



BERMUDA

TRAFFIC OFFENCES PROCEDURE AMENDMENT
AND VALIDATION ACT 2015

2015 : 55

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WHEREAS it is necessary to amend the Traffic Offences Procedure Act 1974 to provide that parking notices may be generated electronically; to validate parking notices and summary prosecutions purportedly issued and brought under the principal Act; to increase the penalty for parking offences and the offence of unlawfully removing a parking ticket; to authorise and validate the use of the EasyPark device and allow the approval of other electronic parking management devices; and to provide for the fines for parking offences in their municipal areas to accrue to the revenues of the Corporations of Hamilton and St. George's;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

TRAFFIC OFFENCES PROCEDURE AMENDMENT AND VALIDATION ACT 2015

Citation

1 This Act, which amends the Traffic Offences Procedure Act 1974 (“the principal Act”), may be cited as the Traffic Offences Procedure Amendment and Validation Act 2015.

Repeals and replaces section 15

2 Section 15 of the principal Act is repealed and replaced by the following—

“Parking notice

15 (1) Where a police officer has reasonable cause to suspect that a person has committed a parking offence in respect of a vehicle, the officer may issue a parking notice in the form set out in Schedule 2.

(2) A parking notice shall be issued by the police officer—

- (a) affixing the notice to the vehicle in such a manner that it may reasonably be expected to be seen by the person in charge of the vehicle at the time of the alleged offence; or
- (b) delivering the notice personally to the person who appears to be in charge of the vehicle at the time of the alleged offence.

(3) A parking notice issued under this section may be generated electronically and need not be signed by the officer who issues the parking notice.

(4) A parking notice that is generated electronically may be generated on an instrument that is approved as suitable by order of the Minister.

(5) A parking notice that is affixed to a vehicle under subsection (2)(a) is deemed to have been delivered to the owner of the vehicle, unless the contrary is proved.

(6) The Minister may make regulations to amend Schedules 2 and 2A.

(7) The negative resolution procedure shall apply to orders and regulations made under this section.”.

Validation of parking notices

3 (1) Where, before the commencement of this Act, a parking notice which was not in the form as provided in Schedule 2 of the principal Act was purportedly issued under section 15 of that Act, it shall be deemed to have been in that form and to have been a valid parking notice.

(2) Where, before the commencement of this Act—

- (a) the penalty specified in a parking notice was not paid within seven days of the date on which the parking notice was issued; and
- (b) in consequence, a person was notified in writing of the date and time at which he should appear before the magistrates’ court to answer to the parking offence to which the parking notice related,

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proceedings for the parking offence shall be deemed to have been brought in accordance with the ticket summons procedure provided in Part II of the principal Act.

(3) For the avoidance of doubt—

(a) any payment received by the magistrates' court in respect of—

(i) a penalty specified in a parking notice validated by subsection (1); or

(ii) a fine imposed in any proceedings to which subsection (2) relates,

shall be deemed to have been lawfully received by the Crown in respect of that parking notice or those proceedings; and

(b) a fine imposed in any proceedings to which subsection (2) relates shall be enforceable in accordance with section 60 of the Criminal Jurisdiction and Procedure Act 2015.

Inserts sections 15A and 15B

4 The principal Act is amended by inserting the following after section 15—

“Content of parking notice

15A The use on a parking notice of any words or expression set out in Schedule 2A in bold characters, or any words or expression substantially to the same effect, to designate the corresponding parking offence against a provision of law specified in Schedule 2A in relation to the words or expression so used, is sufficient for all purposes in connection with proceedings for such offence to describe the offence so designated.

Parking management device

15B (1) The parking management device designed for parking time management and known as the “EasyPark” is authorised as suitable to measure parking time and pay the parking fee for the purposes of any parking legislation.

(2) Where, at any time before or after the commencement of the Traffic Offences Procedure Amendment and Validation Act 2015, the “EasyPark” device was or is used as a method of payment of a parking fee under any parking legislation, its use instead of a voucher, ticket, token or similar device shall be deemed to be authorised by the relevant legislation.

(3) In this section, “parking legislation” means this Act, the Hamilton Fee-Parking Ordinance 1981, the Hamilton Pay and Display Voucher Parking Ordinance 1995, the Civil Airports (Pay and Display Parking) Regulations 1990 or any other Act or statutory instrument relating to parking.

(4) The Minister may by order authorise a device designed for parking time management in addition to or in place of the “EasyPark” device, and subsections (1) and (2) shall apply accordingly.

(5) The negative resolution procedure shall apply to an order made under subsection (4).”.

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Repeals and replaces section 16

5 Section 16 of the principal Act is repealed and replaced by the following—

“Unlawful removal of parking notice

16 (1) A parking notice that is affixed to a vehicle under section 15 shall not be removed or interfered with except by or under the authority of the owner or the person in charge of the vehicle or by or under the authority of a police officer.

(2) Any person who contravenes subsection (1) commits an offence punishable on summary conviction to a fine not exceeding \$150.”.

Amends section 18

6 Section 18 of the principal Act is amended by—

(a) deleting “fifty dollars” and substituting “\$75”;

(b) deleting “order published in the Gazette” and substituting “regulations”.

Inserts section 18A

7 The principal Act is amended by inserting the following after section 18—

“Allocation of parking penalty within a municipal area

18A (1) The penalty for a parking offence committed within a municipal area shall accrue to the revenues of the Corporation of Hamilton or the Corporation of St. George’s, as the case may be.

(2) In this section, “municipal area” has the meaning provided in the Municipalities Act 1923.”.

Amends section 23

8 Section 23 of the principal Act is amended—

(a) by deleting the section heading and substituting “Minister may by regulations amend Schedule 1 ”;

(b) in subsection (1) by deleting “an order” and substituting “regulations”;

(c) in subsection (2)—

(i) by deleting “orders” and substituting “regulations”;

(ii) by deleting “section 15(3),”.

Repeals and replaces Schedule 2

9 Schedule 2 to the principal Act is repealed and replaced by the following—

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“Schedule 2

(Section 15)

PARKING NOTICE”.

TRAFFIC OFFENCES PROCEDURE ACT 1974

PARKING NOTICE

(Issued by.....)

Issued to:

Date of issue:

Notice Number:

WHEREAS the following vehicle was seen on:

.....

at am/pm onday, the of 20....

Vehicle registration: Make:

Colour:

YOU ARE HEREBY GIVEN NOTICE

.....

.....

Amount of Fixed Penalty

The amount of the fixed penalty is **\$75** if paid within 7 days after the date of issue – due date the of 20....

If payment of the fixed penalty of \$75 is not made before the due date, you are liable to be summoned to appear in court on a date to be set for trial of the offence.

The amount of the fixed penalty is **\$100** if paid after 7 days but before the trial date.

If payment of a fixed penalty is made, a conviction will not be recorded in respect of the offence.

Instructions for Payment of Fixed Penalty

Payments may be made either:

1. In person at the Magistrates Court, 58 Court Street, Dame Lois Browne-Evans Building, Hamilton between 9.00 a.m. and 4.30 p.m. Cheques and drafts should be made payable to the “Accountant General”; or
2. Online via the government website at www.gov.bm/payments. Please have this notice available with your credit or debit card.

Trial of Offence

If payment of a fixed penalty is not made by either of the due dates, a trial in respect of the offence will take place on:

The of 20.... at 2.30 p.m.
at the Magistrates Court 58 Court Street, Dame Lois Browne-Evans Building, Hamilton.

A person who is convicted of an offence is liable, on summary conviction, to a fine of **\$150**.

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Inserts Schedule 2A

10 The principal Act is amended by inserting the following after Schedule 2—

“SCHEDULE 2A

(Section 15A)

PARKING OFFENCES

Hamilton Traffic and Sidewalks Ordinance 1988

- 1 Motor vehicle parked in a restricted parking area in excess of the permitted period contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 3
- 2 Taxi parked in a taxi stand during working hours when not plying for hire and driver not within 30 feet of taxi contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 4
- 3 Motor cycle or auxiliary cycle parked in restricted parking area during working hours outside cycle parking area contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 5
- 4 Motor cycle, cycle or auxiliary cycle parked on a street with any wheel more than one foot from the curb contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 6
- 5 Vehicle parked so as to obstruct or cause a danger to others contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 7
- 6 Vehicle parked on a street during working hours alongside a single yellow line contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 8
- 7 Vehicle parked on a street at any time alongside a double yellow line contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 9
- 8 Vehicle parked in contravention of a sign restricting parking contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 10
- 9 Vehicle other than goods vehicle stopped or parked in loading zone during loading hours contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 11(1)
- 10 Goods vehicle other than a shipping container parked in loading zone longer than an hour during loading hours contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 11(2)
- 11 In a pay parking area goods vehicle other than shipping container stopped or parked in a loading zone during loading hours for longer than 10 minutes except when goods are being loaded or unloaded contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 11(3)
- 12 Vehicle other than goods vehicle with service vehicle parking permit parked in special service parking area contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 11(4)

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- 13 Vehicle other than goods vehicle with a special goods parking permit parked in a special goods vehicle parking area contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 11(5)
- 14 Vehicle other than taxi parked in a taxi stand during working hours or when prohibited by traffic sign contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 12
- 15 Vehicle stopped or parked on a street so as to cause interruption to traffic contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 13
- 16 Vehicle parked on sidewalk contrary to Hamilton Traffic and Sidewalks Ordinance Article 14
- 17 Vehicle other than two-wheeled vehicle parking in cycle parking area contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 15
- 18 Vehicle stopped or parked alongside or opposite street obstruction or temporary sidewalk contrary to Hamilton Traffic and Sidewalks Ordinance 1988 Article 16

St. George's Traffic Ordinance 1967

- 19 Vehicle, other than two-wheeled vehicle, parked within a cycle parking area contrary to St. George's Traffic Ordinance 1967 Article 5
- 20 Auxiliary bicycle parked more than two feet from curb contrary to St. George's Traffic Ordinance 1967 Article 5(a)
- 21 Motorcycle parked otherwise than in a designated area contrary to St. George's Traffic Ordinance 1967 Article 5(b)
- 22 Vehicle, except taxi actually on hire, parked in a taxi stand contrary to St. George's Traffic Ordinance 1967 Article 5(c)
- 23 Vehicle parked in contravention of sign restricting or limiting period of time for parking contrary to St. George's Traffic Ordinance 1967 Article 5(d)
- 24 Vehicle other than a goods vehicle parked in a loading zone during working hours contrary to St. George's Traffic Ordinance 1967 Article 6
- 25 Goods vehicle parked in a loading zone during working hours for more than one hour contrary to St. George's Traffic Ordinance 1967 Article 6
- 26 Vehicle stopped or parked on any street so as to cause an interruption of traffic contrary to St. George's Traffic Ordinance Article 8
- 27 Vehicle stopped or parked otherwise than facing the direction of travel contrary to St. George's Traffic Ordinance 1967 Article 9
- 28 Taxi parked in taxi stand when not plying for hire or driver not within 10 feet of taxi contrary to St. George's Traffic Ordinance 1967 Article 10
- 29 Vehicle stopped or parked on a sidewalk or street alongside a yellow line contrary to St. George's Traffic Ordinance 1967 Article 11

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- 30 Vehicle parked alongside or opposite street obstruction or temporary sidewalk contrary to St. George's Traffic Ordinance 1967 Article 12
Parking of Vehicles (Designated Areas) Act 1973
- 31 Vehicle parked in designated area in contravention of a notice prohibiting or restricting parking contrary to Parking of Vehicles (Designated Areas) Act 1973 Section 4
- 32 Vehicle parked within an area reserved without permission contrary to Parking of Vehicles (Designated Areas) Act 1974 Section 5(2)
Road Traffic Act 1947
- 33 Vehicle parked in contravention of an order contrary to Road Traffic Act 1947 Section 4
- 34 Vehicle parked in contravention of a traffic sign contrary to Road Traffic Act 1947 Section 12
- 35 Vehicle parked in a prohibited place or manner contrary to Road Traffic Act 1947 Section 13(7)
Municipalities (Hamilton Pay and Display Parking) Ordinance 1986
- 36 Parking in contravention of Municipalities (Hamilton Pay and Display Parking) Ordinance 1986 contrary to Municipalities (Hamilton Pay and Display Parking) Ordinance 1986 Article 16
Hamilton Pay and Display Voucher Parking Ordinance 1995
- 37 Parking in a pay parking street without displaying valid parking voucher contrary to Hamilton Pay and Display Parking Voucher Ordinance 1995 Articles 3 and 13
- 38 Parking for more than an hour in same place in pay parking street contrary to Hamilton Pay and Display Parking Voucher Ordinance 1995 Articles 3 and 13
- 39 Returning to same place in pay parking street before the expiry of an hour contrary to Hamilton Pay and Display Parking Voucher Ordinance 1995 Articles 3 and 13

Related amendments

11 (1) Section 55A(1) of the Motor Car Act 1951 is amended by deleting the words "a traffic offence within the meaning of the Traffic Offences (Penalties) Act 1976." and substituting a long dash and the following—

- "(a) a traffic offence within the meaning of the Traffic Offences (Penalties) Act 1976;
- (b) a traffic offence within the meaning of the Traffic Offences Procedure Act 1974; or
- (c) a parking offence within the meaning of the Traffic Offences Procedure Act 1974."

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(2) Section 19A(1) of the Auxiliary Bicycles Act 1954 is amended by deleting the words “a traffic offence within the meaning of the Traffic Offences (Penalties) Act 1976” and substituting a long dash and the following—

- “(a) a traffic offence within the meaning of the Traffic Offences (Penalties) Act 1976;
 - (b) a traffic offence within the meaning of the Traffic Offences Procedure Act 1974; or
 - (c) a parking offence within the meaning of the Traffic Offences Procedure Act 1974.”.
- (3) Schedule 1 to the Traffic Offences (Penalties) Act 1976 is amended by—
- (a) deleting “\$100” and substituting “\$75” in Head 5 of the item on section 13(7) of the Road Traffic Act 1947;
 - (b) deleting “\$50” and substituting “\$75” in Head 5 of the items on sections 4 and 5 of the Parking of Vehicles (Designated Areas) Act 1973.

Revocations

- 12 (1) The Parking Notice (Amount of Penalty) Order 1988 is revoked.
- (2) The Traffic Offences (Form of Ticket) Regulations 1975 are hereby revoked.

Commencement

13 This Act shall come into operation on such day as the Minister may appoint by notice in the Gazette.

[Assent Date: 23 December 2015]

[Operative Date: 01 June 2017]