



**Clamping Code of Practice
for
Parking Controllers & Clamping Operators**

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1 Introduction

In accordance with Section 12 (1) of the Vehicle Clamping Act 2015, the National Transport Authority ('the NTA') is empowered to establish a Code of Practice to:

- Provide practical guidance to parking controllers and clamping operators regarding compliance with the Act and regulations made under it; and
- Establish standards in relation to the general behaviour, performance of duties and conduct of:
 - Parking controllers in supervising the operations of clamping operators, and
 - Clamping operators in carrying out clamping activities.

Accordingly, the NTA has, having consulted with the Minister for Transport, Tourism and Sport and having published a draft of the proposed code on its website and considered representations received, made this Code of Practice for Parking Controllers and Clamping Operators.

This Code of Practice is intended to supplement the Vehicle Clamping Act 2015 (the 'Act') and the Vehicle Clamping and Signage Regulations 2017 (the 'Regulations') and should be read in conjunction with same. In the event of any apparent discrepancy, the provisions of the Act and the Regulations will apply.

Some of the matters dealt with in the Code are also provided for in the Vehicle Clamping and Signage Regulations 2017; where this arises the relevant provisions are set out to facilitate cross-referencing by the reader.

For convenience, the terminology and definitions prescribed within the Act and the Regulations are utilised in the same manner within this document.

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

This Code shall take effect from **1st January 2020**.

2 Status of the Code of Practice

The NTA expects all parking controllers and clamping operators to fully comply with the provisions of the Act, the Regulations and this Code of Practice and to this end the NTA will work collaboratively with any parking controller or clamping operator who seeks assistance in this regard.

The NTA has powers enabling it to monitor and, if need be, enforce compliance with all matters concerning clamping activities, including those matters addressed solely within this Code of Practice. This can be done by service of fixed payment notices, the issuance of Directions and the institution of Circuit Court proceedings, as appropriate.

The Act provides for the following specific offences / penalties:

- Penal provision of clamping regulations: Class C fine – not exceeding €2,500
- Signage and signage regulations: Class C fine– not exceeding €2,500
- Imposing a charge greater than displayed on sign: Class B fine– not exceeding €4,000
- Imposing a charge greater than the maximum release charges: Class B fine– not exceeding €4,000
- Providing a sign indicating a release charge greater than the maximum release charge: Class B fine– not exceeding €4,000
- Failure to comply with the requirements relating to parking controllers appeal procedure and regulations concerning same: Class B fine– not exceeding €4,000

3 Statutory & Non-Statutory Clamping Places

A clamping place refers to an area within which any of the following activities are in operation:

- Clamping;
- Removing a clamp from a vehicle;
- Relocating a vehicle; or
- Imposing charges associated with the removal of a clamp from a vehicle or the release of a relocated vehicle.

A clamping place is defined within the Act and the Regulations as a 'statutory clamping place' or a 'non-statutory clamping place', or both as the case may be.

Section 2 of the Act further defines a 'statutory clamping place' as meaning:

- (a) A public road where clamping activities are carried out in accordance with section 101B of the Road Traffic Act, 1961,
- (b) An airport where clamping activities are carried out under bye-laws made under section 15(3)(o) of the State Airports Act 2004,
- (c) Land belonging to or occupied by Córas Iompar Éireann where clamping activities are carried out under bye-laws made under section 22(1)(ee)(ii) of the Transport Act 1950,
- (d) A fishery harbour centre where clamping activities are carried out under bye-laws made under section 4(2)(aa) of the Fishery Harbour Centres Act 1968,
- (e) A harbour where clamping activities are carried out under bye-laws made under section 42(1A)(b) of the Harbours Act 1996,
- (f) A place where clamping activities are carried out under section 66A of the Transport (Railway Infrastructure) Act 2001, and
- (g) Such other places as may be specified by the Minister under section 5 where clamping activities are carried out under an enactment¹.

Section 2 of the Act also defines a 'non-statutory clamping place' as clamping place, other than a statutory clamping place, where clamping activities are undertaken i.e. all clamping places other than those defined in points (a) to (g) above.

¹ No such place has as yet been specified by the Minister.

4 Parking Controllers or Clamping Operators?

One of the principal complexities that has faced the parking industry since the introduction of the suite of clamping legislation is the nature of the role held in respect of each clamping place where services are provided. The Act introduced two core roles - that of the 'parking controller' and that of the 'clamping operator' - and attributed specific responsibilities to each. However, many of the contracts held by members of the industry for parking enforcement services predate the legislation and consequently don't speak clearly to the aforementioned roles.

Per the Act a parking controller in relation to a clamping place means the person who is responsible for enforcement of the law or rules applicable to parking in that place (but does not include a member of the Garda Síochána or a traffic warden authorised in that behalf). The parking controller has a range of specific responsibilities, which include:

- Establishment of procedures to enable a person whose vehicle has been clamped to appeal that decision (the first-stage appeal process)². The parking controller is required to consider any such (first-stage) appeals within 21 days of receipt of the appeal and to issue a determination in writing to the motorist. A parking controller who fails to comply with the above requirements commits an offence, and
- Provision of signage which satisfies the requirements of Section 11 of the Act and Part 5 of the Regulations.

The Act defines a 'clamping operator' as 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, includes a clamping officer (within the meaning of that section).

The clamping operator also has a range of specific responsibilities, which include:

- Detection of vehicles in a clamping place which are parked in breach of the applicable laws and rules,
- Immobilisation and / or relocation of vehicles so detected,

² In this regard it is noted that some parking controllers contract responsibility for the processing of first-stage appeal process to clamping operators. This is not considered a breach of the Act as the parking controllers concerned have still satisfied their obligation to put 'procedures in place' to enable the motorist raise a first-stage appeal.

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- Provision of the prescribed details to both An Garda Síochána and the parking controller in the event of any vehicle relocations in non-statutory clamping places,
 - Removal of the clamp / release of the relocated vehicle within specific timeframes following receipt of the 'relevant charge'³,
 - Collation of evidence of the unlawful or wrongful parking which gave rise to the clamping/ relocation event, and
 - Adherence to the uniform and identification requirements of the legislation.
 - Both the parking controller and the clamping operator have responsibilities as regards:
 - The provision of means to facilitate immediate payment of a clamp release fee / relocation fee, and
 - Records retention, amongst other items.

It is entirely possible for a company to discharge the role of both the parking controller and the clamping operator in a clamping place. However, in the interest of ensuring clarity for all parties, the NTA recommends that industry members engage with their respective clients to determine the nature of the existing contractual relationship in respect of each individual clamping place. The NTA further recommends that going forward industry members have regard to the roles prescribed in the legislation when contracting to undertake clamping activities.

The NTA may request information from a parking controller or clamping operator as regards the role discharged by them in respect of a given clamping place and such requests shall be facilitated.

³ The 'relevant charge' is defined in Section 2 of the Act as meaning the clamp release charge or relocation charge or both.

5 Information for the industry

5.1 Practical Guidance for Compliance with the Clamping Legislation

The following sections purport to provide practical guidance to parking controllers and clamping operators in their endeavours to comply with the legislation.

5.1.1 Written Authorisation

Any person carrying out clamping activities on lands must:

- Be the beneficial owner of those lands or in the case of a statutory clamping place be the body established under statute having charge of the clamping place; or
- Have authorisation to carry out clamping activities on those lands in written or electronic form from the owner or in the case of a statutory clamping place from the body established under statute having charge of the clamping place.

The authorisation must:

- Define the lands on which clamping activities can take place (the “clamping place”), so that the boundaries are clearly shown;
- Set out any conditions or restrictions on clamping activities including hours of operation, if applicable;
- State any conditions or restriction on the types of vehicles that may or may not be subject to clamping activities – note that certain vehicles may not be the subject of clamping activities – these are set out in section 14 of the Act and are listed in the Prohibition on Clamping and Relocating section of this Code of Practice (these do not need to be listed in the authorisation document);
- Set out responsibilities for the erection and maintenance of signage;
- Confirm that all clamping activities on the lands will be carried out in accordance with the Act, the Regulations and this Code of Practice.

The NTA, or an authorised person⁴, may request evidence of ownership of the lands and/or evidence of authorisation from time to time and the parking controller or the clamping operator is required to comply with such requests.

⁴The role and powers of Authorised Persons are set out in Part 4 of the Act.

Parking controllers and clamping operators should ensure that this documentation is in place prior to undertaking clamping activities.

5.1.2 Signage

This section of the Code of Practice purports to offer guidance as regards a parking controller's responsibility to provide signage in a clamping place under its control (other than a public road) which complies with the mandatory requirements specified in:

- (a) Section 11 of the Act; and
- (b) Part 5 of the Regulations 2017 (hereafter referred to as 'Part 5').

The objective of this guidance is to ensure (a) sufficient awareness by motorists of clamping activities within the area and (b) parking controller compliance with Part 5. Recommendations as regards best practice in providing maximum clarity to motorists concerning the presence of clamping activities within a clamping place are also incorporated within this section.

However, it must be noted that fundamental responsibility for ensuring the clarity of the key terms, conditions, restrictions, prohibitions and charges conveyed by the text on signage in a clamping place lies with the parking controller.

A clamping place refers to an area within which clamping, removing a clamp from a vehicle, relocating a vehicle, or imposing charges associated with removal of a clamp from a vehicle or relocation of a vehicle are in operation. Part 5 of the Regulations has applied since 1st April 2018, and relates to a clamping place other than a public road.

Part 5 of the 2017 Regulations apply to any parking controller who is responsible for enforcement of the rules applicable to parking in the clamping place. Parking controllers must therefore ensure that clamping related signage within the clamping place is compliant with Part 5 of the 2017 Regulations.

There are two main types of clamping information signs:

- **Entrance signage:** to be located at all vehicular entrances to a clamping place, providing key information to motorists relating to clamping activities upon their entry to the area. In

addition to entrance signage, pedestrian exit signage may be required in certain locations, as detailed under the Entrance Signage heading of this document.

- **Additional signage:** to be provided within a clamping place to provide sufficient notification to motorists and persons of the presence of clamping activities. Given there are a number of different parking controllers nationwide, the design and specification of signs within different clamping places may vary. Notwithstanding such variances, Part 5 of the Regulations sets out a parking controller's specific requirements in relation to the location, positioning, orientation, quality, legibility etc. and specific information that must be displayed on clamping related signs within a clamping place.

Entrance clamping signage must be provided at the following locations:

- At a road other than a public road, at or close to each intersection of that road and a public road, or another road, which is not a public road and which does not form part of the clamping place; and
- At a single-storey or surface car park where parking by members of the public is permitted, and for a multi-storey car park, at each vehicular entrance to the car park and at each signed pedestrian exit point from the car park.

Additional signage must be provided within each clamping place in order to provide sufficient notification internally to users of the presence of clamping activities within the clamping place.

Physical Requirements – What do all signs need to adhere to?

All signage, i.e. entrance, additional and pedestrian exit signage, must:

- Be constructed to a good standard of workmanship;
- Be made of good quality, durable, weather resistant materials suitable for the location where the sign is, or is intended to be, located;
- Provide sufficient colour contrast between the text and its background to ensure legibility;
- Be maintained complete, in good condition and free from any significant blemish;
- Be maintained clean such that the text and information is visible at all times;
- Not contain/ be free from discriminatory, objectionable or offensive words or symbols; and

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- Be located, positioned and oriented such that they are clearly visible to drivers of vehicles accessing or parking at a clamping place.

In addition to the above, insofar as it is within the control of the parking controller, it is considered best practise for signs to be illuminated, where practicable, so as to ensure sufficient visibility by motorists and pedestrians during hours of darkness. However, the NTA notes that this is not a requirement prescribed by the Act or the Regulations.

Information Requirements – What specific information must be displayed?

All clamping information signs must include:

- The clamping symbol (as shown) at a size of no less than 100 millimetres in height where the sign is located at an entrance to a clamping place, and at a size of no less than 75 millimetres in height in all other circumstances (the clamping symbol's colour schedule must conform to the specification contained within Schedule 2 of the 2017 Regulations);
- Notice that clamping activities are in operation at that location;
- The name and contact details of the clamping operator;
- Summary details of the restrictions and prohibitions that apply at that clamping place;
- The clamp release charge (if any);
- The relocation charge (if any); and
- Notice of any additional charges that may be payable in respect of a vehicle which has been relocated.

SCHEDULE 2

Clamping Symbol



In addition to the above, in accordance with best practice, it is recommended that the hours of operation of clamping activities within the clamping place are detailed on all clamping information signage.

Sign Content and Text Size

- The text content on a clamping information sign shall be in plain language and intelligible to a person reading the sign; and
- The text shall be clearly readable by all motorists/persons accessing or within the clamping place and shall clearly convey the rules imposed by the parking controller in respect of clamping place.

Best Practice regarding Number and Types of Signs

To provide maximum clarity to motorists it is considered best practice for a parking controller to:

- Develop a signage plan for the clamping place detailing the location, positioning, orientation, specification, dimensions and content of each type of on-site clamping related signage;
- To limit the number of different types of signs provided within the clamping place; and
- Ensure, where possible, that parking restrictions are consistent within a clamping place, thereby limiting potential for motorists' confusion arising from different parking restrictions within different "zones".

Entrance Signage – How shall signs be located, positioned and oriented?

In addition to the general requirements specified in Part 5, all entrance signage shall:

- Be located and of a suitable size that the information is clearly visible and readable by a driver of a vehicle while seated in the vehicle at the entry point to that clamping place, or at any entry barrier beyond the entrance to that clamping place; and
- Be positioned and oriented so that it is clearly visible to the driver of a vehicle entering the clamping place.

It is important to note that the location, positioning and orientation of entrance signage takes account the requirements of motorists approaching from different directions upon entering the clamping place, and must be visible to motorists approaching from all directions.

Entrance Signage – What specific information must be displayed?

Signage located at each vehicular entry point to a clamping place must clearly state:

- The key terms, conditions, restrictions, prohibitions and charges, including the clamp release charge; or alternatively
- The vehicular entrance sign can clearly display the applicable charges that may be imposed (including the clamp release charge) and identifying where further details of the applicable terms, conditions, restrictions and prohibitions are available.

It is considered best practice to avoid duplication of any information on a sign.

Entrance Signage – How large must signs be?

All clamping information signs situated at the entrance to a clamping place shall be no less than 0.25 square metres in size. However, larger sign sizes may be required to satisfy the readability requirement noted under the General Signage Requirements heading of the Code of Practice, and specific entrance signage requirements detailed above.

Pedestrian Exit Signage

As specified within Part 5 of the 2017 Regulations, pedestrian exit signage must be located at each signed pedestrian exit from either a single or multi-storey car park. It is also considered best practice:

- To locate pedestrian exit signs at unsigned pedestrian exits, at pedestrian exits from private roads, and at vehicular entrances where there is potential for pedestrians to exit at these locations; and
- For all pedestrian exit signs to be positioned and oriented so that they are clearly visible to persons exiting the clamping place.

Additional Signage – How shall signs be located, positioned and oriented?

In addition to the general requirements specified in Part 5, additional signage shall be:

- Located throughout the clamping place as are necessary to provide a reasonable level of notice of the existence of clamping activities in that clamping place.

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- To satisfy the “reasonable level of notice” requirement, signs must be located at suitable frequency throughout the area, i.e. spaced at appropriate intervals to ensure comprehensive coverage throughout the clamping place and appropriate visibility by motorists vacating a parked vehicle.
 - Where pedestrian exit signage is not mandatory at a clamping place, additional signage must be appropriately located to ensure sufficient visibility by those exiting the clamping place on foot.
 - Each additional clamping information sign shall be positioned and oriented so that it is clearly visible to persons within the immediate area of the clamping place where the sign is located.
 - To ensure sufficient visibility of additional signage within the clamping place, all signs must be positioned at a suitable height, and not positioned too low to have their visibility potentially obscured by a parked vehicle. Positioning a sign at excessive height also risks impacting the readability of such signs (unless the sign / text size is increased appropriately).

Additional Signage – What specific information must be displayed and how large should the signs be?

The fundamental information that must be displayed is outlined in Regulation 25(a) of the Regulations.

All additional clamping information signs shall be no less than 0.16 square metres in size. Larger sign sizes may however be required to satisfy the readability requirement noted under the General Signage Requirements heading of the Code of Practice.

5.1.3 Parking Payment Mechanisms - Functionality & Ease of Use

The range of parking payment options in widespread use for on-street and surface car park management, and consequently available to motorists in Ireland today, is extensive. Whilst these payment options fall squarely within the field of ‘parking services’, an area that is not regulated by the NTA, it is not possible to prepare a Clamping Code of Practice without giving some consideration to the processes that give rise to so many of the appeals raised by motorists in the aftermath of clamping and relocation events.

Broadly speaking the range of payment options can be categorised as follows:

1. Pay & Display;
2. Virtual Parking Systems based on vehicle registration numbers including use of 'SMS', telephone and on-line pre-booking and prepayment systems;
3. Prepaid Parking
 - a. **Seasonal** – physical paper or plastic cards or virtual permits based on vehicle registration numbers; and
 - b. **Single Event** – e.g. Scratch Cards or vehicles registered on virtual parking schemes at residential apartment developments.

The above payment options are sometimes used in isolation but more frequently as 'either/or' options for payment/compliance. Where different systems are offered as alternative options, it is not possible to combine them.

Other parking management technologies such as 'Pay on Foot' (with barriers and tickets) or Radio Frequency Identification (RFID) cards are also deployed in multi-storey car parks or staff car parks. However, as sites of this nature do not normally rely on clamping as a compliance tool, they are not addressed in this Code of Practice.

Pay & Display

As the name clearly states there are two criteria in 'Pay & Display' regimes, which must be satisfied by motorists:

1. Payment of the appropriate fee for the intended duration of the car parking; **and**
2. Display of the parking ticket issued by the ticket vending machine (TVM) following payment (with the expiry time legible from outside the vehicle) at all times while parked in the clamping place.

In the context of 'Pay & Display' clamping places, and in the interest of both best practice and motorist safety, the NTA recommends parking controllers ensure that:

- The signage in situ clearly conveys that compliance with the dual criteria outlined above is mandatory i.e. that it is not sufficient for motorists to demonstrate that payment for parking has been made, they must also display the ticket in the manner specified.

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- Reminders to display tickets on the dashboard with the expiry details clearly legible from outside are provided to motorists at key times e.g. at, or on, the TVM (in clear and legible writing) and at the pedestrian exits (in the motorists' line of vision).
 - Where a car park is adjacent to a public road where Pay & Display is also in operation, the TVMs appropriate to the clamping place where the motorist is parked are easily identifiable.
 - Subject to clamping place size restrictions, there is more than one TVM which is clearly visible, well positioned and accessible to motorists.
 - Each TVM:
 - Accepts at least two of the following means of payment:
 - Coins,
 - Notes,
 - Cards,
 - Electronic purses or
 - Mobile phone accounts, and provides receipts in respect of card (or similar) payments;
 - Has clear signage immediately adjacent which sets out the applicable parking rules, the parking tariffs and the relevant operating hours;
 - Is reasonably well illuminated to facilitate customer use during hours of darkness and to minimise any perception of personal risk or insecurity;
 - Has clear instructions for usage;
 - Is uniquely numbered for identification purposes;
 - Displays a (serviced) contact number in the event that functionality issues arise; and
 - Has a notice stating that it is one of a number of machines in the car park and that customers should check other machines in the event of delays or difficulties.
 - They create and maintain accurate records of:
 - Reported TVM faults and service disruption;

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- All cash collections as TVMs generally do not accept payments once coin boxes are full;
 - All TVM ticket replacements; and
 - All TVM maintenance visits (scheduled or otherwise).
- The tickets issued by TVMs:
 - Are fit for purpose i.e. they do not coil up in sunshine or extreme weather or get dislodged easily by slight air movements within a closed car;
 - Clearly state the expiry time and date, the location, the issuing organisation and the fee paid;
 - Summarise any key parking rules applicable in that clamping place e.g. pre-printed on the back of each ticket including the correct method for display of the ticket.

Virtual Parking Payment Schemes

Virtual Parking Payment Schemes are based on car park users either (a) registering with a service provider (i.e. becoming an account holder) or (b) recording their vehicle registration numbers by means of a 'once-off' SMS, or on-line booking and payment transaction. Examples of virtual parking payment schemes in use in Ireland at this time include:

- Parking Tag
- Parkbytext
- ParkbyPhone
- Apcoa Connect
- Park Magic

Whilst the core objective of these schemes is the same, system functionality can vary significantly from one scheme to another as can the information provided to motorists. This is particularly true in the context of clamping where the information provided regarding (a) the usage requirements of payment schemes and (b) the implications of failure to adhere to these usage requirements is extremely relevant.

Central to all virtual parking payment schemes is the car park operator's reliance, and by extension the parking controller and clamping operator's reliance, on the vehicle details and the required time and date slot, recorded by the motorist at the time of parking payment. It is therefore incumbent on the motorist to exercise care when recording the registration number of the vehicle

and selecting the date and time period to be covered by the parking transaction when accessing the virtual parking service.

The NTA recommends that parking controllers ensure:

- The signage in situ clearly conveys the precise requirements incumbent on a motorist when paying for parking via a virtual scheme, for example:
 - Clarification that correct recording of the vehicle registration mark is mandatory;
 - Specific and separate instructions for account holders and once-off users including relevant location codes;
 - Details of any telephone network limitations e.g. can foreign telephone service users access the virtual parking payment schemes;
 - The precise format of required parking purchase SMS messages; and
 - A warning that parking transactions are not valid unless and until a confirmation communication has been received by the customer who should not leave their vehicle until that communication has been received and checked.
 - The signage in situ also clearly sets out the impact of failure to comply with the requirements, for example that the motorist's vehicle may be clamped if the vehicle registration mark is not correctly recorded.

The NTA notes that many clamping events arise by virtue of motorist error in recording relevant details at the time of parking purchase or booking. Whilst a parking controller has no way of validating some of these details, for example the intended time and date of parking, the NTA considers that it is incumbent on parking controllers to ensure that virtual technologies in operation carry out some basic validation of the details entered by motorists in respect of 'IRL' vehicle registration marks⁵. In this regard the NTA considers it entirely reasonable that at the point of payment or booking, the technologies utilised by the industry are capable of recognising:

- Invalid year formats, 163, 252 etc.; and
- Invalid 'County' formats, DW, ST, M0 etc.

⁵ That is to say, those vehicle registrations which have been in operation in Ireland since 1987.

The technology should then alert the motorist to the error as well as refusing to proceed to payment.

In making these recommendations the NTA recognises that there may be a cost implication for some parking controllers, however the NTA also considers that these are reasonable steps given that the range of possible errors is quantifiable. Such measures by parking controllers would also constitute a reasonable approach in respect of clamping events that are the direct result of genuine human error and would ultimately contribute to a reduction in the number of clamping appeals raised by motorists.

It is worth observing at this point that the NTA recognises it would not be possible for parking controllers to identify errors with the 'sequence number' element of a car registration at the payment point.

The NTA also considers that the technology available to a clamping operator should be able to carry out similar 'checks' upon detection of wrongful (in the case of non-statutory car parks) or unlawful (in the context of statutory car parks) parking, by virtue of the apparent lack of payment of the parking fee. These checks or validations should be capable of identifying errors with a 'year' or 'county' element of a car registration, which might not have been noted at the time of payment for example because although the year was incorrect, it was not invalid. The NTA considers that a possible means of completing a check or validation at the point of detection of wrongful/unlawful parking of this nature, might involve a search in respect of the sequence number element of the registration mark only.

The NTA, again mindful that it would not be possible for a parking controller to identify errors with the 'sequence number' element of a car registration, considers that such an approach would ensure that every effort was made by parking controllers to identify at any early stage, genuine human errors on the part of a motorist.

Multiple Vehicle/ Default Vehicles

In the context of those parking technologies, which afford motorists the ability to register and become account holders, the NTA notes that many systems permit motorists to add a number of vehicles to their account. The NTA also notes that numerous clamping events arise from motorist failure to select the correct vehicle at the time of parking payment. In some instances this failure is

due to oversight, whilst in others it is attributed to 'default' settings contained with the technology.

In view of the numerous submissions received on this point, the NTA considers that parking controllers should take some measures to minimise the occurrence of issues of this nature. Parking controllers should therefore ensure:

1. That both the functionality of the technology and the requirements incumbent on the motorist are clearly set out (in plain language) in the Terms and Conditions section of same;
2. That the technology enables a motorist to actually see the registration mark of the vehicle, in respect of which they are purchasing parking, at the time of purchase. Generic terms such as 'Vehicle 1' or 'Vehicle 2' may not adequately alert motorists to possible errors in vehicle selection.; and
3. That the technology summarises the proposed transaction, again clearly stating the vehicle registration mark in such summaries, to ensure the motorist wishes to proceed with the transaction in that format.

In making the above recommendations, the NTA is mindful that motorists cannot abdicate their responsibility to take care when completing parking purchase transactions. However the steps outlined above constitute reasonable measures in the context of a regulated industry.

Prepaid Parking

Many parking areas offer customers, including staff, the option of:

- **Season Parking** – monthly, quarterly, annual physical paper or plastic cards or virtual permits based on vehicle registration numbers e.g. annual train station parking passes, or
- **Single Event Parking** – e.g. Scratch Cards including local authority visitor parking permits or visitor parking at residential apartment schemes.

These permits can be either physical permits to be displayed on the parked vehicle or virtual permits.

In the context of virtual permits, it is incumbent on motorists to ensure that they are mindful of relevant expiration dates. However, in the context of permits of longer duration, the NTA

recommends that notifications of impending expiration are generated by the parking controller where possible.

In the context of physical permits, it is imperative that the rules for the display of same are clearly conveyed by means of the signage in situ in order to ensure the validity of clamping events. In this regard the NTA reminds parking controllers of the importance of ensuring that the rules as set out on the signage accurately align with the restrictions actually imposed, and by extension, with the offences and contraventions noted by clamping operators at the time of clamping. For example, signage advising that a clamping area is for the use of 'permit holders only' does not clarify that it is a condition of parking in the clamping place that the permit must also be clearly displayed.

Once again using the above example, it is worth observing that whilst communication of the rules by means of the letter issued to the motorist enclosing the permit is also useful, this does not automatically off-set any deficiency in the signage at the clamping place.

With regard to single event parking permits, such as local authority 'scratch cards', it is essential that the rules for usage of same are clearly conveyed on the scratch cards themselves.

5.1.4 Observation of the Grace Period

The 'grace period' concept enshrined in the suite of clamping legislation is a ten minute 'window' afforded to motorists to enable them pay for parking. It consequently applies in the context of paid parking only and it arises in two situations:

1. Where no parking fee has been paid at all (likely because the motorist has only just entered and parked in the clamping place); and
2. Where the period covered by the original parking payment transaction has expired.

In the context of the motorist who has just entered the clamping place, the grace period also facilitates familiarisation with the rules and restrictions applicable (by means of reference to the signage), which in turn enables him to decide if he wishes to stay or go.

A clamping operator, who detects a vehicle in a clamping place that has no payment recorded against it, is required to evidence this 'detection' or 'spotting' time and record same appropriately on the clamping notice. The usual means of evidencing detection is to take clear, colour, date and time-stamped photographs of the vehicle clearly showing the area where any physical proof of payment would typically be visible, for example the dashboard.

In the context of clamping places where payment is made via an online or virtual parking payment mechanism, the above photographs are usually accompanied by a screen-shot of the clamping operator's parking payment system to demonstrate that no payment was recorded against the vehicle registration mark in question at that time.

Regulation 5 of the Regulations requires a clamping operator to observe the grace period i.e. to ensure that not less than ten minutes elapses following detection of the failure to pay for parking before the clamp is fixed to the vehicle. To eliminate unnecessary disputes regarding correct compliance with this requirement the NTA recommends that clamping operators wait eleven (11) minutes from the time of detection before affixing a clamp to a vehicle.

In addition to actually observing the grace period, a clamping operator should obtain evidence of this observation therefore clear, colour, date and time-stamped photographs should be taken immediately before and after the clamp has been applied. The NTA recommends that consecutive photographs are taken of the wheel that is clamped immediately before and directly after the clamp has been applied, so that the exact duration of the grace period observed can be calculated (by reference to the photographic evidence supplied to demonstrate the detection time).

In the context of point 2 above, the detection time can be evidenced by a clear, colour, date and time-stamped photograph of the expired ticket - where a physical ticket was generated on foot of the parking payment. Where the expired payment was made via an online or virtual payment mechanism, a clear, colour, date and time-stamped screenshot of the payment system clearly showing the expiration time of the original payment is appropriate.

Compliance with the grace period in the context of point 2 can be demonstrated in the manner outlined in relation to point 1 above.

Where a clamping operator fails to demonstrate that the grace period was correctly observed and evidenced, the clamping or relocation event is likely to be deemed invalid.

5.1.5 Permit Parking (Residential & Visitors)

The following provisions apply in cases where private residents' permit parking is in operation in housing developments (including designated residents' permit parking areas within other private parking places), which are not in charge of a Local Authority. It is the responsibility of the parking controller in each case to ensure that these requirements are observed.

Local authority bye laws apply to residents' permit parking in the case of roads in charge of Local Authorities.

New Vehicle

All residents of housing developments, where private residents' permit parking is in operation, should be advised either at the time of purchase of the dwelling by the Owners' Management Company, or at the time of completion of the lease agreement by the owner of the premises of the terms and conditions applicable to the parking of residents' vehicles within the development. It is the responsibility of a resident who did not have a vehicle at the time of taking up occupation to ensure that he/she is completely familiar with these terms and conditions, prior to purchasing a vehicle and parking it within the curtilage of the housing complex.

In the context of locations that operate a physical resident's permit parking scheme; it is also incumbent on a resident to ensure that he engages with the parking controller to secure permission to park the vehicle at the clamping place whilst awaiting receipt of the physical permit. Where a motorist has engaged with a parking controller to advise of car purchase and to indicate that a physical permit is or has been requested, the parking controller is required to exercise reasonableness and fairness in context of possible clamping activities.

Change of Vehicle

Where a resident has an existing resident's parking permit, has disposed of the vehicle in respect of which the permit was issued and purchased a replacement vehicle, the parking controller should put the following procedure in place:

- Following notification to the parking controller of the change in circumstances (notification should include application for a permit for the replacement vehicle); the parking controller should accept that the vehicle is entitled to park in the development (in accordance with the rules applying to residents parking), pending formal issue of the replacement permit. The NTA recommends a reasonable and fair approach to clamping in these circumstances also.

Permit Renewal

Where a resident has an existing resident's parking permit, the NTA recommends that a grace period of 14 days to allow for renewal of the permit should be permitted before the vehicle becomes liable to clamping. The NTA also recommends that parking controllers and clamping operators liaise closely with management companies to ensure a thorough understanding of the status of any widespread renewal initiatives, for example annual renewal drives.

New Residents

In the context of housing developments where private residents' permit parking is in operation, it is entirely reasonable to expect that new residents are advised either by the Management Company at the time of purchase of the dwelling or by the property owner at the time of completion of the lease agreement, of the terms and conditions applicable to the parking of residents' vehicles within the development. However the NTA recognises that this may not always occur.

It is therefore vital that parking controllers fully comply with their requirements under Part 5 of the Regulations and ensure that the rules for parking in such a development are clearly conveyed by means of the signage in situ.

Visitors' Parking

The rules governing visitors' parking in a clamping place must be clearly displayed. Where it is incumbent on a visitor to follow precise instructions, for example regarding the formatting of a visitor registration text message, this format should be clearly outlined by means of sample text. The relevant location code and recipient text number should also be clearly specified. Essentially it must be possible for *bona fide* visitors to register or otherwise comply with the site rules without undue difficulty.

The NTA notes that in some visitor parking areas, parking controllers and clamping operators erect signage referring visitors to their 'host' for information on the means of registering for visitor parking, and the rules and restrictions imposed by the parking controller and applicable to parking in that location. It is not possible for a parking controller to assign its responsibility for conveying the rules and restrictions associated with parking in a clamping place to a resident in this manner. The NTA does not consider that signs of this nature are acceptable as clear statements of parking

rules and instructions, and consequently they are not viewed as compliant with the requirements prescribed in Part 5 of the Regulation.

5.1.6 Call-Out Clamping Places

'Call-out' clamping places are subject to the same legislative requirements, particularly in respect of signage, as all clamping places. Nonetheless they appear to pose additional challenges for parking controllers and clamping operators. Typically they arise in the context of allocated residential or business parking bays where someone other than the designated parking bay user parks a vehicle in an allocated bay. In some instances the allocation of the bay is specific to a particular vehicle and not a user.

Call-out clamping places also arise in shopping areas such as retail car parks where owners, occupiers or management companies seek to restrict usage of the parking facilities.

Notwithstanding any request, which might be received from a client to 'call-out' and clamp or relocate a specific vehicle, it is incumbent on the clamping operator to ensure that the vehicle has been wrongfully parked by reference to the rules conveyed by the signage in situ, before acting upon any such request. For example if payment for parking is a condition of usage of a clamping place, it is incumbent on the clamping operator to (a) observe the 'grace period' and (b) obtain evidence to demonstrate that it has been observed.

Reliance on information received from a client seeking a call-out (e.g. information concerning the detection time) may not adequately evidence the validity of a clamping event.

5.1.7 Evidencing Unlawful/ Wrongful Parking

Article 10 of the 2017 Regulations requires clamping operators to ensure that photographic evidence of the unlawful or wrongful parking, which gave rise to the clamping or relocation event, is obtained at the time of clamping or relocation.

This evidence should include clear, colour, date and time-stamped photographs, at least one of which shows the full vehicle registration number. Whilst not stipulated in the legislation, it is also envisaged that the evidence includes at least one photograph that shows the location of the wrongfully or unlawfully parked vehicle relative to the nearest relevant signage.

Where the wrongful parking event relates to an alleged failure on the part of the motorist to display information or documentation, for example a Pay & Display ticket, in the manner required by the parking controller (which must be clearly conveyed by the signage in situ), the photographic evidence collated by the clamping operator must clearly depict all possible areas of the vehicle where that information or documentation ought have been displayed. In the event that the photographic evidence obtained by the clamping operator is not sufficiently comprehensive as to properly evidence the contravention, which gave rise to the clamp or the relocation and by extension to refute an assertion by a motorist as to the presence of the required information or documentation, the clamp or relocation event will likely be deemed invalid by the Clamping Appeals Officers during the second-stage clamping appeal process.

Similarly where the quality of the photographic evidence supplied by the parking controller in support of a clamping or relocation event is insufficient (for example, blurred photographs, unclear night-time photographs) to clearly evidence the offence or contravention that gave rise to same, the clamping or relocation will likely be deemed invalid by the Clamping Appeals Officers during the second-stage clamping appeal process.

Many motorists submit their own photographic evidence in support of appeals made both to the parking controller and the Clamping Appeals Officer designated by the NTA. As neither the Act nor the Regulations requires a motorist to adhere to prescribed standards in this regard, the relevance and admissibility of pictures submitted by a motorist will be determined on a case-by-case basis.

5.1.8 Contraventions & the Clamping Notice

Since the suite of vehicle clamping legislation came into effect on the 1st October 2017, the NTA has noted the many and varied parking rules and restrictions imposed by parking controllers in clamping places. Whilst core concepts prevail throughout, for example 'Pay & Display, Maximum Stay, Permit Parking Only, etc., the variation in language used to convey these rules is significant and likely the cause of much confusion amongst the motoring public. The NTA therefore recommends that parking controllers collaborate with a view to establishing and implementing consistent terminology for comparable offences.

Such consistent terminology could then be introduced in clamping places as signage is upgraded (either as a result of clamping signage compliance assessments completed on behalf of the NTA or in the ordinary course of business). The introduction of consistent terminology in the context of

the rules and restrictions applicable in clamping places would afford greater certainty to motorists and should, in time, contribute to a reduction in ‘confusion-based’ wrongful parking events.

A similar variety of terminology was observed by the NTA in respect of the ‘contraventions’ or ‘offences’ cited on the clamping notices provided to motorists at the time of clamping or relocation. The NTA consequently sought to establish some industry standards by consolidating the list of offences used by parking controllers, again with the objective of affording greater consistency and clarity to the motoring public.

In November 2018 the following consolidated list of contraventions was circulated for comment, and the NTA now requires all parking controllers to reflect the offences therein when completing clamping notices in accordance with Section 13(1)(a) of the Act.

In developing the following list the NTA had due regard to the prohibitions on parking specified in the Road Traffic (Traffic and Parking) Regulations 1997, which underpin clamping and relocation events on public roads.

The layout of a clamping notice must conform to the requirements specified in either:

- (a) The Road Traffic (Immobilisation of Vehicles) Regulations, 1998 (S.I. No.247/1998), where a vehicle is clamped on a public road; or
- (b) Regulation 13 and Schedule 1 of the Regulations, where a vehicle is clamped in all other cases.

A clamping notice issued in accordance with (b) above must also be fully legible, contained wholly on one sheet of paper or similar material and either printed on waterproof material or contained within a transparent water-proof envelope or covering when fixed to the vehicle.

Compliance with the requirements of both Regulation 13 and Schedule 1 to the Regulations is a mandatory requirement. Where a clamping notice is incorrectly formatted, incorrectly completed or affixed to a vehicle in an inadequate manner, such non-compliance(s) may be deemed by a Clamping Appeals Officer to be of greater gravity than the contravention or offence that gave rise to the clamping or relocation event in the first instance.

In addition to the requirement to affix a clamping notice when fixing a clamp to a vehicle, and although not specified within the legislation, it is recommended that a removable, adhesive notice warning the motorist that the vehicle has been clamped is placed on the driver's window to prevent a motorist inadvertently attempting to drive off without noticing that a clamp has been fitted to the vehicle. Where utilised, such notices should be capable of removal by any party without the need for specific tools and without in any way damaging the driver's window or causing same to require specialised cleaning.

5.1.9 Application of a Clamp

Regulation 9 of the Regulations requires that a clamp must be of sound metal construction, coloured yellow and capable of being fitted and removed by a competent clamping operator without causing damage to the vehicle or injury to the clamping operator, the motorist or other persons.

It is vital that clamping operators are therefore fully trained in the application and removal of clamps and also that the clamps utilised are fit for purpose.

In this regard it is observed that clamps, which are not appropriately sized for the vehicle in question, are on occasion utilised by clamping operators for the purpose of completing the

immobilisation, for example a clamp that is best suited to a car-wheel is used to immobilise a large van-wheel. The result is that the metal element of the clamp is capable of movement by third-parties, which consequently increases the likelihood of damage to the immobilised vehicle.

Given the expense involved in both purchasing and repairing vehicles, the NTA recommends that only appropriately sized-clamps are utilised when immobilising vehicles. In the event that a clamping operator does not have the appropriate sized clamp available, he should desist from clamping the vehicle.

Finally the NTA considers that it is good practice for a clamping operator to take clear, colour, date and time-stamped photographs of the wheel surround both before and after a clamp has been affixed to demonstrate that the process was completed without causing damage to the vehicle. The NTA also makes a similar recommendation in the context of clamp removals.

5.1.10 Relocation of Vehicles

Regulation 5 of the Regulations sets out the parameters for relocation of a vehicle in clamping places. It is clear from this provision, and indeed the legislation in its entirety, that relocation can be used as a parking compliance tool in clamping places in the same manner as clamping subject to the same criteria, for example observation of the 'grace period' and evidence requirements. However, in practice relocation is currently used as a compliance tool in three main circumstances.

1. Immediate relocation of a vehicle within a clamping place.
 - a. This usually arises where the vehicle is wrongfully (in a non-statutory clamping place) or unlawfully (in a statutory clamping place) parked, and the nature of the wrongful or unlawful parking is obstruction. The purpose of the immediate relocation is therefore to remove the obstruction.
2. Relocation after a 24hr period either to another location within the clamping place or to a location elsewhere, for example a pound.
 - a. This usually arises where the vehicle is wrongfully (in a non-statutory clamping place) or unlawfully (in a statutory clamping place) parked, and the nature of the wrongful or unlawful parking relates solely to the motorist's failure to pay the relevant parking fee. Regulation 5(e) mandates that the parking controller or clamping operator wait until the expiration of a 24hr period before

relocating a vehicle in these circumstances. The vehicle may be relocated within the clamping place or to another location such as the pound.

1. Relocation to a location other than within the clamping place e.g. to a pound.
 - a. This typically arises where the relevant charge (as defined by the Act) payable to the parking controller or clamping operator to secure the release of the vehicle remains unpaid after the period of time prescribed by the parking controller or clamping operator. The NTA recommends that this period of time should not be less than 24 hours from the time of clamping or relocation.

Regulation 8 speaks to the requirements incumbent on clamping operators in a non-statutory clamping place, where the vehicle has been relocated to a location other than one in clear view of the vehicle's original parking location. In such circumstances, the clamping operator is required to provide details of the relocation including the vehicle details and the original and new location details to (a) An Garda Síochána at the station with responsibility for the district from where the vehicle has been moved, and (b) the parking controller, where the parking controller is not the same as the clamping operator. The clamping operator is required to appropriately evidence this notification, for example by means of call-recording.

Neither the Act nor the Regulations prescribe the process which must be followed by a clamping operator or parking controller in the event that the relocated vehicle is not claimed by the motorist within a reasonable period of time. The NTA notes that parking controllers and clamping operators have developed their own processes to address such situations.

However to ensure consistency for the motoring public, and mindful that any delay in reclaiming vehicles may be due to unforeseen or tragic circumstances, the NTA makes the following recommendations:

1. Where the motorist has been informed of the location of the vehicle and any relevant charges payable, proceedings to end the life of the vehicle are not commenced until, no less than, 21 days have elapsed since the motorist was so informed. The parking controller and clamping operator are required to retain appropriate evidence of the information provided to the motorist, for example call recordings.
2. Where the motorist has not been informed of the location of the vehicle (and the relevant charges payable), proceedings to end the life of the vehicle should not be commenced until, no less than, 42 days have elapsed since the relocation. The parking controller and clamping

operator are required to retain appropriate evidence of attempts made to inform the motorist (where applicable).

5.1.11 Prohibitions on Clamping & Relocations

Section 14 of the Act prohibits clamping and relocating the following vehicles when parked in clamping places:

- Emergency ambulance;
- Fire Brigade vehicle;
- Any vehicle used by a member of An Garda Síochána or the Defence Forces in the performance of his or her duties; and
- “Speed check” vehicle (where parked in pursuance of the provisions of section 81 (1) and (7) of the Road Traffic Act 2010).

In addition, and as addressed in the section of this Code of Practice entitled “Disabled Persons’ Parking Permits”, a vehicle that has a disabled person’s parking permit on display may not be clamped in a statutory clamping place, unless the car park controller or the clamping operator has reasonable grounds for believing that the vehicle is not parked for the convenience of the person to whom the permit was granted.

Where a fixed penalty charge has been issued in respect of the parking of a vehicle, the vehicle may not be clamped or relocated while it remains at that location, unless the vehicle is parked in a dangerous manner or is causing an obstruction, in which case it may be relocated to another location on a public road.

Where a clamp has been removed from a vehicle by a parking controller or clamping operator, and the owner or person in charge of the vehicle was not present at the time the clamp was removed and the vehicle remains at the location where it was clamped, the vehicle may not be clamped again until the latter of the following:

- Two hours from when the clamp release fee was paid, or
- One hour from when the original clamp was removed.

5.1.12 Clamp Release/ Relocation Fee Payment Mechanisms

Per Regulation 14(b) of the Regulations a parking controller and/or a clamping operator must make reasonable arrangements to facilitate immediate payment of the relevant charge. Payment must be facilitated by at least two of the following means:

- Cash;
- Card (debit or credit);
- Voucher payment system (where such payment system has been approved by the NTA); or
- Such other method as may be approved by the NTA.

Fundamentally where a parking controller or clamping operator cannot facilitate receipt of payment by at least two of the methods outlined in Regulation 14(b), they must desist from engaging in clamping activities until such time as their obligations under the aforementioned provision can be satisfied.

Where an online or telephone payment facility is made available by a parking controller to support its clamping operations, same must be fully functional at all times. In the event that functionality issues arise, clamping operators should be instructed to:

- (a) Release all vehicles which are clamped at that time; and
- (b) Desist from clamping additional vehicles, until such time as the payment mechanism functionality issues have been resolved.

Similarly where a parking controller or clamping operator facilitates payment by means of a hand-held card reading device, same must also function fully at all times. If such a device is reliant on internet coverage and such coverage is poor or unavailable in a particular clamping place, clamping should cease at that location until such time as the parking controller or clamping operator can satisfy their obligations to accept payment by at least two of the means outlined above.

In essence a motorist or member of the public seeking to pay a relevant charge cannot be required to leave a clamping place, for example to go somewhere with greater internet access, to make payment.

Where a motorist seeks to make payment by cash, such a request must be facilitated by the parking controller or clamping operator. However it is incumbent on the payer to ensure that they have sufficient cash on their person to pay the relevant charge before contacting the parking controller or clamping operator to request release of the vehicle.

At no time should a parking controller or a clamping operator escort (either on foot or by car) a motorist or member of the public who wishes to make payment by cash, to an ATM for the purpose of withdrawing monies to pay the relevant charge.

The issue of a receipt following payment of the relevant charge is not mandated by the clamping legislation. Receipts are not normally issued in respect of payments made over the phone, by payment card or by voucher system.

However, circumstances will arise where a member of the public has paid the relevant charge and requested a written receipt of payment from the parking controller or clamping operator regardless of the payment means. In these circumstances a written receipt must be issued to that person. If, for whatever reason, it is not possible to immediately issue an official receipt generated from an electronic clamping management system, a temporary receipt must be offered to the person who made the payment and the official receipt, if requested, must be sent to that person's postal or e-mail address (as indicated) within forty eight hours of the request.

5.1.13 Clamp Removal & Vehicle Relocation Release Timeframes & Best Practice

Regulation 6 of the Regulations requires that a clamp must be removed from a vehicle no later than two hours following payment of the relevant charge or the decision to waive the charge. In the event that a parking controller or clamping operator becomes aware that it will not be possible to comply with the two hour timeframe enshrined in the Regulations, for example due to short-term operational difficulties, then they are required to desist from clamping until such time as Regulation 6 can be complied with in full.

However, in the interest of public safety and welfare and insofar as possible given geographic limitations, the NTA recommends that every endeavour is made to substantially reduce this timeframe in the following circumstances:

- During hours of darkness;
- Where the clamping place is isolated or poorly illuminated;

-
- Where it becomes apparent that the motorist is elderly, has a disability or is accompanied by young children; and
 - Where the vehicle has been relocated within the clamping place but the motorist cannot access same to take shelter or refuge in the event of inclement weather or safety concerns.

Where a vehicle has been relocated in a non-statutory clamping place to a location that is not within view of the vehicle's original parking place (for example a pound), Regulation 8 clearly speaks to the responsibilities incumbent on a clamping operator. Specifically the clamping operator is required to notify both An Garda Síochána and the parking controller (where the clamping operator and the parking controller are not the same) providing the prescribed details, with a view to minimising distress and risk to a motorist, to the greatest extent possible. This information should also be made immediately available to the motorist in the event that he contacts the clamping operator directly. Parking controllers and clamping operators are not permitted to require payment of the relevant charge before informing the motorist of the location of the vehicle.

Failure by a clamping operator to adhere to the requirements of Regulations 6 and 8 constitute penal offences for the purposes of the suite of clamping legislation.

5.1.14 Clamping Appeals & Complaints Procedures

In accordance with Section 20 of the Act, the owner of a vehicle or the person in control of a vehicle that has been clamped or relocated is entitled to appeal the decision to clamp or relocate the vehicle to the parking controller in the first instance⁶. This is known as the first-stage clamping appeal process.

Section 13 of the Act requires parking controllers to provide details of the first-stage appeal process established by them on the clamping notice that is affixed to the vehicle at the time of clamping or relocation. This information is also frequently found on receipts issued by parking controllers and clamping operators to acknowledge payment of the relevant clamp release or relocation charge.

⁶ In this regard it is noted that some parking controllers contract responsibility for the processing of first-stage appeal process to clamping operators. This is not considered a breach of the Act as the parking controllers concerned have still satisfied their obligation to put 'procedures in place' to enable the motorist raise a first-stage appeal.

The motorist (or appellant) is required to submit the first-stage clamping appeal (a) via the manner specified by the parking controller on the clamping notice and (b) no later than 60 days from the clamping or relocation event. In accordance with Regulation 16 of the Regulations, a parking controller is entitled to refuse to consider any first-stage appeal that does not comply with these requirements.

Where a first-stage appeal is submitted in accordance with the requirements specified at (a) and (b) above, the parking controller (or the clamping operator contracted to do so by the parking controller) is required to make their decision and to advise the motorist of their conclusions in writing, within 21 days of receipt of the appeal.

Motorists who do not receive a favourable outcome from the first-stage appeal process are entitled to make a further appeal (a second-stage appeal) to the Clamping Appeals Officer designated by the NTA within 30 days of receipt of the first-stage letter of determination from the parking controller⁷.

It is vitally important for parking controllers and clamping operators to ensure that each appellant is informed of their right to make a second-stage appeal to the Clamping Appeals Officer at the NTA in the event of not being satisfied with the outcome of the initial appeal to the parking controller (even where a partial refund of the relevant charge has been made). The requirement that this further appeal must be made within 30 days of receipt of the determination of the parking controller must be made clear in all cases where an appeal has not been allowed and a full refund of the relevant charge has not been made. The NTA recommends that the letter of determination issued by the parking controller following an unsuccessful first-stage appeal contains an explicit instruction advising the motorist to access the [NTA website](#) for full information.

At all times during their engagement with the appellant in the context of the first-stage appeal process, the parking controller (or the clamping operator on the parking controller's behalf) shall be courteous, informative, helpful and respectful via all communication media.

In the event that a motorist, appellant or a member of the public considers that a parking controller or clamping operator has not appropriately discharged its role, a complaint may be

⁷ Of note here are the following points: (a) the 30 day period is deemed to commence on the day the motorist receives the first-stage appeal determination, and (b) a copy of the parking controller's first-stage appeal determination must be included with the second-stage appeal.

made directly to the NTA in accordance with Section 18 of the Act. In accordance with this provision, the NTA is empowered to consider complaints from members of the public concerning:

- 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.
- The identification of vehicles used by clamping operators (including logos, stickers and advertisement on such vehicles).

A clamping complaint can be made by completing (in full and following the instructions attached) the [Form for Complaint Concerning Clamping](#) and returning it to the NTA within 60 days of the event giving rise to the complaint. The 60 day period is deemed to commence on the day of the event.

Whilst not mandated under the Act or the Regulations, the NTA recommends that parking controllers and clamping operators make details of the clamping Complaint Procedure available to motorists, and the wider public, on their websites.

Further information about both the [Appeals Procedure](#) and the [Complaints Procedure](#) is available on the [NTA's website](#).

5.1.15 Goodwill

In any industry it is important that proper consideration is given to genuine circumstances that give rise to breaches of rules by the public. In the context of the clamping industry, the requirement for such consideration (be it on grounds of compassion or goodwill) only arises in instances where wrongful or unlawful parking has actually occurred and the clamping or relocation event was valid. The extension of goodwill or compassion therefore requires the parking controller or clamping operator to forfeit income that has been legitimately earned from clamping activities.

It is for this reason that the granting of goodwill or the exercise of discretion or leniency in compassionate cases is most appropriate to the first-stage appeal process. The NTA therefore recommends that parking controllers and clamping operators afford reasonable consideration and appropriate treatment to first-stage appeals of this nature.

Where appeals, which are predicated upon requests for goodwill and/or compassion, are escalated to the second-stage appeal process, the Clamping Appeals Officers designated by the NTA to determine such matters may require a full or partial refund of the relevant clamp removal or vehicle release charge notwithstanding the validity of a clamping or relocation event.

In reaching such determinations the Clamping Appeals Officers, who in accordance with Section 21 of the Act are *independent in the performance of* their role, will of course have due regard to the full circumstances of the clamping event and seek to balance the rights of the appellant with the rights of the parking controller or clamping operator.

The Disabled Person's Parking Permit

In 1998 the Council of the European Union issued a recommendation⁸ to Member States to introduce a parking card for persons with disabilities so that the independence of such persons could be maintained and supported. The resultant Disabled Persons' Parking Permit was enshrined in Irish legislation by means of the Road Traffic (Traffic and Parking) Regulations 1997 (S.I. No. 182/1997).



Article 44 of the aforementioned 1997 Regulations states the following:

- “44(1) Subject to sub-article (2), where a traffic sign number RRM 015 [Disabled Persons' Parking Bay] is provided, a vehicle shall not be stopped or parked.”
- “44(2) Sub-article (1) shall not apply to a vehicle in which is displayed a disabled person's parking permit and which is parked for the convenience of the person to whom the permit was granted.”

⁸ Council Recommendation 98/376/EC.

It is clear from the above provisions that the Disabled Persons' Parking Permit is intended primarily for usage (a) on public roads and (b) in conjunction with Disabled Persons' Parking Bays, which are larger than standard parking bays to facilitate access to and from the vehicle.

The 1997 Regulations do not extend usage of the Disabled Persons' Parking Permits to other parking bays, although it is noted that many local authorities allow free and unlimited parking in bays on public roads that are not designated as disabled persons' parking bays once a valid Disabled Persons' Parking Permit is displayed. In this regard it is worth observing that per Section 14(1)(b) of the Act, a clamp shall not be fixed "*..in a statutory clamping place, to a vehicle on which there is displayed a disabled person's parking permit, for the time being in force, unless the car park controller or clamping operator has reasonable grounds for believing that the vehicle is not parked for the convenience of the person to whom the permit was granted*".

The above notwithstanding, it is envisaged that where a vehicle displaying a current Disabled Persons' Parking Permit is parked in a statutory clamping place in a bay other than a Disabled Persons' Parking Bay, the vehicle will be compliant with the other rules and restrictions imposed by the parking controller in respect of parking in that bay.

Given the complexities that are apparent from the above provisions, and given that usage of Disabled Persons' Parking Permits does not automatically⁹ extend to private car parks, it is vital that parking controllers ensure that the signage in situ in a clamping place under its control (particularly that signage which is proximate to the location of Designated Disabled Parking Bays), clearly conveys the requirements on motorists who wish to avail of parking in such bays¹⁰.

Where any confusion could be perceived as existing - as regards the requirements incumbent on a motorist who wishes to avail of parking in a Designated Disabled Parking Bay - by reference to the rules and restrictions set out on the signage in a clamping place other than a public road, the parking controller and clamping operator are advised to desist from clamping.

⁹ It remains the gift of a parking controller to determine the rules and restrictions that it imposes on motorists who wish to avail of parking in a clamping place under its control.

¹⁰ The specific sizing requirements of Disabled Persons Parking Bays are set out in Department of Transport, Tourism and Sport's Traffic Signs Manual and are therefore not addressed in this document.

Finally parking controllers and clamping operators should be aware that a disabled motorist may require additional time (above the 'grace period') to purchase and display a 'Pay-and-Display' ticket. Such requirements should be considered when a decision on whether or not to clamp a vehicle is being taken. Parking controllers are also encouraged to enable motorists pay clamp removal or vehicle release fees online, as such a facility is of special benefit to persons who are deaf or hard of hearing.

5.2 Standards of Conduct, Behaviour & Performance of Duties

5.2.1 General

All parking controllers and clamping operators and employees must maintain a professional and respectful standard of behaviour when carrying out their duties.

5.2.2 Clamping Vehicles- Livery & Condition

All vehicles used for clamping activities must, if driven on a public road, comply with current laws concerning insurance, payment of road tax, maintenance (including provisions relating to the National Car Test, if applicable) and display the required insurance, road tax and NCT (if applicable) discs on the front windscreen. Vehicles used for clamping activities must be maintained in a clean condition, be roadworthy and fit for purpose and should not be overloaded or loaded in an unsafe or dangerous manner.

Additionally, in accordance with Regulation 12 of the Regulations, a vehicle used by a clamping operator for clamping activities (other than a vehicle being used by harbour police, airport police or An Garda Síochána) must bear prescribed markings that clearly indicate the vehicle is used for clamping activities. These markings, which are outlined below, must be displayed on either side of the vehicle:

- (a) The name, contact details and website (if the clamping operator maintains a website) of the clamping operator such that these details are clearly legible; and
- (b) The following words: "Seirbhísí um Fhorfheidhmiú Páirceála" or "Parking Enforcement Services", or both, with the text size being not less than 100 millimetres and with sufficient colour contrast between the text and its background to ensure legibility.

5.2.3 Uniform & Means of Identification

For a variety of reasons, not least of which is the perception of safety and security of a motorist, Regulation 11 of the Regulations requires a clamping operator staff member and a clamping operator (other than a member of An Garda Síochána, a harbour police officer, an airport police officer or a traffic warden) to wear a distinctive high visibility uniform which:

- (a) Bears the name of the clamping operator; and
- (b) Bears a staff identification number that is clearly visible at all times.

Where a clamping operator is a company (i.e. a legal person and not an 'individual') it is anticipated that the company name (and not the individual staff member's name) is stated on the hi-visibility uniform. However, the individual clamping operator's staff number should be visible on the uniform so that a motorist can reference same in the context of any complaints made in relation to that individual's behaviour.

Additionally, Regulation 11 requires a clamping operator staff member to carry an identification card containing the following information:

- (a) The name and contact details of the clamping operator (the company name and contact information is envisaged here – not the individual staff member's name and contact details);
- (b) A passport-type full colour photograph of the clamping operator or clamping operator staff member, as the case may be;
- (c) The unique clamping operator or clamping operator staff member identification number, as the case may be; and
- (d) The date of expiry or period of validity of the card.

A motorist whose vehicle has been clamped or relocated is entitled to request sight of a clamping operator staff member's identification card. Failure to comply with this request is a penal offence for the purposes of the regulations. Similarly a member of An Garda Síochána, a traffic warden or an authorised person may inspect a clamping operator staff member's identification card at any time when the clamping operator staff member is engaged in clamping activities and the clamping operator staff member is required to facilitate such an inspection.

Whilst not specified in the Act or the Regulations, the NTA considers that the uniform of a clamping operator staff member and a clamping operator (other than a member of An Garda Síochána, a harbour police officer, an airport police officer or a traffic warden) shall, when acting as such:

Include a fluorescent strip or section on both the front and the rear, sufficient to ensure that the wearer is visible to motorists during the hours of darkness or at other times of reduced visibility;

Be maintained in a clean and neat manner; and

Be capable of being worn as effective outdoor clothing in all normal weather conditions prevalent in Ireland.

Back-office staff members, including staff dealing with the processing of payments and appeals and complaints, are not required to wear a uniform when engaged in these duties.

5.2.4 Validity of Clamping/ Relocation Event

The NTA recommends that parking controllers and clamping operators engage in reasonably comprehensive checks to verify any apparent wrongful or unlawful parking before proceeding to engage in clamping activities.

However where a parking controller or a clamping operator becomes aware that a vehicle has been clamped or relocated in error, **immediate** arrangements must be made to release the vehicle to the motorist. No charge should be imposed on the motorist in respect of clamping activities, in such circumstances.

Where the vehicle has been removed to a remote location, immediate arrangements must be made to enable the motorist retrieve the vehicle subject to the limitations prescribed in Regulation 6(f) of the Regulations.

5.2.5 Professionalism & Courtesy

All persons engaged in clamping activities, and other staff dealing with clamping matters must, when dealing with members of the public, including persons whose vehicles are the subject of clamping activities, be:

- Courteous;

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- Knowledgeable (with regard to clamping and associated parking matters); and
 - Helpful.

On-street operatives and other members of staff, who in the course of their duties have face-to-face dealings with the public, must be neatly dressed and of clean appearance at all times when on duty.

No person may carry out any clamping activities while in an intoxicated condition, whether from alcohol or any other type of drug.

Where a member of the public behaves in a manner that is unreasonable or aggressive, the staff member(s) involved should endeavour to reduce tension or, if this is not possible, withdraw from the scene and/or notify the Garda.

Staff involved in clamping must avoid using aggressive or threatening language or behaviour.

Tactics that appear overenthusiastic or aggressive to motorists or other members of the public should be avoided. In particular, activities which could be construed as predatory may not be carried out.

Whilst not prescribed in the legislation the NTA recommends that clamping activities are not undertaken in the context of an occupied vehicle.

Furthermore whilst not stipulated in the Act or the Regulations, the NTA recommends that if a motorist returns while arrangements are being made to clamp a vehicle, the vehicle should be released if the clamp has not been locked. Similarly where arrangements are being made to relocate a vehicle, the NTA recommends that the relocation does not proceed if a motorist returns before at least two wheels have been lifted from the ground.

Additionally in the context of parking controller and clamping operator written engagement with both motorists and the NTA, appropriate professionalism and courtesy must be exhibited at all times.

5.3 Other Requirements

5.3.1 Training

Parking controllers and clamping operators must ensure that all staff involved in clamping activities and other staff dealing with clamping matters are competent to carry out the tasks they are assigned. All staff must be provided with adequate development training covering general, job-specific and legal (for example, health and safety) elements of their roles. Professional development records must be maintained for all staff.

5.3.2 Insurance

Parking controllers and clamping operators are required to have:

- Adequate public liability insurance in place at all times when engaging in clamping activities;
- Adequate employers' liability insurance (where applicable); and
- Such other types of insurance deemed necessary to protect the safety and wellbeing of motorists, employees and third-parties directly impacted by their clamping activities.

5.3.3 Information Policies

Retention of Information

Parking controllers and clamping operators are required to retain full records of clamping activities undertaken, in accordance with the regulations. Regulation 18 sets out those clamping records which must be retained and the period for which they must be held.

Failure to maintain these records in the manner provided for in the Regulations is a breach of the Regulations and of this Code of Practice.

Provision of Information

In accordance with Regulation 19, where requested by the NTA or an authorised person on the NTA's behalf, a parking controller is required to make the following information available (in the manner and timeframe requested):

- (a) A full list of all clamping places under his or her control, setting out details of their location and parking capacity (if any), relevant charge or charges applicable (if any) and other such information as may be reasonably requested;

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- (b) Evidence showing that the parking controller is the beneficial owner, lessee or occupier of a clamping place under his or her control, or evidence showing that the parking controller is authorised by the beneficial owner, lessee or occupier to carry out clamping activities at that clamping place; and
 - (c) All or specified records relating to clamping activities which took place in clamping places set out in subparagraph (a).

Regulation 19(d) also empowers the NTA or an authorised person to request from a clamping operator specified records relating to clamping activities carried out by the clamping operator, or his or her clamping operator staff members (in the manner and timeframe requested).

Failure to provide these records as specified in the Regulations is a breach of the Regulations and of this Code of Practice.

In accordance with Regulation 19, the NTA requires parking controllers (and clamping operators where the parking controller has contracted responsibility for the discharge of the first-stage appeals procedure to the clamping operator) to provide comprehensive statistics regarding the first-stage appeal process in respect of every calendar year.

This information should be made available to the NTA no later than the 15th January of the following year and should clearly enumerate those appeals which were allowed and not allowed as well as broadly categorising both the basis for the appeals and the basis for the allowing / not allowing of same.

General Data Protection Regulations

Parking controllers and clamping operators are required to ensure compliance with the General Data Protection Regulation (“GDPR”) legislation at all times.

Obligations under the Official Languages Act

The provisions of the Official Languages Act 2003 (No. 32 of 2003) and Article 6 of the Official Languages Act 2003 (Section 9) Regulations 2008 (S.I. No. 391/2008) apply with regard to signage at statutory clamping places.

Parking controllers of statutory clamping places should familiarise themselves with these requirements and ensure that they are adhered to at all times.

6 Information for the Motorist

This section of the Code of Practice purports to explain, and where possible simplify, core elements of clamping legislation to ensure that motorists have a clear understanding of the responsibilities incumbent on all parties. Those parties being:

- The parking controller (the party responsible for enforcement of the law or rules applicable to parking in that place¹¹);
- The clamping operator (the person authorised by the parking controller to carry out clamping activities on behalf of the parking controller and includes a clamping operator staff member); and
- The motorist themselves.

6.1 Private Car Park Usage

Upon reaching a car park, it is reasonable to expect that a motorist should have the means to ascertain core information about the location they are entering. The principal means available to parking controllers to achieve this objective is via signage located at the entrance and throughout the car park.

6.1.1 Reasonable Expectations

- All areas where clamping activities are operational (clamping places) are required to have clearly visible and readable clamping information signage located at all vehicular entrances to the area.
- Entrance signage shall set out the key parking terms, conditions and restrictions etc. that apply to a particular clamping place.
- Additional signs should be located within the area, such that you are made aware of clamping activities after parking your vehicle and before exiting the clamping place on foot.
- All clamping information signs, both at the entrance to and within a clamping place, must include the clamping symbol (as shown), note that clamping activities are in operation at that location, the name and contact details of the clamping operator (to contact if your vehicle is clamped or relocated), summary details of the restrictions and prohibitions that

¹¹ The term 'parking controller' does not include a member of the Garda Síochána or a traffic warden authorised in that behalf.

apply at that clamping place and the clamp release charge and relocation charge (if any) etc.

Clamping Symbol



6.1.2 Responsibilities and Requirements

Once you are aware that you are entering a clamping place, you are advised to:

Familiarise yourself with the key terms, conditions, restrictions, prohibitions and charges, including the clamp release charge that apply to a parked vehicle within the area.

Where such information is not detailed on the sign, it must identify where further details of the applicable terms, conditions, restrictions and prohibitions are available; and you are advised to follow these instructions regarding where this information is available.

Prior to exiting the clamping place, **are you aware:**

- What terms, conditions, restrictions and prohibitions apply within the area.
- What days and hours that parking restrictions are operational. If in doubt, assume they are operational on a 24/7 basis.
- Whether payment is needed, and if so, how this should be completed.
- What will happen if you haven't complied with the applicable terms, conditions etc. i.e. vehicle clamping, vehicle relocation etc.
- If different restrictions apply in different parts of an area, what restrictions apply to the location your vehicle is parked.

The most important advice – **carefully read clamping signage upon entry to and within the area.**

Assuming available signage is compliant with the applicable legislation, you should have all the information needed to provide you with sufficient advance notification of clamping activities within an area.

6.2 On-Street Parking

Whilst the signage requirements prescribed in Part 5 of the Regulations do not apply in the context of on-street parking (same is governed by Local Authority Bye-Laws), it remains incumbent on a motorist to have due regard to the signage, road-markings and the Rules of the Road at all times when parking on-street.

6.2.1 Signage

- If parking within a marked pay and display/ disc parking area, parking restrictions will be detailed within signage located in close proximity to the area/bay where you have parked – ensure you carefully review information on these signs as soon as you have parked your vehicle.
- If parking outside of a marked pay and display/ disc parking area, be aware that other restrictions such as those associated with double or single yellow lines, loading bays, clearways, cycle tracks, taxi ranks, and/or any other local restrictions (such as parking proximity relating to nearby junctions) may apply. For further clarification on parking restrictions, motorists are advised to refer to Section 10 of the Rules of the Road, which is available on the Road Safety Authority's (RSA) website.

Local Authority Bye-Laws

Further information about the rules, 'Bye-Laws', associated with parking on-street can typically be accessed by reference to the appropriate Local Authority website.

6.3 General Information

6.3.1 Parking Payment Mechanisms- Functionality & Ease of Use

Whilst the range of parking payment options in use for on-street and private car park management is extensive same can, broadly speaking, be categorised as follows:

1. Pay & Display

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2. Virtual Parking Systems based on vehicle registration numbers including use of 'SMS', telephone and on-line pre-booking and prepayment systems
 3. Prepaid Parking:
 - a. **Seasonal** – physical paper or plastic cards or virtual permits based on vehicle registration numbers
 - b. **Single Event** – for example, Scratch Cards or vehicles registered on virtual parking schemes at residential apartment developments.

The above payment options are sometimes used in isolation but more frequently as 'either/or' options for payment / compliance. Consequently motorists should be aware that where different systems are offered as alternative options it is not possible to combine them.

Pay & Display

As the name clearly states there are two criteria in 'Pay & Display' regimes which must be satisfied by motorists:

1. Payment of the appropriate fee for the intended duration of the car parking; and
2. Display of the parking ticket issued by the ticket vending machine (TVM) at the time of parking payment (with the expiry time legible from outside the vehicle) at all times while parked in the clamping place.

Motorists should note that it is not sufficient to demonstrate that payment for parking has been made in the context of Pay & Display clamping places, the ticket must also be displayed in the manner specified.

Virtual Parking Payment Schemes

Virtual Parking Payment Schemes, for example APCOA Connect, Parking Tag etc., are based on car park users either (a) registering with a service provider (i.e. becoming an account holder) or (b) recording their vehicle registration numbers by means of a 'once-off' SMS or on-line booking and payment transaction.

System functionality can vary significantly from one scheme to another as can the information provided to motorists. This is particularly true in the context of clamping where the information

provided regarding (a) the usage requirements of payment schemes and (b) the implications of failure to adhere to these usage requirements, is extremely relevant.

Central to all virtual parking payment schemes is the car park operator's reliance, and by extension the parking controller and clamping operator's reliance, on the vehicle details, the location and the required time and date slot, recorded by the motorist at the time of parking payment.

It is therefore hugely important that motorists exercise appropriate care when recording the registration number of the vehicle and selecting the date and time period to be covered by the parking transaction, when accessing the virtual parking service.

Multiple Vehicle/ Default Vehicles

In the context of those parking technologies that afford motorists the ability to register and become account holders, the NTA notes that many permit motorists to add a number of vehicles to their account. The NTA also notes that numerous clamping events arise from motorist failure to select the correct vehicle at the time of parking payment. In some instances this failure is due to oversight whilst in others it is attributed to 'default' settings contained within the technology.

Motorists are therefore advised to exercise appropriate care when purchasing parking via an account upon which more than one vehicle is listed. Motorists are particularly advised to understand the implications on any 'default' settings on the parking technology and finally motorists are encouraged to have regard to any 'Frequently Asked Questions' (FAQs) or informative videos made available by the parking technology provider.

Prepaid Parking

Many parking areas offer customers including staff the option of:

- **Season Parking** - monthly, quarterly, annual physical paper or plastic cards or virtual permits based on vehicle registration numbers e.g. annual train station parking passes, or
- **Single Event Parking** – e.g. Scratch Cards including local authority visitor parking permits or visitor parking at residential apartment schemes.

These permits can be either physical permits to be displayed on the parked vehicle or virtual permits.

In the context of virtual permits, it is incumbent on the motorist to ensure that he is mindful of relevant expiration dates. In the context of physical permits, it is imperative that the motorist

clearly adheres to the rules associated with display of same. With regard to single event parking permits such as local authority 'scratch cards', it is essential that the motorist exercises care when scratching same to ensure that no confusion can arise as regards the parking period covered.

6.3.2 Permit Parking (Residential & Visitors)

The following information is relevant in cases where private residents' permit parking is in operation in housing developments (including designated residents' permit parking areas within other private parking places), which are not in charge of a Road Authority.

New Vehicle

It is the responsibility of a resident who did not have a vehicle at the time of taking up occupation in a residential development, to ensure that he is completely familiar with the applicable terms and conditions, prior to purchasing a vehicle and parking it within the curtilage of the housing complex.

In the context of locations that operate a physical resident's permit parking scheme; it is also incumbent on a resident to ensure that he engages with the parking controller to secure permission to park their vehicle at the clamping place whilst awaiting receipt of the physical permit.

Change of Vehicle

Where a resident has an existing resident's parking permit, has disposed of the vehicle in respect of the permit that was issued and purchased a replacement vehicle, they should notify the parking controller at the earliest possible opportunity and seek authorisation to park the new vehicle in the development (in accordance with the rules applying to residents parking), pending formal issue of the replacement permit.

Permit Renewal

Whilst the NTA recommends that parking controllers afford residents a reasonable period of time to complete permit renewal procedures, it remains incumbent on residents to comply with renewal scheme requirements promptly.

New Residents

New residents are advised to carefully review the signage in place at the entrance to and

throughout the residential complex, to ensure familiarisation with the applicable rules and restrictions prior to parking within the housing curtilage.

Visitors' Parking

It is incumbent on visitors to exercise due care when complying with the instructions / criteria prescribed by a parking controller for authorisation to park within the visitor's area of a clamping place. Visitors are also advised to carefully review the signage in place to ensure familiarisation with the applicable parking rules and restrictions.

6.4 Your Vehicle has been Clamped / Relocated - What Now?

6.4.1 Contacting the Clamping Operator

A motorist who upon returning to a clamping place discovers that their vehicle has been clamped, should refer to the signage in place for the name and contact details of the clamping operator.

Whilst not explicit in the clamping legislation, clamping operators are required to ensure that their telephone lines are functional at all times in order to facilitate the making of payment by a motorist. Motorists can therefore reasonably expect to engage with a clamping operator within a short period of attempting to make contact.

In the event that a motorist who is endeavouring to contact a clamping operator experiences difficulties, they are advised to endeavour to contact the parking controller via alternative means e.g. online, email etc.

6.4.2 Payment of the Clamp Release / Relocation Fee

Regulation 14(b) of the Regulations requires a parking controller and / or a clamping operator to make reasonable arrangements to facilitate immediate payment of the clamp release fee or relocation fee. Payment must be facilitated by at least two of the following means:

- Cash;
- Card (debit or credit);
- Voucher payment system (where such payment system has been approved by the NTA); or
- Such other method as may be approved by the NTA.

Where an online or telephone payment facility is made available by a parking controller to support its clamping operations, it is reasonable for a motorist to expect that same is fully functional at all times. Motorists are advised to exercise due care when completing payments via such facilities, to ensure that unnecessary issues do not arise.

Similarly where a parking controller or clamping operator facilitates payment by means of a hand-held card reading device, a motorist is entitled to expect that this device will also be functional at all times. If such a device is reliant on internet coverage and such coverage is poor or unavailable in a particular clamping place, the motorist (or member of the public seeking to pay a relevant charge) cannot be required to leave a clamping place (for example, to go somewhere with greater internet access) to make payment.

Where a motorist seeks to make payment by cash, such a request must be facilitated by the parking controller or clamping operator. However, it is incumbent on the motorist (or payer) to ensure that they have sufficient cash on their person to pay the relevant charge before contacting the parking controller or clamping operator to request release of the vehicle.

At no time should a parking controller or a clamping operator escort (either on foot or by car) a motorist or member of the public who wishes to make payment by cash, to an ATM for the purpose of withdrawing monies to pay the relevant charge.

The issue of a receipt following payment of the relevant charge is not mandated by the clamping legislation. Receipts are not normally issued in respect of payments made over the phone, by payment card or by voucher system. However, if a member of the public has paid the relevant charge and requested a written receipt of payment from the parking controller or clamping operator regardless of the payment means, a written receipt must be issued to that person.

6.4.3 Timeframe for Release of Clamp / Vehicle

Regulation 6 of the Regulations requires that a clamp must be removed from a vehicle no later than two hours following payment of the relevant charge or the decision to waive the charge.

However, in the interest of public safety and welfare and insofar as possible given geographic limitations, the NTA recommends that every endeavour is made to substantially reduce this timeframe in the following circumstances:

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- During hours of darkness;
 - Where the clamping place is isolated or poorly illuminated;
 - Where it becomes apparent that the motorist is elderly, has a disability or is accompanied by young children;

 - Where the vehicle has been relocated within the clamping place but the motorist cannot access same to take shelter or refuge in the event of inclement weather or safety concerns.

6.4.4 Clamping Appeals & Complaints Procedures

Clamping Appeals

Under the suite of clamping legislation, the owner of a vehicle or the person in control of a vehicle that has been clamped or relocated (the motorist) is entitled to appeal the decision to clamp or relocate the vehicle. A two-stage appeal process has been established for this purpose:

1. The First-Stage Appeal Process

The motorist must make a first-stage appeal, in writing or electronically, to the parking controller responsible for the clamping / relocation event. Information on how to make the first-stage appeal must be made available to the motorist by the parking controller on the notice provided at the time of clamping. The first-stage appeal must be made no later than 60 days from the clamping / relocation event, and should be submitted in the manner specified by the parking controller. The parking controller is then required to make their decision and to advise the motorist of their conclusions in writing, within 21 days of receipt of the first-stage appeal.

2. The Second-Stage Appeal Process

Motorists who do not receive a favourable outcome from the first-stage appeal process (including those cases where a partial refund of the clamp release fee has been made) are entitled to make a further appeal (a second-stage appeal) to the Clamping Appeals Officer designated by the NTA, within 30 days of receipt of the first-stage letter of determination from the parking controller¹². The Clamping Appeals Officer is obliged to make a decision on an eligible second-stage appeal within 42 days of:

- (a) Receipt of the completed appeal;

¹²Of note here are the following points: (a) the 30 day period is deemed to commence on the day the motorist receives the first-stage appeal determination, and (b) a copy of the parking controller's first-stage appeal determination must be included with the second-stage appeal.

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- (b) (b) Receipt of any additional information requested; or
 - (c) The expiry of the period of time for receipt of any additional information requested, whichever is later.

Clamping Complaints

In addition to the two-stage appeal process outlined above, the vehicle clamping legislation required the NTA to establish a Complaints Procedure to consider complaints from members of the public concerning:

- 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.
- The identification of vehicles used by clamping operators (including logos, stickers and advertisement on such vehicles).

A clamping complaint can be made by completing and returning the relevant form to the NTA within 60 days of the event giving rise to the complaint. The 60 day period is deemed to commence on the day of the event. The NTA is obliged to make a decision on any eligible complaints within 42 days of:

- (a) Receipt of the completed complaint; or
- (b) Receipt of any additional information requested, or
- (c) The expiry of the period of time for receipt of any additional information requested, whichever is later.

Further information regarding the clamping Appeals and Complaints Procedures can be found on the [Vehicle Clamping section](#) on the NTA website.

6.4.5 Courtesy

It is entirely reasonable for a motorist to expect that all persons directly engaged in clamping activities, as well as all other staff with responsibility for dealing with clamping matters will be:

- Courteous and mannerly;
- Knowledgeable (with regard to clamping and associated parking matters);
- Helpful;

-
- Neatly dressed in accordance with the uniform standards prescribed in the Regulations and
 - Of clean appearance when dealing with members of the public, particularly those persons whose vehicles are the subjects of clamping activities.

Similarly, it is anticipated that members of the public, including motorists whose vehicles have been clamped, will extend comparable courtesy to those persons engaging in clamping activities.

Where a person engaged in clamping activities (a clamping operator) behaves in a manner that is unreasonable or aggressive, the motorist should withdraw from direct engagement and /or notify the Garda where appropriate. The motorist should also submit a formal complaint to the NTA in accordance with our [Complaints Procedure](#).

6.5 The Disabled Person's Parking Permit- Usage & Limitations

The Disabled Persons' Parking Permit scheme is designed to maintain the independence of persons with reduced mobility. It is therefore a tremendously valuable asset to disabled drivers.



As is apparent from the governing national legislation¹³ the Disabled Persons' Parking Permit is intended primarily for usage:

- (a) On public roads, **and**
- (b) In conjunction with Disabled Persons' Parking Bays, which are larger than standard parking bays to facilitate access to and from the vehicle.

¹³ The Road Traffic (Traffic & Parking) Regulations, 1997.

The Disabled Persons' Parking Permit gives parking entitlements only in areas where parking is permissible. Parking in clearways, loading bays or double yellow lines (for example) is not permissible by any motorist.

Whilst usage of the Disabled Persons' Parking Permits is not expressly extended to other parking bays, it is noted that many local authorities allow free and unlimited parking in bays on public roads which are not designated as disabled persons' parking bays once a valid Disabled Persons' Parking Permit is displayed. It is also worth observing that per Section 14(1)(b) of the Act, a clamp shall not be fixed "...in a statutory clamping place, to a vehicle on which there is displayed a disabled person's parking permit, for the time being in force, unless the car park controller or clamping operator has reasonable grounds for believing that the vehicle is not parked for the convenience of the person to whom the permit was granted".

The above notwithstanding it is envisaged that where a vehicle displaying a current Disabled Persons' Parking Permit is parked in a statutory clamping place in a bay other than a Disabled Persons' Parking Bay, the vehicle will be compliant with the other rules and restrictions imposed by the parking controller in respect of parking in that bay.

Given the complexities, which are apparent above, and given that usage of Disabled Persons' Parking Permits does not automatically extend to private car parks, it is vital that motorists seeking to avail of Disabled Persons' Parking Bays pay careful attention to the rules for parking in such areas, as set out on the signage in place.

Comprehensive information regarding the Disabled Persons' Parking Permit regime including details on how to make an application can be found on the [Irish Wheelchair Association website](#) and the [Disabled Drivers Association of Ireland website](#).

6.6 Unauthorised Clamp Removal

In accordance with Section 32 of the Act, a person who without authorisation, removes or attempts to remove from a vehicle, an immobilisation device (i.e. a clamp) fixed to same, commits an offence and is liable to prosecution by An Garda Síochána and criminal sanction.