



Transport for London Act 2008

2008 CHAPTER i

PART 2

ROAD USER CHARGING

6 Extension of power to include enforcement provisions in TfL scheme

- (1) Notwithstanding paragraph 31 of Schedule 23 to the 1999 Act, a TfL scheme may authorise—
 - (a) the examination, for any purpose relating to or connected with a TfL scheme, of a motor vehicle found in a charging area, or
 - (b) the fitting of an immobilisation device to, or the removal of, a motor vehicle found in such an area,at a time at which the vehicle is on a public off-street parking place as well as at a time at which the vehicle is on a road.
- (2) The powers conferred by the Charges and Penalty Charges Regulations on TfL, or for a TfL scheme to make provision for TfL, to examine, enter, immobilise or remove any vehicle which is on a road are also exercisable in respect of any vehicle which is on a public off-street parking place.
- (3) Accordingly, the Charges and Penalty Charges Regulations, so far as they relate to TfL or a TfL scheme, shall have effect as if—
 - (a) the reference in regulation 8(1) to a vehicle which is on a road included a reference to a vehicle which is on a public off-street parking place;
 - (b) the references in regulations 10(1) and 12(1) to a vehicle which is stationary on a road in a charging area included references to a vehicle which is stationary on a public off-street parking place in a charging area;
 - (c) the references in regulations 10(1)(a) and 12(1)(a) to “that road” were references to a road in a charging area; and
 - (d) the reference in regulation 10(2)(b) to “another place on that road or another road” were a reference to another place on a road.

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- (4) TfL may not enter a public off-street parking place for the purpose of exercising any powers conferred on TfL by the Charges and Penalty Charges Regulations, or a TfL scheme, by virtue of this section to examine, enter, immobilise or remove any vehicle there without obtaining the prior consent of the operator.
- (5) For the purposes of subsection (4) an operator’s consent may be given to enter a public off-street parking place—
 - (a) on a specific occasion; or
 - (b) generally.
- (6) An operator’s consent required under subsection (4) is not to be unreasonably withheld but may be given subject to any reasonable conditions.
- (7) Without prejudice to the generality of subsection (6), it is reasonable for consent to be given subject to conditions requiring TfL to reimburse the operator in respect of any loss of revenue, damage or other liability sustained as a result of the immobilisation or removal of any vehicle by TfL or the taking by TfL of any other action by virtue of this section.
- (8) The owner, keeper or driver of a vehicle in a public off-street parking place which is immobilised or removed in accordance with the Charges and Penalty Charges Regulations, as they have effect in accordance with this section, shall not be required by the operator to pay any car parking charges or penalty additional to those already paid, or due to be paid, to the operator at the time that the vehicle was immobilised or removed.
- (9) Where the powers conferred by the Charges and Penalty Charges Regulations are exercised pursuant to this section the notice required by regulation 10(3) shall summarise the effects of subsection (8).
- (10) Unless the operator and TfL agree otherwise, TfL shall (whether or not conditions are imposed under subsection (6)) reimburse the operator in respect of any losses sustained as a result of the operation of subsection (8).
- (11) Consent to enter a public off-street parking place on a specific occasion shall be deemed to have been given unconditionally for the purposes of subsection (4) if—
 - (a) TfL has served a notice on the operator asking for consent to enter on that occasion and summarising the effect of subsections (8) and (10); and
 - (b) the operator fails within 14 days of the service of the notice to give TfL notice of his consent (whether or not subject to conditions) or his refusal to give it.
- (12) At least 7 days before entering a public off-street parking place in accordance with subsection (11) TfL shall take reasonable steps to ascertain whether the operator has received the notice served under subsection (11)(a).
- (13) Any question whether consent is unreasonably withheld or is given subject to reasonable conditions shall be referred to and determined by an arbitrator to be appointed, in default of agreement, by the President of the Chartered Institute of Arbitrators.
- (14) In this section—
 - (a) “the Charges and Penalty Charges Regulations” means the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001 ([S.I. 2001/2285](#));

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- (b) “public off-street parking place” means a place, whether above or below ground and whether or not consisting of or including buildings, where off-street parking accommodation is made available by a local authority or any other person to the public (whether or not for payment); and
- (c) any reference to the operator of such a parking place is a reference to the local authority or other person making such parking accommodation at the parking place so available.