

## PRIVATE PARKING TICKETS AND CLAMPING

### - Know your legal rights

The whole topic of the issuing of **Parking Tickets** and **Wheel Clamping** is a very emotive subject.

More often than not, the legality of the issuing of such parking tickets and the act of clamping vehicles, and the various methods of challenge, are either not known or grossly misunderstood.

The first point to note is that parking tickets can be issued from 2 main sources-

i)- Tickets issued by **Public Authorities** eg- The Police or Local Authority.

ii)- Tickets issued by **Private Firms or Companies** eg Supermarkets, Hospitals, retail parks and the like.

Very often, such private firms or companies engage a separate management company to deal on their behalf with the issue and management of private parking tickets.

This Article deals only with the legalities of those parking tickets issued by Private Firms or Companies, or by management companies engaged on their behalf to issue such parking tickets.

A completely different set of rules applies to parking tickets issued by Public Authorities, which are not covered in this article.

#### **Private Parking Tickets**

The first thing to do if you receive a parking ticket is to check whether it is a ticket issued by a Public Authority or whether issued by, or on behalf of, a private firm or company.

If you have been issued with a parking ticket by, or on behalf of a private firm or company, then, be aware that the issuing of such private parking tickets by private companies are largely unregulated, and strictly speaking, such private companies can charge what they like.

That said, many such private firms or companies are members of the British Parking Association, and if they are members, then the Association has its own Code of Practice which currently sets a maximum charge.

The issuing of such parking tickets by private firms or companies (unlike parking tickets issued by the police or local authorities) does not constitute a fine or criminal offence.

In such circumstances, the right to recover the amount specified in the private parking ticket is based purely on contract law. Essentially, under contract law, private firms or companies can claim for payment if you breach your contract with them eg where the private firm or company allows you to park on their property, but where you have for example overstayed.

However, the issuing of such private parking tickets can only be enforced under contract law as you have not, in such circumstances, committed a criminal offence- it is purely a civil contractual matter.

If you have been issued with such a private parking ticket,- then it can normally only be enforced if, having ignored the ticket, the private company then send you an invoice

demanding payment. If you then ignore the invoice, the private company can only proceed to claim the sum by the issue of civil court proceedings, claiming breach of contract.

In such circumstances, the company has to decide whether it is worthwhile them issuing court proceedings to recover the sum involved, which is very often not worth their while.

It should be noted that it is only the **driver**, and not the owner, who will be liable for the privately issued parking ticket. The reason being that, under contract law, the contract is formed between the driver (not the owner) and the private company concerned. Further, in such a situation, there is no legal obligation on the owner to name or identify the driver.

Even if you are liable, you may still be able to challenge the amount levied under the private parking ticket, in order to reduce the amount paid, on the basis that the amount is disproportionately high, compared to any actual loss sustained, and thereby constitutes a “penalty”.

### **Clamping**

Private firms or companies, rather than issue parking tickets with the prospect of having to chase for payment, very often will have your vehicle clamped, either by them or by a firm or company engaged on their behalf, to undertake this task. This will ensure that payment is handed over to them there and then, before your vehicle is released.

If, in such circumstances, you have a genuine grievance over the clamping, then it is likely that you will, in the first instance, have to pay for the release and then subsequently complain and seek repayment.

The usual scenario is where the driver complains that there were either no, or inadequate, signs, warning of clamping.

Please note that you should not, even if you have a genuine grievance, attempt to remove the wheel clamp as any damage caused in the process may amount to an offence of criminal damage.

In order for the clamping to be legal in the first place, the person clamping must be registered with the Security Industry Authority (**SIA**). If not, the clamping will be an illegal act and the “unlicensed” clammer, as well as his employers, will be committing a criminal offence.

Always therefore ask the person clamping for his SIA licence. This will reveal a 16 digit SIA number which can be checked with the SIA. If the clammer refuses to produce his licence, this again constitutes a criminal offence.

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