will also reject emails which contain other emails.

The appellant is requested to ensure that files are attached to email submissions and not embedded therein. The appellant is also advised that the maximum file size which can be accepted by the NTA in a single email is 35mg (i.e. the total size of the email and any files attached thereto, cannot exceed 35MB).

**The NTA assumes no responsibility for the non-receipt of second-stage appeal submissions which do not adhere to the above guidelines.**

The Clamping Regulation Section will endeavour to issue a formal acknowledgement of receipt of the appeal to the appellant within 5 days of its receipt. However this timeframe may on occasion be impacted by submission volumes.

### **4.3 Second-Stage Appeal Process**

The appeal will be treated confidentially and considered objectively by the Clamping Appeals Officer, who will not have regard to the decision of the parking controller in the matter. The Clamping Appeals Officer will explore fully all relevant issues and documentation provided by the person making the appeal (including submissions made at the 1<sup>st</sup> stage appeal) and where he deems it necessary will carry out site inspections and/or interviews with the personnel involved in the clamping or relocation.

The Clamping Appeals Officer may also require additional information or evidence from the appellant to support specific claims, for example a letter from a doctor, clinic or hospital, copy of disabled parking permit or a letter from a garage. Such additional information or evidence will be requested by, or on behalf of, the Clamping Appeals Officer and a reasonable period within same should be submitted, will be specified. Additional relevant

information or documentation may also be requested from the parking controller, again to be supplied within a reasonable and specified timeframe.

The Clamping Appeals Officer may, at his absolute discretion, decide to interview the appellant, witnesses or representatives of the parking controller or the clamping operator, or he may consider that this is not necessary. There will be no obligation on the Clamping Appeals Officer to provide a personal hearing in any case.

Failure on the part of any party to comply with reasonable requests made by, or on behalf of, the Clamping Appeals Officer may adversely affect the consideration of the appeal with regard to that party and/or delay the making of a determination.

The Clamping Appeals Officer, when considering appeals, may have regard to any previous incidences of appeals concerning the particular location, the parking controller, the clamping operator or the appellant or other such matters, if he considers these to be relevant to the appeal under consideration.

As previously indicated, an appeal may be solely determined by one Clamping Appeals Officer or jointly determined by two or more Clamping Appeals Officers.

#### **4.4 Appeal Determination**

On receipt of the appeal and any further requested information and/or documentation, the Clamping Appeals Officer will consider the matter and make the determination. The determination will address the substantive grounds of appeal and will be issued, by or on behalf of the Clamping Appeals Officer, in writing<sup>2</sup> to both the appellant and the parking controller within 42 days of:

- receipt of the appeal; or
- receipt of additional requested information/documentation; or
- the expiry of the period for receipt of additional requested information/documentation,

whichever is the later.

The Clamping Appeals Officer may make one of the following determinations –

- The appeal is allowed and the decision to clamp or relocate the vehicle is revoked;
- The appeal is not allowed and the decision is confirmed; or
- The appeal is not allowed and the decision is confirmed, but having regard to the circumstances, a full or partial refund of the relevant charge is recommended.

The Clamping Appeals Officer may also make an order as to costs that he considers appropriate in the circumstances.

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<sup>2</sup> In either hard copy or electronic form.

Where the determination is that the appeal is allowed, or the appeal is not allowed but a full or partial refund of the relevant charge is recommended, the appropriate refund must be made by the parking controller to the appellant no later than 14 days following the making of the decision and no administrative fee or other deduction may be applied to the amount refunded.

Where an order as to costs has been made, this order is to be complied with by the relevant party or parties no later than 14 days following the making of the decision or such other period as the Clamping Appeals Officer may set out in the order.

The Clamping Appeals Officer may not hear a clamping or relocation appeal where court proceedings have been brought for unlawful parking until after the proceedings have been withdrawn or concluded. If these proceedings are heard but are dismissed or unsuccessful, the relevant charge must be refunded.

The Clamping Appeals Officer's determination in the case of appeals will be final and there will be no further avenue of appeal under this Procedure. Following notification of the determination, the NTA will not enter into further correspondence with either party in the matter. The determination does not, however, preclude any party from exercising statutory rights and accessing the courts system.

#### **4.5 Records**

The NTA will retain all records relating to 2<sup>nd</sup> stage appeals received for a period of not less than 3 years from the date the appeal was determined. These records may be retained in electronic form only.