



# Transport for London Act 2008

## 2008 CHAPTER i

### PART 3

#### LONDON CABS AND PRIVATE HIRE VEHICLES

##### *London cabs and private hire vehicles: fixed penalties*

#### **17 Fixed penalty cab and private hire vehicle offences**

- (1) Where on any occasion an authorised officer finds a person who he has reason to believe has on that occasion committed an offence under any of the enactments—
  - (a) specified in columns (1) and (2) of the table set out in Schedule 1 to this Act; and
  - (b) described in column (3) of that table;the authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.
- (2) Sections 18 to 21 (fixed penalties) shall apply in respect of fixed penalty notices under this section.
- (3) Schedule 2 to this Act shall have effect with respect to financial provisions relating to the administration and enforcement of this section and sections 18 to 21 (fixed penalties).
- (4) In subsection (1) “authorised officer” means a person authorised in writing by TfL for the purposes of sections 17 to 21 of this Act.

#### **18 Power to amend Schedule 1**

- (1) The Secretary of State may, after consulting—
  - (a) the Mayor,
  - (b) the Greater London Assembly,
  - (c) TfL,

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- (d) every London borough council,
- (e) the Common Council of the City of London, and
- (f) such bodies or persons as appear to him to be representative of persons who would be affected by the proposed regulations,

by regulations, amend Schedule 1 to this Act by adding a relevant offence to, or removing a relevant offence from, the offences for the time being mentioned in the table set out in that Schedule.

- (2) In subsection (1) “relevant offence” means an offence under an enactment regulating hackney carriages or private hire vehicles in London or the drivers, proprietors or operators of such carriages or vehicles.

## 19 Fixed penalty notices

- (1) The provisions of this section shall have effect in relation to notices (“fixed penalty notices”) which may be given under section 17 (fixed penalty cab and private hire vehicle offences).
- (2) Where a person is given a fixed penalty notice in respect of an offence—
  - (a) no proceedings shall be instituted for that offence before the expiration of 28 days following the date of the notice;
  - (b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period; and
  - (c) in the case of an offence in respect of which (but for this paragraph) section 38 of the London Hackney Carriages Act 1843 (c. 86) (which as amended by section 14 (time limit for making complaints) requires complaints for certain offences to be made within 28 days) applies, proceedings may (notwithstanding that section) be instituted for that offence until the expiration of 42 days following the date of the notice.
- (3) A fixed penalty notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—
  - (a) the period during which, by virtue of subsection (2), proceedings will not be taken for the offence;
  - (b) the amount of the fixed penalty;
  - (c) the name of the person to whom and the address at which the fixed penalty may be paid; and
  - (d) the consequences of not making any payment within the period for payment; and, without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).
- (4) Where a letter is sent in accordance with subsection (3) payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (5) The form of notices under this section shall be such as the Secretary of State may by regulations prescribe.
- (6) The fixed penalty payable in pursuance of a fixed penalty notice under this section shall be paid to TfL.

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- (7) In any proceedings a certificate which—
- (a) purports to be signed by or on behalf of the chief finance officer of TfL; and
  - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
- shall be evidence of the facts stated.

## **20 Levels of fixed penalties**

- (1) It shall be the duty of TfL to set the levels of fixed penalties payable to TfL.
- (2) Different levels may be set for different cases or classes of case.
- (3) In setting the level of fixed penalty under subsection (1) TfL shall take into account the maximum fine for the particular fixed penalty offence in question and may take account of—
- (a) any reasonable costs or expected costs incurred or to be incurred in connection with the administration of the provisions of the enactment under which the particular fixed penalty offence is created; and
  - (b) the cost or expected cost of enforcing the provisions of the relevant enactment.
- (4) Levels of fixed penalties set by TfL in accordance with this section may only come into force in accordance with section 21 (fixed penalties: reserve powers of Secretary of State).
- (5) TfL shall publish, in such manner as the Mayor may determine, the levels of fixed penalties which have been set by TfL in accordance with this section.

## **21 Fixed penalties: reserve powers of Secretary of State**

- (1) Where TfL sets any levels of fixed penalties under subsection (1) of section 20 (levels of fixed penalties), TfL shall notify the Secretary of State of the levels of fixed penalties so set.
- (2) Where notification of any levels of fixed penalties is required to be given under subsection (1), the levels of fixed penalties shall not come into force until the expiration of—
- (a) the period of one month beginning with the day on which the notification is given; or
  - (b) such shorter period as the Secretary of State may allow.
- (3) If, before the expiration of that period, the Secretary of State gives notice to TfL that he objects to the levels of fixed penalties on the grounds that some or all of them are or may be excessive, those levels of fixed penalties shall not come into force unless and until the objection has been withdrawn.
- (4) If, at any time before the levels of fixed penalties required to be notified under subsection (1) to the Secretary of State have come into force, the Secretary of State considers that some or all of them are excessive, he may make regulations setting the levels of fixed penalties.
- (5) Levels of fixed penalties set under subsection (4) must be no higher than those notified under subsection (1).

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- (6) Where the Secretary of State makes any such regulations TfL must not set any further fixed penalties under subsection (1) until after the expiration of the period of 12 months beginning with the day on which the regulations are made.

## **22 Regulations**

Any power to make regulations under section 18, 19 or 21—

- (a) includes power to make provision in respect of such cases only as may be specified in the regulations and to make different provision for different circumstances, and
- (b) shall be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.