

Parking (Code of Practice) Bill

HL Bill 146 of 2017–19

Summary

The [Parking \(Code of Practice\) Bill](#) is a private member's bill which would require the government to prepare a code of practice that contains guidance on good practice in the operation and management of private car parks, in addition to guidance on appeals against parking charges imposed in such car parks. The bill also provides for the creation of an independent appeals service and for a levy on the parking industry to cover the costs associated with issuing, administering and investigating a failure on individuals to act in accordance with the code.

The bill was introduced in the House of Commons on 19 July 2017 by Sir Greg Knight (Conservative MP for East Yorkshire). The bill received its second reading in the House of Commons on 2 February 2018 and completed its stages with cross party support on 23 November 2018. The bill was introduced in the House of Lords on 26 November 2018 under the sponsorship of Lord Hunt of Wirral (Conservative) and is scheduled to have its second reading on 18 January 2019.

Provisions of the Bill

This section provides a summary of the 12 clauses that form the Bill:

Clause 1 of the bill would place a requirement on the Secretary of State for the Ministry of Housing, Communities and Local Government (MHCLG) to prepare a code of practice for the private parking industry that contains guidance about the operation and management of private parking facilities and guidance about appeals against parking charges imposed by or on behalf of the providers of private parking facilities.¹

Clause 2 sets out a requirement for the Secretary of State to consult on the content of the code. It outlines that the consultation must cover “individuals and organisations representing the interests of parking management companies, those who use, or may use, private parking facilities and anybody else he believes would be appropriate to consult”.² In addition, the clause outlines the procedure by which the draft code would be laid before Parliament, requiring that it is laid before both Houses “40 days before the Secretary of State may issue it, taking effect 21 days after it has been issued”.³

Amongst its provisions, Clause 3 would place a requirement on the Secretary of State to regularly review the parking code, allowing for alterations or a replacement code subject to the same requirements outlined in Clauses 1 and 2.⁴

Clause 4 would require the Government to publish the code once approved by both Houses.

Clause 5(1) would provide that “a failure on the part of any person to act in accordance with any provision of the parking code does not of itself make that person liable to any legal proceedings in any

court or tribunal”. However, clause 5(5) allows for the code to be admissible in evidence in any legal proceedings. Under clause 5(2) the Secretary of State would have to have regard for any such failure when deciding:

- (a) whether to disclose any particulars contained in the register to a person under regulation 27 of the Road Vehicles (Registration and Licensing) Regulations 2002 (SI 2002/2742);
- (b) whether a person should be, or should continue to be, an accredited parking association.

Clause 5 provides a definition of an accredited parking association:

an organisation that represents the interests of parking operators, and who the Secretary of State considers appropriate to share information from the register of vehicles under section 21 of the Vehicle Excise and Registration Act 1994.⁵

Clause 6 would allow the Secretary of State to delegate their functions referred to in clauses 1–4 in addition to their functions related to investigating whether persons have failed to act in accordance with the parking code. This clause would prohibit those with delegated functions to lay or alter the code before Parliament and would allow for payments to be made by the Secretary of State for performance of delegated functions.⁶

Clause 7 was added to the bill by Sir Greg Knight during report stage in the House of Commons. It provides for a scenario in which the parking code may recommend that all appeals against parking charges in private car parks are dealt with by a single independent person. In this situation, the Secretary of State would be able to enter into an agreement with such a person for them to deal with appeals against parking charges and charge fees to persons operating private parking facilities.

Clause 8 would authorise the Secretary of State to make regulations that would require accredited parking associations to pay a levy to meet costs in connection with:

- discharging the Secretary of State’s functions under the Act;
- investigating whether individuals or organisations failed to act in accordance with the parking code; and
- for the establishment and administration of the appeals service.

The regulations could include provisions determining: “the amount of levy payable, the times at which the levy is to be paid, the person or persons it is to be paid to, the manner in which it is paid, interest charges, debt recovery and the making of repayments”.⁷ The clause includes consequences of non-compliance, including giving the Secretary of State the right to consider whether the Driver and Vehicle Licensing Agency (DVLA) information should be disclosed and whether a company should be, or should continue to be, an accredited parking association.⁸

Clause 9 sets out that regulations under the bill should be made by statutory instrument and outlines that regulations made under Clause 8(1) may:

- (a) make different provision for different purposes;
- (b) contain incidental, supplemental, consequential or transitional provision or savings;
- (c) provide for a person to exercise a discretion in dealing with any matter.

Statutory instruments made under 8(1) would be subject to the negative resolution procedure.

Clause 10 provides definitions used under the bill, clause 11 outlines how the bill will apply to and bind Crown land in the same way it applies to any other land, and clause 12 specifies the commencement of the Act, the territorial extent (England, Wales and Scotland) and the short title.

House of Commons Stages

Second Reading

The bill received its second reading in the House of Commons on 2 February 2018. Introducing the bill, Sir Greg Knight (Conservative MP for East Yorkshire) stated that it would:

[...] require the Government to create a new mandatory code of practice across the private parking sector, which will end inconsistent practices and unfair treatment of British motorists. It will ensure that the terms under which private parking is provided, including the rights and obligations of each party, are fair, clear and unambiguous.⁹

Responding for Labour, Yvonne Fovargue, Shadow Minister for Housing, Communities and Local Government (MHCLG), expressed Labour's support for the "much-needed bill", stating that it was "the time to bring forward some justice for the motorist".¹⁰ The Scottish National Party's shadow leader of the House of Commons and spokesperson on constitution, Pete Wishart (MP for Perth and North Perthshire), also supported the bill, arguing that it was "absolutely necessary" and that some private parking companies "are a blight on communities, harassing motorists and driving tourists away from many towns and city centres".¹¹

Rishi Sunak, the Parliamentary Under Secretary of State (Minister for Local Government) for MHCLG, expressed his support for the bill, stating that it "rightly seeks to address an issue that comes up time and again".¹² Amongst other points, he argued that signs in private car parks are often poorly lit and have "unreasonably small text" which leads to drivers being left unaware of the contract they had entered into when parking.¹³ Referring to comments made in the debate, the Minister went on to say:

Clearly we must take action to put an end to the indefensible behaviour we have heard described today by Members across the House, and the bill is an opportunity to do just that. Specifically, it will enable the Government to introduce a new single code of practice to cover the whole industry, which will give drivers the confidence to know that they will be treated in a fair and consistent way.¹⁴

Committee Stage

The bill's committee stage took place on 19 July 2018 and no amendments were made. Ahead of the proceedings, a draft summary of the code of practice was shared by the Government. Sir Greg Knight outlined several aspects of it during the proceedings:

There will be obligations on the operators of private car parks in the code, which will include the type of "equipment and technology used", "clear signage", "clear and accessible displays of the terms and conditions", and the requirement that there be a transaction period and a grace period.

We need to ensure that a motorist has a choice before committing him or herself to park in a particular car park. With the advent of closed circuit television (CCTV) cameras, in some cases what happens is that a vehicle registration plate is recorded upon the motorist entering the car park. The motorist then sees the terms that apply to the car park and decides not to park there

but gets a ticket because the car was seen going in and coming out. That cannot be right. There must be a grace period of five or 10 minutes—perhaps even longer in a multi-storey car park—which would allow the motorist to change his or her mind.¹⁵

Several MPs on the public bill committee provided examples of current issues raised regarding private parking companies. For example Stephen Doughty (Labour and Co-operative MP for Cardiff South and Penarth) stressed that “there is collusion between parking companies and solicitors’ firms—so-called roboclaims companies”.¹⁶ He argued that people who do not pay the fines are referred into a legal process via the county court system and that the parking companies “are jamming up parts of our legal system”.¹⁷ However, Daniel Ziechner (Labour MP for Cambridge) suggested that the bill did not fully tackle the issue, stating that even with the DVLA not passing information onto operators that do not comply with the code, it would not stop “the real rogues” carrying on. He argued that they would still issue parking tickets and “30 percent of people just pay up, because they are intimidated”.¹⁸

The Government Minister, Rishi Sunak, provided further detail on what the code could entail:

By standardising tickets, complaints processes, fees and lots of other things, the code of practice will offer us the opportunity to educate the British public when the bill has passed. From that point forward, one will be able to say to the people of the United Kingdom, “This is what tickets should look like. These are the various things that you should expect to see on them”—whether that is a kitemark or something else. In that way, through consumer education, we will hopefully ensure that they will be able to check for some kind of mark or language that would not be on rogue parking tickets. By bringing everything together in a standard way, that education process can happen in a way that it cannot today. I hope that that will deal with most of those issues.¹⁹

In addition, Mr Sunak stated that the Welsh and Scottish Governments were represented on the working group developing the code of practice and were working closely with the MHCLG “to ensure uniformity of execution of the bill”.²⁰

Report Stage and Third Reading

At report stage, on 23 November 2018, Sir Greg Knight proposed a new clause and six amendments to the bill. These were all added without division:

The new clause and amendment 6 are the substantive amendments and would allow the Secretary of State to appoint a single appeals service for the private parking industry. They would also amend the proposed levy powers in order to use the levy to cover the costs of establishing and maintaining such an appeals service. Amendments 1 to 5, which also stand in my name, are largely technical and would amend the bill to allow the Government flexibility to delegate their functions for investigating breaches of the code. They would also ensure that, where the Secretary of State has delegated the function of preparing the code of practice, they must still approve the final version of the parking code.²¹

Andrew Gwynne, Labour’s Shadow Secretary of State for Communities and Local Government, reaffirmed Labour’s support for the bill by congratulating Sir Greg Knight for his “very sensible amendments” and assuring him of their “full support”.²² Pete Wishart of the Scottish National Party also expressed his support for the “very fine bill”.²³

During third reading, Rishi Sunak reaffirmed that as a result of the bill private landowners and car park operators would have to ensure their land is managed “in a fair, reasonable and proportionate manner”

and confirmed the Government’s “commitment to bringing this legislation into force as soon as practicably possible”.²⁴ Concluding third reading, Sir Greg Knight stated: “the message to cowboy parking operators from this Chamber is loud and clear: in future, you play by the rules or you are put out of business”.²⁵

Wider Response to the Bill

As well as receiving cross party support in its progression through the House of Commons, the bill was welcomed by several organisations in the parking industry, including the British Parking Association (BPA) and the RAC Foundation. On clause 1, the introduction of a mandatory code or practice, Andrew Pester, the chief executive of the BPA, said that “a single, mandatory code of practice across the whole sector is important to ensure that unscrupulous providers don’t undermine the parking sector with bad practice”.²⁶ The BPA is one of two accredited trade associations—the other being the International Parking Community (IPC)—and both associations publish separate codes of practices that their members are required to abide by. As such, there are currently different requirements for the management and operation of private car parks and for appeals associated with management of private car parks.²⁷

Andrew Pester indicated further support for the bill in a press release following the bill’s third reading:

We welcome this bill and the agreed amendments tabled by Sir Greg Knight, which chimes with our call for a standard-setting body, a single code of practice and a single independent appeals service. This framework provides a unique opportunity to deliver greater consistency and consumer confidence.²⁸

The RAC Foundation referenced data that suggested drivers were being issued penalties by private parking firms at a rate of one every five seconds.²⁹ The director of the RAC Foundation, Steve Gooding, outlined his support for the bill in this context:

Frankly we think Sir Greg Knight’s private members bill can’t come into law too soon, bringing the era of self-regulation of private parking to a close with firms having to abide by a code of practice signed off by ministers.³⁰

Private Land and Car Parks in England: Background

Current Legislation

Under the Protection of Freedoms Act 2012 (section 56 and schedule 4), private landholders can recover any unpaid parking charges from the ‘keeper’ of a vehicle if they refuse or are unable to name the driver at the time the parking charge was incurred.³¹ This is because the private parking sector is largely governed by contract law, where drivers, when parking in privately owned car parks, enter a contract with the landholder to park there for a set amount of time in exchange for payment.³² Signs and posters usually set out the terms and conditions of these contracts.³³

Prior to the Act being introduced, a private landowner could only seek liability against a driver to recuperate any unpaid parking charges through requesting keeper details from the DVLA.³⁴ However, with there being no requirement for the registered keeper to declare who was driving the vehicle or accept the liability for themselves, both the registered keeper and driver of the vehicle could avoid liability. The Government suggested that this made it difficult for landholders to manage parking by ticketing alone.³⁵

Under section 54 of the 2012 Act, private sector wheel-clamping and vehicle removal by landholders was banned and only organisations with legal powers to clamp or remove vehicles (including the police, local authorities and government agencies) are now able to do so.³⁶ As a result, landholders rely on issuing tickets to enforce the parking conditions on their land. In order to access keeper details from the DVLA, landholders are required to be a member of one of the two accredited trade associations, the BPA or the IPC, and abide by their standards for the operation of private car parks, their management and the appeal process against parking tickets. In several cases, existing byelaws, such as those at airports, ports and some railway car parks, may still offer private landholders the power to clamp and tow vehicles.³⁷

Government Policy on Parking on Private Land

In March 2015, the then Department for Communities and Local Government (DCLG) issued a consultation to explore issues with how parking on private land was regulated, the behaviour of private parking companies, and what steps the Government could take to rectify existing problems. In particular, it covered:

- Practices which could be in breach of consumer protection laws, such as companies setting excessive parking charges, or levying excessive penalties for overstaying which are dressed up as official “parking fines”.
- Practices that undermined the principle underlying the formation of a contract, including unclear or missing signage, or a lack of transparency on charges and/or fines.
- Failure to treat drivers fairly when they have incurred a penalty, including the failure to provide information, consider appeals fairly and the aggressive use of bailiffs.³⁸

The Government published its summary of responses to the consultation on 11 May 2016, where the majority of the 571 respondents believed there were significant problems with the regulation of parking on private or public land and/or with the behaviour of private parking companies.³⁹ The Government did not indicate within the publication how it intended to proceed. However, in an oral question on 24 April 2017 on how the responses to the consultation would impact parking policy, the then Parliamentary Under Secretary of State (Minister for Local Government) for MHCLG, Marcus Jones, said he was “considering the points that were raised.”⁴⁰

On 28 January 2018, the Government formally announced that it would support Sir Greg Knight’s bill, with the then Secretary of State for the MHCLG, Sajid Javid stating: “[the] Government is putting the brakes on these rogue operators and [is] backing new laws that will put a stop to aggressive behaviour and provide a simpler way for drivers to appeal fines”.⁴¹ This support for the bill followed the Government’s manifesto pledge “to take steps to tackle rogue private parking operators”.⁴²

Current Issues with Parking on Private Land

According to parking organisations, there has been a significant rise in the number of parking tickets being issued. The RAC foundation has tracked the number of vehicle keeper records parking management companies have obtained from the DVLA. These records are used by the parking companies to issue drivers with penalty tickets of up to £100; the following table outlines how requests for these records have increased since 2006/07.⁴³

Table 1: Vehicle Keeper Records Obtained from DVLA Parking Management Companies

Financial Year	Number of Vehicle Keeper Records Obtained from the DVLA by Parking Management Companies
2018/19	6.8 million (projection)
2017/18	5.65 million
2016/17	4.71 million
2015/16	3.67 million
2014/15	3.06 million
2013/14	2.43 million
2012/13	1.89 million
2011/12	1.57 million
2010/11	1.17 million
2009/10	1.03 million
2008/09	687, 000
2007/08	499,000
2006/07	272,000

(Source: RAC Foundation, '[Parking Tickets on Private Land Soar](#)', 23 November 2018)

However, the BPA has disputed the RAC Foundation's figures, arguing that they do not tell the whole story and that a range of factors could have led to an increase in requests for keeper records from the DVLA, not simply an increase in the number of tickets issued.⁴⁴ It argued that such factors include, but are not limited to, a growth of car ownership, an increase in the number of cars on Britain's roads, and the fact that there can be multiple DVLA data requests for the same vehicle.⁴⁵

The number of appeals lodged by drivers receiving penalty notices in private car parks has reportedly increased as well. The Parking on Private Land Appeals body (POPLA) has reported that between 1 October 2017 and 30 September 2018 it had received 67,122 appeals, compared with 62,844 appeals in 2016–17 and the 33,495 it had received in 2014–15.⁴⁶ POPLA have suggested that the increase in the number of appeals is as a result of a rise in the number of privately managed car parks and a rise in the use of automatic number plate recognition technology.⁴⁷ Furthermore, the POPLA 2018 annual report shows that of the 65,644 appeals that completed their process, parking operators decided not to contest 15,562.⁴⁸ Referring to uncontested appeals by private parking companies, Rishi Sunak argued that "parking operators are in many cases issuing questionable tickets that they themselves do not even think are worth defending at appeal."⁴⁹

Further Information

- House of Commons Library, [Parking Policy in England](#), 16 August 2018
- Jo Abbott and John de Waal, '[Private Parking—Public Concern](#)', RAC Foundation, February 2015

¹ [Explanatory Notes](#), p 4.

² *ibid.*

³ *ibid.*

⁴ *ibid.*

⁵ [Explanatory Notes](#), p 4.

⁶ *ibid.*

⁷ *ibid.*, p 5.

⁸ *ibid.*

- ⁹ [HC Hansard, 2 February 2018, col 1152.](#)
- ¹⁰ [ibid, cols 1160–1.](#)
- ¹¹ [ibid, cols 1156–8.](#)
- ¹² [ibid, col 1202.](#)
- ¹³ [ibid, col 1167.](#)
- ¹⁴ [ibid, col 1168.](#)
- ¹⁵ [Public Bill Committee, *Parking \(Code of Practice\) Bill, 19 July 2018, session 2017–19, 1st sitting, col 5.*](#)
- ¹⁶ [ibid, cols 8–10.](#)
- ¹⁷ [ibid.](#)
- ¹⁸ [ibid, col 11.](#)
- ¹⁹ [ibid, cols 13–15.](#)
- ²⁰ [ibid, col 13.](#)
- ²¹ [HC Hansard, 23 November 2018, col 1190.](#)
- ²² [ibid, 1190.](#)
- ²³ [ibid.](#)
- ²⁴ [ibid, cols 1223–5.](#)
- ²⁵ [ibid, col 1224.](#)
- ²⁶ Ministry of Housing, Communities and Local Government, [‘Boost for Drivers as Government Backs Clamp Down on Rogue Parking Firms’](#), 28 January 2018.
- ²⁷ British Parking Association, [BPA Approved Operator Scheme Code of Practice \(Version 7\)](#), January 2018; and International Parking Community, [Accredited Operator Scheme Code of Practice \(Version 6\)](#), 1 April 2017.
- ²⁸ British Parking Association, [‘BPA Welcomes Progress of Private Parking Bill’](#), 28 November 2018.
- ²⁹ RAC Foundation, [‘Parking Tickets on Private Land Soar’](#), 23 November 2018.
- ³⁰ [ibid.](#)
- ³¹ Protection of Freedoms Act 2012, sections 54–6.
- ³² [Explanatory Notes](#), p 3.
- ³³ [ibid.](#)
- ³⁴ Department for Transport, [Guidance on Section 56 and Schedule 4 of the Protection of Freedoms Act 2012: Recovery of Unpaid Parking Charges](#), 13 September 2012, pp 8–9.
- ³⁵ [ibid.](#)
- ³⁶ [ibid.](#)
- ³⁷ [ibid.](#)
- ³⁸ Department for Communities and Local Government, [Parking Reform: Tackling Unfair Practices](#), March 2015, pp 5–6.
- ³⁹ Department for Communities and Local Government, [Parking Reform: Tackling Unfair Practices: Summary of Responses](#), 11 May 2016, pp 5–6.
- ⁴⁰ [Oral Question on ‘Parking Reform’](#), *HC Hansard*, 24 April 2017, col 884.
- ⁴¹ Ministry of Housing, Communities and Local Government, [‘Boost for Drivers as Government Backs Clamp Down on Rogue Parking Firms’](#), 28 January 2018.
- ⁴² Conservative Party, [Conservative Party Manifesto 2017](#), 18 May 2017, p 59.
- ⁴³ RAC Foundation, [‘Parking Tickets on Private Land Soar’](#), 23 November 2018; and Katie Morley, [‘Parking Tickets Rise Tenfold to 6.4 Million as Ministers are Urged to Crack Down on Cowboy Fines’](#), *Telegraph* (£), 20 August 2018.
- ⁴⁴ British Parking Association, [‘Sudden Rise in Private Parking Tickets is Scaremongering by RAC Foundation’](#), 21 August 2018.
- ⁴⁵ [ibid.](#)
- ⁴⁶ Parking on Private Land Appeals, [Annual Report 2018](#), December 2018; Parking on Private Land Appeals, [Annual Report 2017](#), accessed 17 December 2018; Parking on Private Land Appeals, [Annual Report of the Lead Adjudicator](#), June 2015; and Graeme Paton, [‘Driver Complaints Against Parking Cowboys on the Rise’](#), *Times* (£), 17 December 2018.
- ⁴⁷ Parking on Private Land Appeals, [Annual Report 2018](#), December 2018, p 2.
- ⁴⁸ [ibid.](#)
- ⁴⁹ [HC Hansard, 2 February 2018, col 1168.](#)

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