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## SCHEDULES

### SCHEDULE 1

Sections 4 and 6.

#### ENFORCEMENT NOTICES, ETC., UNDER PART II (BUS LANES) OF THIS ACT

##### *Enforcement notices*

- 1 (1) Where—
- (a) a penalty charge notice has been served with respect to a vehicle under section 4 (Penalty charge notices under Part II) of this Act or paragraph 4 (1) below; and
  - (b) the period of 28 days for payment of the penalty charge has expired without that charge being paid; and
  - (c) representations have not been made in respect of that penalty charge notice under paragraph 2 below;
- the council concerned may serve a notice (in this Schedule referred to as an “enforcement notice”)—
- (i) on the person who appears to them to have been the owner of the vehicle when the conduct giving rise to the service of the penalty charge is alleged to have taken place; or
  - (ii) where the penalty charge notice has been served under paragraph 4 (1) below on the person on whom that notice was served.
- (2) An enforcement notice must state—
- (a) the amount of the penalty charge payable;
  - (b) the grounds on which the council believe that a penalty charge is payable with respect to the vehicle;
  - (c) that the penalty charge must be paid before the end of the period of 28 days beginning with the date on which the enforcement notice is served;
  - (d) that failure to pay the penalty charge may lead to an increased charge being payable;
  - (e) the amount of that increased charge;
  - (f) that the person on whom the notice is served may be entitled to make representations under paragraph 2 below; and
  - (g) the effect of paragraph 6 below.
- (3) The Secretary of State may by regulations prescribe additional matters which must be dealt with in any enforcement notice.

##### *Representations against penalty charge notice or enforcement notice*

- 2 (1) Where it appears to a person on whom a penalty charge notice has been served under section 4 (Penalty charge notices under Part II) of this Act, or paragraph 4 (1) below, or a person on whom an enforcement notice has been served under paragraph 1 above (in this Schedule referred to as “the recipient”) that one or other of the grounds

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- mentioned in sub-paragraph (4) below is satisfied, he may make representations to that effect to the council who served the notice on him.
- (2) Any representations under this paragraph must be made in such form as may be specified by the councils, acting through the Joint Committee.
  - (3) The council may disregard any such representations which are received by them after the end of the period of 28 days beginning with the date on which the penalty charge notice or enforcement notice in question was served.
  - (4) The grounds referred to in sub-paragraph (1) above are—
    - (a) where the penalty charge notice was served pursuant to the said section 4 or, where an enforcement notice was served, that the recipient—
      - (i) never was the owner of the vehicle in question;
      - (ii) had ceased to be its owner before the date on which the penalty charge was alleged to have become payable; or
      - (iii) became its owner after that date;
    - (b) that there was no breach of an order or regulations of the type described in subsection (2) of the said section 4;
    - (c) that at the time the alleged breach of such order or regulations took place the recipient was not in charge of the vehicle.
  - (5) Where the ground mentioned in sub-paragraph (4) (a) (ii) above is relied on in any representations made under this paragraph, those representations must include a statement of the name and address of the person to whom the vehicle was disposed of by the person making the representations (if that information is in his possession).
  - (6) Where the ground mentioned in sub-paragraph (4) (a) (iii) above is relied on in any representations made under this paragraph, those representations must include a statement of the name and address of the person from whom the vehicle was acquired by the person making the representations (if that information is in his possession).
  - (7) Where the ground mentioned in sub-paragraph (4)(c) above is relied on in any representations made under this paragraph, those representations must include a statement by the person making the representations of the name and address of the person whom he believed to be in charge of the vehicle at the time of the alleged breach of the order described in subsection (2) of the said section 4.
  - (8) A person who fails to comply with the requirements of sub-paragraph (7) above shall be guilty of an offence unless he shows to the satisfaction of the court that he did not know, and could not with reasonable diligence have ascertained, who was the driver of the vehicle.
  - (9) A person guilty of any offence under sub-paragraph (8) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
  - (10) It shall be the duty of the council to whom representations are duly made under this paragraph—
    - (a) to consider them and any supporting evidence which the person making them provides; and
    - (b) to serve on that person notice of their decision as to whether they accept that the ground in question has been established.

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*Cancellation of penalty charge notice or enforcement notice*

- 3 (1) Where representations are made under paragraph 2 above and the council concerned accept that the ground in question has been established they shall—
- (a) cancel the penalty charge notice or enforcement notice; and
  - (b) state in the notice served under sub-paragraph (10) of paragraph 2 above that the penalty charge notice or enforcement notice has been cancelled.
- (2) The cancellation of a penalty charge notice or enforcement notice under this paragraph shall not be taken to prevent the council concerned serving a fresh penalty charge notice or enforcement notice on another person.

*Reissue of penalty charge notice*

- 4 (1) Where representations are made under paragraph 2 above on the grounds mentioned in sub-paragraph (4)(c) of that paragraph and the council concerned accept that the ground in question has been established, they may, after cancelling the penalty charge notice or enforcement notice in accordance with paragraph 3 (1) (a) above, serve a fresh penalty charge notice on any person mentioned in the statement made under paragraph 2 (7) above or on any other person whom they have reasonable grounds to believe to have been in charge of the vehicle.
- (2) Any penalty charge notice served under sub-paragraph (1) above must comply with the requirements of subsection (3) of section 4 (Penalty charge notices under Part II) of this Act.

*Rejection of representations against enforcement notice*

- 5 Where any representations are made under paragraph 2 above but the council concerned do not accept that a ground has been established, the notice served under sub-paragraph (10) of the said paragraph 2 (in this Schedule referred to as “the notice of rejection”) must—
- (a) state that a charge certificate may be served under paragraph 8 below unless before the end of the period of 28 days beginning with the date of service of the notice of rejection—
    - (i) the penalty charge is paid; or
    - (ii) the person on whom the notice is served appeals to a traffic adjudicator against the penalty charge; and
  - (b) describe in general terms the form and manner in which such an appeal must be made;
- and may contain such other information as the council consider appropriate.

*Adjudication by traffic adjudicator*

- 6 (1) Where a council serve a notice of rejection, the person who made the representations under paragraph 2 above in respect of which that notice was served may, before—
- (a) the end of the period of 28 days beginning with the date of service of that notice; or
  - (b) such longer period as a traffic adjudicator may allow,
- appeal to a traffic adjudicator against the council’s decision.

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- (2) On an appeal under this paragraph, the traffic adjudicator shall consider the representations in question and any additional representations which are made by the appellant on any of the grounds mentioned in paragraph 2 (4) above and may give the council concerned such directions as he considers appropriate.
- (3) It shall be the duty of the council to whom a direction is given under sub-paragraph (2) above to comply with it forthwith.

*Admissibility of certain evidence*

- 7 (1) Evidence of a fact relevant to proceedings under paragraph 6 above may be given by the production of—
  - (a) a record produced by a prescribed device; and
  - (b) (in the same or another document) a certificate as to the circumstances in which the record was produced signed by an authorised officer of the council of the borough in which the breach of the order or regulations described in subsection (2) of section 4 (Penalty charge notices under Part II) of this Act is alleged to have taken place.
- (2) A record produced or measurement made by a prescribed device shall not be admissible as evidence of a fact relevant to proceedings under paragraph 6 above unless—
  - (a) the device is of a type approved by the Secretary of State; and
  - (b) any conditions subject to which the approval was given are satisfied.
- (3) Any approval given by the Secretary of State for the purposes of this paragraph may be given subject to conditions as to the purposes for which, and the manner and other circumstances in which, any device of the type concerned is to be used.
- (4) In proceedings under paragraph 6 above, evidence—
  - (a) of a measurement made by a device, or of the circumstances in which it was made; or
  - (b) that a device was of a type approved for the purposes of this paragraph, or that any conditions subject to which an approval was given were satisfied;
 may be given by the production of a document which is signed as mentioned in sub-paragraph (1) above and which, as the case may be, gives particulars of the measurement or of the circumstances in which it was made, or states that the device was of such a type or that, to the best of the knowledge and belief of the person making the statement, all such conditions were satisfied.
- (5) For the purposes of this paragraph a document purporting to be a record of the kind mentioned in sub-paragraph (1) above, or to be a certificate or other document signed as mentioned in that sub-paragraph or in sub-paragraph (4) above, shall be deemed to be such a record, or to be so signed, unless the contrary is proved.
- (6) Nothing in sub-paragraph (1) or (4) above makes a document admissible as evidence in proceedings under paragraph 6 above unless a copy of it has not less than 7 days before the hearing, been served on the appellant; and nothing in those paragraphs makes a document admissible as evidence of anything other than the matters shown on a record produced by a prescribed device if that person, not less than three days before the hearing or within such further time as the traffic adjudicator may in special circumstances allow, serves a notice on the council requiring attendance at the hearing or trial of the person who signed the document.

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### *Charge certificates*

- 8 (1) Where a penalty charge notice or enforcement notice is served on any person and the penalty charge to which it relates is not paid before the end of the relevant period, the council serving the notice may serve on that person a statement (in this paragraph referred to as a “charge certificate”) to the effect that the penalty charge in question is increased by 50 per cent.
- (2) The relevant period, in relation to a penalty charge notice, is the period of 28 days beginning—
- (a) where representations are made under paragraph 2 above and a notice of rejection is served by the borough council and no appeal against the notice of rejection is made, with the date on which the notice of rejection is served; or
  - (b) where there has been an unsuccessful appeal against a notice of rejection, with the date on which notice of the adjudicator’s decision is served on the appellant.
- (3) The relevant period, in relation to an enforcement notice is the period of 28 days beginning—
- (a) where no representations are made under paragraph 2 above, with the date on which the enforcement notice is served;
  - (b) where such representations are made and a notice of rejection is served by the council concerned and no appeal against the notice of rejection is made with the date on which the notice of rejection is served; or
  - (c) where there has been an unsuccessful appeal against a notice of rejection, with the date on which notice of the adjudicator’s decision is served on the appellant.
- (4) Where an appeal against a notice of rejection is made but is withdrawn before the decision of the adjudicator is made the relevant period in relation to an enforcement notice is the period of 14 days beginning with the date on which the appeal is withdrawn.

### *Enforcement of charge certificate*

- 9 (1) Where a charge certificate has been served on any person and the increased penalty charge provided for in the certificate is not paid before the end of the period of 14 days beginning with the date on which the certificate is served, the council concerned may, if a county court so orders, recover the increased charge as if it were payable under a county court order.
- (2) Any notice of any county court order made under this paragraph and being served on any person shall be accompanied by a copy of the penalty charge notice and, where appropriate, the enforcement notice to which the penalty charge relates.
- (3) Section 78 of the Act of 1991 (which makes provision for the recovery of sums that are payable under or by virtue of any provision of Part II of that Act and are recoverable as if they were payable under a county court order) shall have effect as though an increased penalty charge recoverable under sub-paragraph (1) above were a Part II debt for the purposes of that section.

### *Invalid notices*

- 10 (1) This paragraph applies where—

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- (a) a county court makes an order under paragraph 9 above;
  - (b) the person against whom it is made makes a statutory declaration complying with sub-paragraph (2) below; and
  - (c) that declaration is, before the end of the period of 21 days beginning with the date on which notice of the county court's order is served on him, served on the county court which made the order.
- (2) The statutory declaration must state that the person making it—
- (a) did not receive the enforcement notice in question;
  - (b) made representations to the council concerned under paragraph 2 above but did not receive a notice of rejection from that council; or
  - (c) appealed to a traffic adjudicator under paragraph 6 above against the rejection by that council of representations made by him under paragraph 2 above but had no response to the appeal.
- (3) Sub-paragraph (4) below applies where it appears to a district judge, on the application of a person on whom a charge certificate has been served, that it would be unreasonable in the circumstances of his case to insist on him serving his statutory declaration within the period of 21 days allowed for by sub-paragraph (1) above.
- (4) Where this sub-paragraph applies, the district judge may allow such longer period for service of the statutory declaration as he considers appropriate.
- (5) Where a statutory declaration is served under sub-paragraph (1) (c) above—
- (a) the order of the court shall be deemed to have been revoked;
  - (b) the charge certificate shall be deemed to have been cancelled;
  - (c) in the case of a statutory declaration under sub-paragraph (2) (a) above, the enforcement notice to which the charge certificate relates shall be deemed to have been cancelled; and
  - (d) the district judge shall serve written notice of the effect of service of the statutory declaration on the person making it and on the council concerned.
- (6) Service of a declaration under sub-paragraph (2) (a) above shall not prevent the borough council serving a fresh enforcement notice but if, when it was served, the relevant order under paragraph 9 was accompanied by a copy of the enforcement notice to which the charge certificate relates, a fresh enforcement notice in the same terms shall be deemed to have been served on the person making the declaration on the same day as the declaration was served.
- (7) Where a declaration has been served under sub-paragraph (2) (b) or (c) above, the borough council shall refer the case to the traffic adjudicator who may give such direction as he considers appropriate.

*Offence of giving false information*

- 11 (1) A person who, in response to a penalty charge notice or enforcement notice served under this Schedule makes any representation under paragraph 2 or 6 above which is false in a material particular and does so recklessly or knowing it to be false in that particular is guilty of an offence.
- (2) Any person guilty of such an offence shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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*Service by post*

- 12 Any charge certificate, or notice under Part II (Bus lanes) of this Act or this Schedule—
- (a) may be served by post; and
  - (b) where the person on whom it is to be served is a body corporate, is duly served if it is sent by post to the secretary or clerk of that body.