



# Transport for London Act 2008

## 2008 CHAPTER i

### PART 5

#### STREET MANAGEMENT

#### **38 Powers relating to retaining walls near GLA roads**

- (1) This section applies to any length of a retaining wall, being a length—
- (a) any cross-section of which is wholly or partly within 3.66 metres of a GLA road; and
  - (b) which is at any point of greater height than 1.37 metres above the level of the ground at the boundary of the GLA road nearest that point;
- but does not apply to any length of a retaining wall erected on land belonging to any transport undertakers so long as that land is used by them primarily for the purpose of their undertaking or to any length of a retaining wall for the maintenance of which a highway authority are responsible.
- (2) Subject to subsections (6) to (8), if a length of retaining wall to which this section applies is in such condition (whether for want of repair or some other reason) as to be liable to endanger persons using the GLA road, TfL may, by notice served on the owner or occupier of the land on which that length of wall is, require him to execute such works as will obviate the danger.
- (3) Subsections (2) to (7) of section 290 of the Public Health Act 1936 (c. 49) (appeals against, and the enforcement of, certain notices under that Act) apply to any notice served under subsection (2) as they apply to such notices as are mentioned in subsection (1) of that section, but subject to the following modifications—
- (a) references to the local authority are to be construed as including references to TfL;
  - (b) for paragraph (f) of subsection (3) there is substituted the following paragraph—
    - “(f) that some other person ought to contribute towards the expense of executing any works required by the notice”.

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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- (4) Sections 300 to 302 of the Public Health Act 1936 (supplementary provisions relating to appeals under the said section 290) apply, with the necessary modifications, to appeals brought by virtue of subsection (3).
- (5) In this section “retaining wall” means a wall, not forming part of a permanent building, which serves, or is intended to serve, as a support for earth or other material on one side only.
- (6) Subject to subsection (7), before serving a notice under subsection (2) TfL shall give not less than 7 days notice to the local authority, or each local authority, in whose area the GLA road is situated.
- (7) Where a notice is served under subsection (2) in the case of emergency, TfL shall not be required to give prior notice to the local authority under subsection (6) but shall notify the local authority at the same time as, or as soon as reasonably practicable after, the service of the first mentioned notice.
- (8) A notice served under subsection (2) shall not have effect in any case where—
  - (a) a notice has been served under section 167 of the 1980 Act on the same person and in respect of the same land, and
  - (b) the works required by that notice will, if carried out, obviate the danger in question.
- (9) Nothing in this section shall affect the operation of section 167 of the 1980 Act.