

OC240337

15 May 2024

James Kent
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Tēnā koe James Kent

I refer to your email dated 30 March 2024, requesting information under the Official Information Act 1982 (the Act). I have answered your questions below.

“1. I note that the Land Transport Act specifies that a parking warden is entitled to demand the details of the driver, or anyone in a vehicle, while enforcing parking offences. It is a criminal offence if the driver refuses this information. Why are parking wardens entitled by law to this information if everything they need can be obtained from the registration plate of a vehicle?”

Section 133A of the Land Transport Act 1998 specifies that parking wardens need to issue a ticket to the person:

- who allegedly committed the offence,
- lawfully entitled to possession of the vehicle,
- the person to whom the vehicle is registered.

As the ticket can be issued against individuals parking wardens need the power to request information that allows them to correctly identify and issue the ticket to the individual who allegedly committed the offence. This is why Section 128E(b) allows them to request full name and full address and give any other identifying particulars required as to the person's identity (for example, the person's date of birth, occupation, and telephone number). They may also ask any information that is within the person's knowledge and that may lead to the identification of the driver or person in charge of any vehicle.

“2. I also note that the Land Transport Act specifies that a parking warden can direct the driver or person in charge of a vehicle to move their vehicle if it causes an obstruction. Why is it an offence to fail to provide your details, but there is no specified offence for refusing to comply with the directions of a parking warden? Was this an oversight?”

Parking Wardens have other options if someone refuses to comply. They can ticket the driver for the offence being committed for which the warden has asked them to move. Parking wardens also have the power to seize a vehicle under S248 of the Land Transport Act.

“3. I note that the Land Transport Act allows parking wardens to order incorrectly-registered vehicles off the road via a "Notice". What is the prescribed form for this notice?”

The following document is relevant to this part of your request and is enclosed:

- POL1205 Notice to Vehicle Owner -Copy for OIA release

“3. Why was it decided that parking wardens may break traffic rules if necessary in the execution of their duty (Road User Rule)?”

I am refusing this part of your request under the following section of the Act: 18(e) that the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found.

"4. I note that infringement regulations were updated to specify that infringements can be served via an electronic address, why were Stationary Vehicle Offences excluded from this?"

Section 139 of the Land Transport Act does allow infringement notices to be served electronically including for stationary vehicle offences.

"5. LTA Section 128D States:

A local authority that appoints a person under subsection (1) is liable for the actions of that person as a parking warden in all respects as if—

(a)

that person were an officer or employee of the local authority (whether or not that is the case); and

(b)

any directions given or control exercised by any other person over the parking warden in that capacity were directions given or control exercised by the local authority."

Does the ministry have information on what this actually means? Does it apply to contractors?"

This section holds that where a parking warden has been appointed by a local authority under subsection (1), the local authority is liable for the actions of the person appointed as a parking warden. This accords with basic principles of employment law in which an employer is responsible for the actions of a person who is acting under the directions of an employer.

"6. Why are local authority parking wardens permitted to enforce special vehicle lane offences, and offences involving trucks not displaying a red marker light during the hours of darkness? This makes the name "parking warden" a misnomer, as it appears they deal with matters other than parking."

I am refusing this part of your request under the following section of the Act: 18(e) that the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found.

"7. I note that parking wardens were also entitled to enforce offences relating to the drivers of Small Passenger Service Vehicles leaving their vehicles unattended on a Taxi Stand, or causing an obstruction on the road, or using a Taxi Stand when not available for hire. These offences were removed by the MOT when the Operator Licensing Rule was replaced in 2017. Why were these offences decided not to be continued?"

As a result of the passenger service vehicle reforms of 2016, resulting in a new legislative environment in 2017, the terms taxi and taxi stand were removed and replaced with the term small passenger service vehicles. We note that under the current legislative framework, parking wardens can enforce stationary vehicle offences as defined in section 2 of the Land Transport Act 1998.

"8. What is the update on Parking Infringement (along with other infringement penalties) fees being increased due to the fact that they haven't gone up in decades, and it is very often just stalled when brought up to be reviewed. Can the MOT please release the proposed new penalties for parking offences? (I may make a complaint to the ombudsman if this is not released)."

Information on the proposed new fee levels is withheld under the following sections of the Act 9(2)(f) (iv) to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

“9. Is the MOT considering empowering parking wardens to enforce an even greater range of offences?”

The Ministry currently has no plans to consider expanding the number of offences, or create new ones, that parking wardens can enforce at this time.

You have the right to seek an investigation and review of this response by the Ombudsman, in accordance with section 28(3) of the Act. The relevant details can be found on the Ombudsman’s website www.ombudsman.parliament.nz

The Ministry publishes our Official Information Act responses and the information contained in our reply to you may be published on the Ministry website. Before publishing we will remove any personal or identifiable information.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'Jacob Ennis', written in a cursive style.

Jacob Ennis
Acting Manager Regulatory Stewardship & Design