

20 May 2022

Mine Rogers

fyi-request-19156-9a986db5@requests.fyi.org.nz

Kia ora Mine,

The information you requested - CAS-543090-Y3D4T7

Thank You for the information request dated 18 April 2022 regarding Parking Wardens

When are parking wardens permitted to park/use their vehicle in breach of the Road User Rule?

Parking wardens have a defence to park illegally under RUR 1.8 (3) (b) in the execution of their duties- however we only advise staff to park illegally in the below situations:

- while patrolling a mobile clearway
- while dealing with an illegally parked vehicle on a 'broken yellow line' (BYL) and there is no other parking available close by and they need to bring attention to other road users of the obstruction being caused by the parked vehicle.
- if no other parking is available close by when dealing with illegally parked vehicles on a log raised through a Request for Service.

Legislation

The Land Transport Act 1998 section 128D and section 128E describes the appointment and the powers of a Parking Warden, please see below:

Section 128D Appointment of parking wardens

1. A local authority may appoint a person to hold the office of parking warden.
2. A person who holds the office of parking warden at the commencement of this section is to be treated as having been appointed under subsection (1).
3. A parking warden may perform the functions and duties, and exercise the powers, of a parking warden that are conferred or imposed by or under this or any other Act only on a road within the district or region of the local authority that appointed the parking warden.
4. 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.

Section 128E Powers of Parking Wardens

1. A parking warden in uniform or in possession of a warrant or other evidence of authority as a parking warden—
 - (a) may enforce the provisions of any stationary vehicle offence or special vehicle lane offence:
 - (b) may, in relation to enforcing the provisions of any stationary vehicle offence or special vehicle lane offence, direct any person on any road, and apparently in charge of or in any vehicle, to—
 - (i) provide the person's 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):
 - (ii) give 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 (for example, the other person's full name, full address, date of birth, occupation, and telephone number):

(c) may direct the driver or person in charge of any vehicle on any road to remove the vehicle from the road or any specified part of any road, if the parking warden believes on reasonable grounds that—
(i) the vehicle causes an obstruction in the road or to any vehicle entrance to any property; or
(ii) the removal of the vehicle is desirable in the interests of road safety or for the convenience or in the interests of the public:

(d) may, if the parking warden believes on reasonable grounds that a vehicle on a road causes an obstruction in the road or to any vehicle entrance to any property or that the removal of the vehicle is desirable in the interests of road safety or for the convenience or in the interests of the public,—
(i) enter, or authorise another person to enter, the vehicle for the purpose of moving it or preparing it for movement; and
(ii) move, or authorise another person to move, the vehicle to any place where it does not constitute a traffic hazard.

2. Every person commits an offence and is liable to a fine not exceeding \$1,000 who—

- (a) fails to comply with any direction given under subsection (1)(b); or
- (b) gives, in response to a direction given under subsection (1)(b), any information that the person knows to be false.

3. Every person to whom any direction is given under the authority of subsection (1) must comply with the direction, and no person may do any act that is for the time being forbidden by any direction given under the authority of subsection (1).

4. A person who is authorised by a parking warden to enter a vehicle for the purpose of moving it or preparing it for movement or to move a vehicle to a place where it does not constitute a traffic hazard may do so but must do everything reasonably necessary to ensure that the vehicle is not damaged while doing so.

5. Every person commits an offence and is liable for a fine not exceeding \$1,000 if the person—

- (a) has possession of a vehicle as a result of its being moved under subsection (1)(d); and
- (b) fails to deliver possession of the vehicle, as soon as practicable, to a person who produces satisfactory evidence, at any reasonable time, to the effect that the person was lawfully entitled to possession of the vehicle immediately before it was moved.

Are parking wardens prohibited from issuing infringement notices to government/emergency vehicles? Are there guidelines on this?

There is nothing prohibiting Parking wardens from issuing an infringement to an emergency / government vehicle.

If an infringement has been issued, they write in and explain the circumstances around the offence and the Adjudication Team can action the dispute request. Each dispute is reviewed on a case-by-case basis.

Next steps

If you believe that we have not dealt with your request appropriately, you are able to make a complaint to the Office of the Ombudsman in accordance with section 27(3) of the LGOIMA Act and seek an investigation and review regarding this matter.

Regards



John Strawbridge

Group Manager - Parking Services and Compliance