



# London Local Authorities and Transport for London Act 2008

## 2008 CHAPTER iii

### PART 2

#### PARKING ETC.

#### **4 Unpaid charges on unlawful release of vehicle: Road Traffic Act 1991**

- (1) This section applies where an immobilisation device has been fixed to a vehicle by a parking attendant or another person acting under his direction under sections 69 or 77 of the 1991 Act and the vehicle is released from the immobilisation device unlawfully.
- (2) Where this section applies, the person liable to pay the penalty charge in respect of the contravention to which the immobilisation of the vehicle relates shall also be liable to pay the avoided release fee.
- (3) Where this section applies, any notice to owner served by a London authority under paragraph 1 of Schedule 6 to the 1991 Act shall, in addition to those matters mentioned in paragraph 1(1) of that Schedule, state the amount of any avoided release fee.
- (4) Where this section applies, references to the penalty charge in the paragraphs of the said Schedule 6 mentioned in subsection (5) below shall be taken to include references to the avoided release fee and the reference in paragraph 7 of that Schedule to the increased charge shall be taken to include a reference to the increased avoided release fee.
- (5) Those paragraphs are—
  - (a) paragraphs 1(2)(c) and (d);
  - (b) paragraph 4(a)(i);
  - (c) paragraph 6(1) (in both cases); and
  - (d) paragraph 7.

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- (6) The grounds on which a person may make representations against a notice to owner under paragraph 2 of the said Schedule 6 shall include, as regards an avoided release fee, the following—
- (a) the immobilisation device was never fixed to the vehicle;
  - (b) the immobilisation device was not removed unlawfully;
  - (c) that, by virtue of an exemption given by section 70 of the 1991 Act, section 69 of that Act did not apply to the vehicle at the time in question.
- (7) An avoided release fee shall not be payable under this section where the conduct constituting the release of the immobilisation device is the subject of criminal proceedings.
- (8) Where, despite the provisions of subsection (7) above—
- (a) an avoided release fee has been paid in respect of the release of the immobilisation device; and
  - (b) the circumstances are as mentioned in subsection (7),
- Transport for London or the borough council in question shall, as soon as reasonably practicable after those circumstances come to their notice, refund the amount of the avoided release fee.
- (9) In this section “avoided release fee” means any fee which would have been payable under section 69(4)(b) of the 1991 Act had the vehicle been released under that section.

## **5 Unpaid charges on unlawful release of vehicle: Traffic Management Act 2004**

- (1) The Secretary of State may make regulations under section 79 of the 2004 Act (immobilisation of vehicle where penalty charge payable) reproducing the effect of section 4 (unpaid charges on unlawful release of vehicle: Road Traffic Act 1991) of this Act in relation to Greater London.
- (2) Without prejudice to the generality of subsection (1) above, such regulations may make provision for the service of notices requiring payment of penalty charges, increased charges and avoided release fees.
- (3) The Lord Chancellor may make regulations under section 80 of the 2004 Act (representations and appeals) applicable to Greater London dealing with representations and appeals in relation to avoided release fees.

## **6 Limitation on service of notice to owner: parking**

- (1) Section 7 (limitation on service of notice to owner) of the [London Local Authorities Act 2000 \(c. vii\)](#) is amended as follows.
- (2) In subsection (2)—
  - (a) for “Subject to subsection (3) below” there is substituted “Subsection (2A) below applies”;
  - (b) for the words from “a fresh notice to owner” to the end of the subsection there is substituted—
 

“; or

    - (d) payment of the penalty charge has been made or has purportedly been made before the expiry of the period

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mentioned in subsection (1) above but the payment or purported payment is subsequently cancelled or withdrawn.”.

(3) After subsection (2) there is inserted—

“(2A) Subject to subsection (3) below, a fresh notice to owner may not be served after the expiry of the period of six months from—

- (a) the date of the cancellation of the notice to owner; or
- (b) in a case falling within subsection (2)(c) above, the date on which a notice is served under paragraph 8(5)(d) of that schedule; or
- (c) in a case falling within subsection (2)(d) above, the date on which notification is received that the payment or purported payment had been cancelled or withdrawn.”.

(4) In subsection (3)—

- (a) the words “, that is to say a council or Transport for London,” are omitted;
- (b) after paragraph (c), there is inserted “or
  - (d) the date on which the relevant authority receives a notification that the payment or purported payment has been cancelled or withdrawn in the circumstances mentioned in subsection (2)(d) above”;
- (c) for the words “subsection (1) or (2) above” there is substituted “subsection (1) or (2A) above”.

## **7 Limitation on service of notice to owner: road traffic contraventions**

(1) Section 6 (limitation on service of penalty charge notice) of the Act of 2003 is amended as follows.

(2) In subsection (2) —

- (a) for “Subject to the provisions of this section,” there is substituted “Subsection (2A) below applies”;
- (b) for the words from “the borough council may” to the end of the subsection there is substituted “; or
  - (d) payment of the penalty charge has been made or has purportedly been made before the expiry of the period mentioned in subsection (1) above but the payment or purported payment is subsequently cancelled or withdrawn.”.

(3) After subsection (2) there is inserted—

“(2A) Subject to subsection (3) below, the borough council or Transport for London, as the case may be, may not serve a fresh penalty charge notice after the expiry of the period of 28 days from—

- (a) the date of the cancellation of the penalty charge notice; or
- (b) in a case falling within subsection (2)(c) above, the date on which the council or body are served with notice under paragraph 7(8)(d) of the said Schedule; or
- (c) in a case falling within subsection (2)(d) above, the date on which the council or body received notification that the payment or purported payment had been cancelled or withdrawn.”.

(4) In subsection (4), after paragraph (c), there is inserted “or

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- (d) the date on which the council or body receives a notification that the payment or purported payment has been cancelled or withdrawn in the circumstances mentioned in subsection (2)(d) above,”.
- (5) In subsection (5) for “subsection (1) or (2) above” there is substituted “subsection (1) or (2A) above”.

## 8 Parking on footways and footpaths

- (1) Section 15 (parking on footways, grass verges, etc) of the [Greater London Council \(General Powers\) Act 1974 \(c. xxiv\)](#) is amended as follows.
- (2) In subsection (1)—
  - (a) for “on any part of an urban road” there is substituted “on or over any part of a road”;
  - (b) after “carriageway” the words “, or on or over a footpath,” are inserted.
- (3) In subsection (4)—
  - (a) “—(a)” is inserted after “the parking of vehicles”;
  - (b) for “on part of, any part of an urban road” there is substituted “on or over a road or part of a road”;
  - (c) after “other than a carriageway” the words “; or (b) on or over a footpath or any part of a footpath” are inserted;
  - (d) for “urban road” (where those words appear for the second time) there is substituted “road or footpath”.
- (4) In subsection (5), for “urban road” there is substituted “road or footpath”.
- (5) In subsection (12)—
  - (a) the following definition is inserted in the appropriate place—
    - ““footpath” means a highway over which the public have a right of way on foot only, not being a footway;”;
  - (b) in the definition of “carriageway”, for “an urban road” there is substituted “a road”;
  - (c) in the definition of “footway”, for “an urban road” there is substituted “a road”;
  - (d) the definition of “urban road” is omitted.

## 9 Obscured registration marks

- (1) An authorised officer of a London Authority or a parking attendant acting in the course of his duties as such may remove anything which obscures a registration mark or any part of a registration mark fixed on a vehicle.
- (2) None of the persons mentioned in subsection (3) below is to have any liability to any other person for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in the exercise or purported exercise of the power under subsection (1) above.
- (3) Those persons are a borough council, Transport for London, any employee of a borough council or Transport for London, and any authorised officer, parking attendant or person by whom a parking attendant is employed.

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- (4) Subsection (2) above does not apply—
- (a) if the act or omission is shown to have been in bad faith;
  - (b) to liability arising out of a failure to exercise due care and attention;
  - (c) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998 (c. 42).
- (5) Subsection (2) above is without prejudice to any other exemption from liability (whether at common law or otherwise).
- (6) Any person who intentionally obstructs any authorised officer acting in the exercise of his powers under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) In this section—
- “authorised officer”, in relation to a London authority, means—
- (a) any employee of that authority;
  - (b) any person by whom, in pursuance of arrangements made with the authority, any functions under this section fall to be discharged; or
  - (c) any employee of any such person,
- who is authorised in writing by the authority to act in relation to this section;
- “parking attendant” has the same meaning as in section 82(1) of the 1991 Act;
- “registration mark” means a registration mark assigned to a vehicle by the Secretary of State under section 23 of the Vehicle Excise and Registration Act 1994 (c. 22).