



## **Vehicle Clamping Act 2015**

### **Appeals Procedure**

**April 2022**

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## **1. Introduction**

The National Transport Authority (NTA) has put in place this Procedure in accordance with the Vehicle Clamping Act 2015. There is no charge for submitting an appeal in accordance with this Appeals Procedure. As a result of a vehicle having been subject to clamping activities (immobilised or relocated) a person may appeal against this decision. In accordance with legislation, there is a two-stage appeal process, where in the first instance, an appeal must be submitted to the parking controller (the entity that carried out the clamping activity). In the event of an unsatisfactory outcome to the first stage appeal, a second-stage appeal may be submitted to the NTA for determination by a Clamping Appeals Officer. A Clamping Appeals Officer is appointed in accordance with Section 21 of the Vehicle Clamping Act 2015. A Clamping Appeals Officer's role is independent of all parties in their performance of this function. The submission of both first-stage and a second-stage appeals are governed by statutory timelines.

## **2. Glossary of Terms**

“Act” means the [Vehicle Clamping Act 2015](#);

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

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

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

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

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

“Immobilised” means a vehicle having been prevented from moving by the fitting of a clamp.

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

“Regulation” means the [Vehicle Clamping and Signage Regulations 2017](#); and

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

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

### **3. Submitting a First–Stage Appeal**

A requirement of vehicle clamping legislation requires a parking controller to have in place clamping appeals procedures. Such procedures must be in accordance with Section 20 of the Act and be made available in printed form upon request. Procedures in place must provide for :

- (a) The grounds of appeal;
- (b) The person to whom the appeal may be made;
- (c) The form, including electronic, in which the appeal may be made;
- (d) The documentation submitted with an appeal;
- (e) The time period within which a person may lodge an appeal.

Any person who wishes to make an appeal against an incidence of clamping activity undertaken in respect of a vehicle owned or under their control must, in the first instance, submit an appeal to the parking controller involved in the clamping of the vehicle. Details of the parking controller’s appeals procedure (including the correspondence address of the parking controller) shall be provided on the clamping notice which is required to be affixed to the vehicle at the time of the clamping activity having been carried out.

#### **3.1 Submitting a First-Stage Appeal to the Parking Controller**

Upon request, a parking controller shall make available in printed form a copy of the procedures they have in place for the purposes of making an appeal.

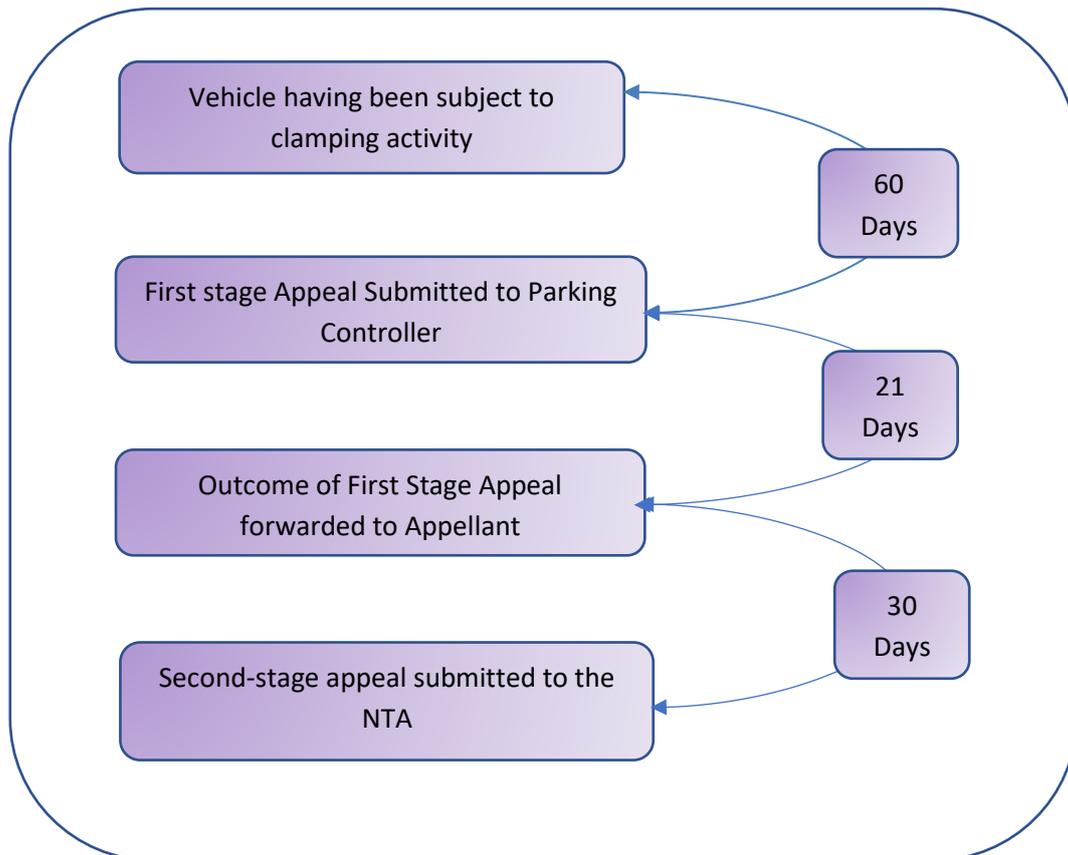
An appeal to the parking controller must –

- Be in writing and may be submitted by post, hand-delivered to the address of the parking controller or e-mailed or otherwise submitted by electronic means;
- Be submitted no later than 60 days from the date of the occurrence of the clamping activity being appealed;
- Provide the name, full postal address, email address (if any) and telephone number of the person making the appeal;
- State the registration number of the vehicle involved;
- State the clamping notice reference number;
- Include the date of the clamping incident;
- Provide an adequate description of the location where the incident occurred;
- State clearly the grounds of the appeal; and
- Include any documentation (e.g. witness statements, photographs, video recordings, parking tickets or receipts, doctor’s certificate, maps, plans) considered relevant by

the person making the appeal. The appellant should submit only copies of such documentation as submissions may not be returned. The appellant should retain all original documents.

The diagram below outlines a typical first stage appeals process and includes statutory binding timelines.

### First Stage Appeals Process – Appeal Submitted to Parking Controller



### 3.2 Determination of an Appeal by the Parking Controller

The parking controller is obliged to consider an appeal and issue a written notification (Letter of Determination) stating the outcome to the appellant within 21 days from the date the appeal has been submitted.

The parking controller may make one of the following determinations –

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

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

Where the determination is that the appeal is not allowed or is not allowed but a decision is made to issue a partial refund, the parking controller must include adequate information on how the decision may be appealed to a Clamping Appeals Officer. This information should be stated in the written notification or letter of determination (notification of the outcome of the first-stage appeal).

### **3.3 Records**

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

## ***4. Appeals to the Clamping Appeals Officer (Second-Stage Appeals)***

A person who is dissatisfied with the outcome of a first-stage appeal to a parking controller may make a further second-stage appeal to the Clamping Appeals Officer not later than 30 days after receipt of the parking controller's determination. The Clamping Appeals Officer has been designated by the NTA to independently examine and determine second-stage appeals.

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

A Clamping Appeals Officer can only determine an appeal which has already been determined by a parking controller. In every instance, the parking controller is obliged to accept the determination of a Clamping Appeals Officer.

### **4.1 Submitting a Second-Stage Appeal to the Clamping Appeals Officer**

A second stage appeal may be submitted to the National Transport Authority who administers the second-stage appeal process. An appeal at this stage will be impartially determined by an independent Clamping Appeals Officer, in accordance with Article 21 of the Vehicle Clamping Act 2015. An appeal may be submitted by completing the electronic online form (available

at <https://clampingregulation.nationaltransport.ie/Appeal/>) or by requesting a blank form, which once completed (in English or Irish) can be submitted via email to [clampingregulation@nationaltransport.ie](mailto:clampingregulation@nationaltransport.ie) or by post to:

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

If you wish to receive correspondence via email, please ensure that the email address [clampingregulation@nationaltransport.ie](mailto:clampingregulation@nationaltransport.ie) is added to your address book to avoid correspondence entering your junk/spam email folder.

When submitting a second stage appeal for determination by a Clamping Appeals Officer, **it must include a copy of the letter of determination (notification of the outcome of the first-stage appeal) received from the parking controller.** Submissions may include additional information to support an appeal such as photographs, video recordings, parking tickets or receipts, doctor's certificate, copies of parking permits, maps, plans etc. Only copies of such documentation should be sent as part of submissions. An appeal submission should not contain foul or offensive language. If necessary, reference(s) to the use of such language is sufficient. Communications containing foul or offensive language will not form part of an appeal submission or may result in an appeal not being progressed. An appeal submission should not include copies of medical records or photographs of medical procedures or injuries. A medical certificate will suffice as part of an appeal submission.

The submission of supporting information via the online form and by email as part of a written submission is restricted to the following formats: JPEG, GIF, ING, IMG, MP3, MP4, MOV, PDF, PNG, DOCX & MSG. The total maximum file size for receiving additional information via the online form is 50 MB and a maximum size limit of 35MB for submission of a written appeal submitted via email. Portable media can also be facilitated subject to the applied antivirus measures. It is requested that files are attached to email submissions and not embedded in emails. The NTA email server will automatically reject emails incorporating files in EXE, DLL or MSI formats. The NTA email server will also reject emails which contain other emails. The NTA will not accept responsibility for the non-receipt of second-stage appeal submissions which do not adhere to the above guidelines.

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

## 4.2 Second-Stage Appeal Process

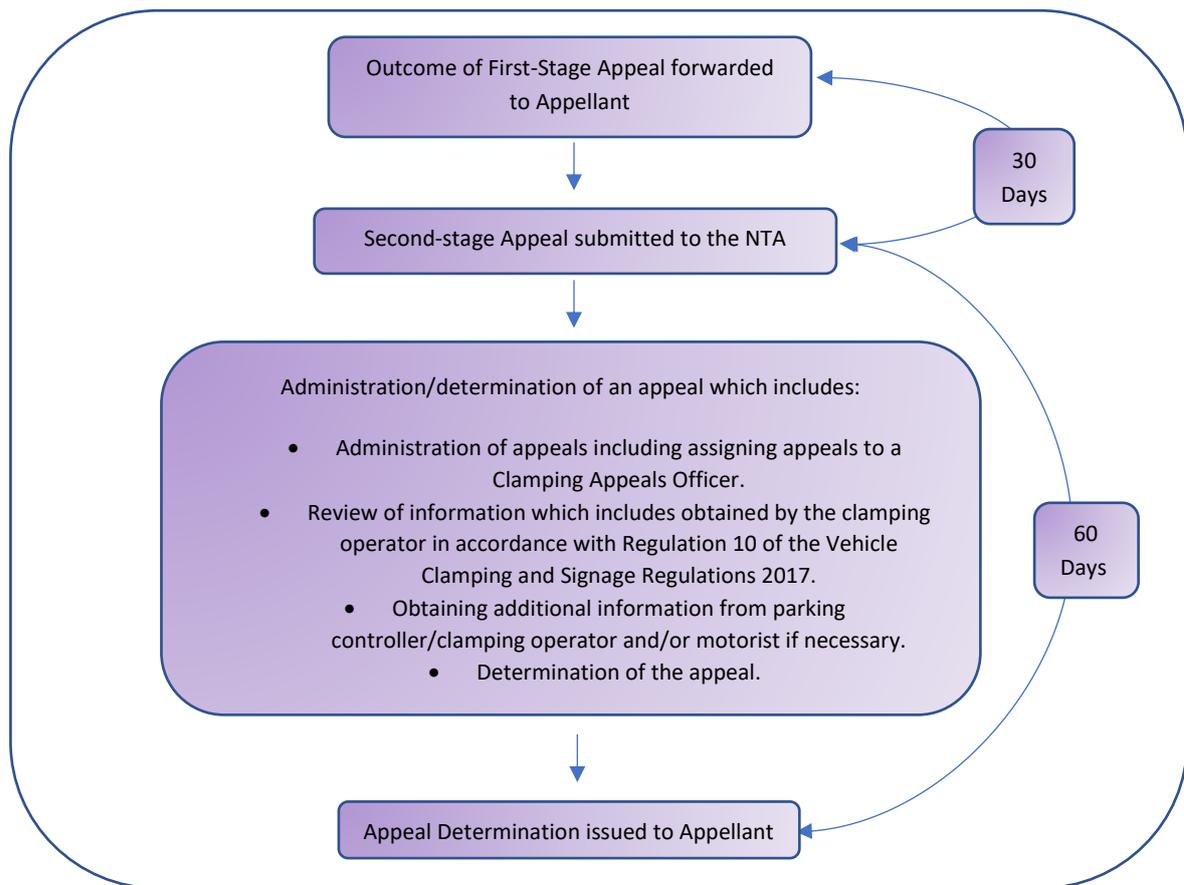
A second-stage appeal will be treated confidentially and considered objectively by a Clamping Appeals Officer, who will not have regard to the decision of the parking controller in the matter. A Clamping Appeals Officer will explore fully all relevant issues and documentation provided by the person making the appeal (including submissions made at the time of first-stage appeal). Where it is considered necessary, an inspection of the site may be carried out and/or interviews with the personnel involved in carrying out the clamping activity.

A Clamping Appeals Officer may also request additional information or evidence from the appellant to support specific claims, for example a copy of disabled parking permit. There will be a specified timeframe in which this information or documentation should be submitted. The Clamping Appeals Officer may also request the parking controller to submit additional relevant information or documentation within a similar specified period.

The Clamping Appeals Officer may, at their absolute discretion, decide to interview the appellant, witnesses or representatives of the parking controller or the clamping operator. They may also consider such action is not necessary in the determination of an appeal. There is no obligation on the Clamping Appeals Officer to provide a personal hearing in any case. Failure of any party to comply with reasonable requests from the Clamping Appeals Officer may adversely affect the determination of an appeal.

A Clamping Appeals Officer, when considering appeals, may have regard to any previous incidences of appeals concerning a particular clamping place, the parking controller, the clamping operator or the appellant or other such matters, if they consider these to be relevant to the appeal under consideration. Appeals may, on occasion be jointly determined by two or more Clamping Appeals Officers.

## Second-Stage Appeals Process – Appeal Submitted to a Clamping Appeals Officer



### 4.3 Determination of an Appeal

On receipt of the appeal and any further requested information and/or documentation, a Clamping Appeals Officer will consider the matter and make their determination in writing (in hard copy or electronic form or in both forms). The determination will be issued together with reasons for reaching such a determination and addressing each of the substantive grounds of appeal. It will normally be forwarded to both the appellant and the parking controller within 60 days of the receipt of an appeal by the NTA. In the event that unforeseen circumstances prevent an appeal from being resolved within the 60-day timeframe, the NTA will forward details of a revised timeline.

The Clamping Appeals Officer will make one of the following determinations:

- The appeal is not allowed, and the decision which is the subject to appeal is confirmed, or
- The appeal is allowed and the decision to clamp or relocate the vehicle is revoked.

The Clamping Appeals Officer may also make an order as to costs that they may consider appropriate in the circumstances. Such an order may be considered only where there has been expenditure by an appellant as result of a vehicle having been subject to clamping activities.

Where the determination is that the appeal is allowed, the appropriate refund must be made by the parking controller to the appellant no later than 14 days following the forwarding of the determination to both parties. No administrative fee or other deduction may be applied to the amount refunded.

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

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

The determination of an appeal by a Clamping Appeals Officer is the final part of the appeals process. There is no further avenue of appeal in accordance with this Procedure. The NTA does not routinely enter further correspondence with either party following the notification of the determination of an appeal.

The determination of an appeal does not preclude any party from exercising their statutory rights and accessing the courts system. If you are unhappy with NTA's response relating to an appeal, there is the option of making a complaint to the [Office of the Ombudsman](#).

#### **4.4 Records**

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