



London Local Authorities and Transport for London Act 2008

CHAPTER iii

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London Local Authorities and Transport for London Act 2008

CHAPTER iii

An Act to confer further powers upon local authorities in London and upon Transport for London; and for related purposes. [21st July 2008]

WHEREAS—

- (1) It is expedient that the powers of London borough councils and the Common Council of the City of London (hereinafter referred to as “London borough councils”) and of Transport for London should be extended and amended as provided in this Act;
- (2) It is expedient that provision be made in London in relation to parking, road traffic, highways, filming on highways and enforcement of penalty charges;
- (3) It is expedient that the other provisions contained in this Act should be enacted;
- (4) The purposes of this Act cannot be effected without the authority of Parliament;
- (5) In relation to the promotion of the Bill for this Act the Westminster City Council have complied with the requirements of section 239 of the Local Government Act 1972 (c. 70) and the other London borough councils have complied with the requirements of section 87 of the Local Government Act 1985 (c. 51);
- (6) In relation to the promotion of the Bill for this Act Transport for London have complied with the requirements of section 167 of and Schedule 13 to the Greater London Authority Act 1999 (c. 29);
- (7) In relation to the promotion of the Bill for this Act the London borough councils have acted through their representation in London Councils (formerly the Association of London Government), a statutory joint committee whose membership is made up from members of all the London borough councils;

May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

PRELIMINARY

1 Citation and commencement

- (1) This Act may be cited as the London Local Authorities and Transport for London Act 2008.
- (2) This Act, except Part 5 (non-payment of penalty charges) of this Act shall come into operation at the end of the period of two months beginning with the date on which it is passed.
- (3) The said Part 5 shall come into operation on the appointed day.

2 Interpretation

In this Act—

- “the 1984 Act” means the Road Traffic Regulation Act 1984 (c. 27);
- “the 1991 Act” means the Road Traffic Act 1991 (c. 40);
- “the 2004 Act” means the Traffic Management Act 2004 (c. 18);
- “the Act of 2003” means the London Local Authorities and Transport for London Act 2003 (c. iii);
- “borough council” means London borough council and includes the Common Council of the City of London in its capacity as a local authority and “borough” and “council” shall be construed accordingly;
- “immobilisation device” means any device or appliance approved by the Secretary of State under section 104(9) of the 1984 Act;
- “London authority” means a borough council or Transport for London, as the case may be.

3 Appointed day

- (1) In subsection (3) of section 1 (citation and commencement) of this Act “the appointed day” means such day as may be fixed as regards Part 5 (non-payment of penalty charges) of this Act—
 - (a) by a decision of Transport for London; or
 - (b) by resolution of the borough council,as the case may be, subject to and in accordance with the provisions of this section.
- (2) Different days may be fixed under this section for the purpose of the application of provisions of the said Part 5 to different areas.
- (3) Different days may be fixed under this section for the purpose of the application of provisions of the said Part 5 to an area or any part of an area or different parts of an area.

- (4) Different days may be fixed under this section for the purpose of the application of the said Part 5 to be different types of penalty charge (within the meaning given by section 14 (interpretation of Part 5) of this Act).
- (5) A London authority may not fix a day under this section for the purpose of the application of the said Part 5 to a particular type of penalty charge if penalty charges of that type are not payable to them under the specified enactment (within the meaning given by the said section 14) in question.
- (6) The borough council or Transport for London, as the case may be, shall cause to be published in a local newspaper circulating in their area and in the London Gazette, notice—
 - (a) of the passing of any such resolution or taking of any such decision in relation to the said Part 5 and of a day fixed by the resolution or decision; and
 - (b) of the general effect of the provisions of that Part coming into operation on that day,and the day so fixed shall not be earlier than the expiration of one month from the publication of the notice in the London Gazette.
- (7) A photostatic or any other reproduction certified by the officer appointed for that purpose by the borough council or by Transport for London, as the case may be, to be a true reproduction of a page or part of a page of any such newspaper or London Gazette—
 - (a) bearing the date of its publication; and
 - (b) containing any such notice,shall be evidence of the publication of the notice and of the date of publication.

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.
- (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 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
- (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.
- (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).

PART 3

ROAD TRAFFIC AND HIGHWAYS

10 Overhanging trees etc. which obstruct views of traffic signs, etc.

- (1) Section 154(1) of the Highways Act 1980 (c. 66) (cutting or felling trees etc. that overhang or are a danger to roads or footpaths) shall apply as respects—
 - (a) a highway for which a London authority are the highway authority;
 - (b) any road or footpath in a borough which is not a highway,
in accordance with subsection (2) below.
- (2) For the words from “overhangs a highway or any other road” to “horse-riders,” there is substituted—
 - (a) overhangs a highway or any other road or footpath to which the public has access so as to endanger or obstruct the passage of vehicles or pedestrians,
 - (b) obstructs or interferes with the view of drivers of vehicles or the light from a public lamp,
 - (c) overhangs a highway so as to endanger or obstruct the passage of horse-riders,
 - (d) obstructs or interferes with the view of a traffic sign which drivers of vehicles, cyclists or pedestrians have or would otherwise have, or
 - (e) prevents or hampers the operation of any device used for obtaining evidence in relation to contraventions of law relating to the use of vehicles.”.

11 Removal of abandoned apparatus etc. from streets

- (1) If, in the opinion of the relevant street authority—
 - (a) apparatus in a street is not, or is no longer, used for the purposes of the undertaking for which it was provided and there is no reasonable likelihood that it will be so used; and
 - (b) the apparatus is causing a nuisance or is detrimental to the amenity of the area in which it is located,the relevant street authority may serve a notice under this section upon the owner of the apparatus.
- (2) If, after reasonable enquiry, the relevant street authority have been unable to ascertain the name and address of the owner, they may affix a notice under this section to the apparatus.
- (3) A notice under this section is a notice requiring, within such reasonable time (not being less than 28 days) as may be specified in the notice, the owner of the apparatus to remove the apparatus.
- (4) The sections of the Public Health Act 1936 (c. 49) mentioned in Schedule 1 to this Act shall have effect as if references in those sections to that Act included references to this section.

- (5) The period within which the owner of apparatus must comply with the requirements of a notice served under subsection (1) above may be extended with the agreement of the council.
- (6) In this section—
“apparatus” means any apparatus placed in a street (but does not include apparatus placed wholly under a street) and includes any structure for housing any apparatus or for gaining access to apparatus;
“relevant street authority” means—
(a) the borough council, as respects roads for which they are the street authority;
(b) Transport for London, as respects roads for which they are the street authority,
under Part III of the New Roads and Street Works Act 1991 (c. 22);
“street” has the same meaning as in Part III of the New Roads and Street Works Act 1991.

PART 4

FILMING

12 Prohibition or restriction on roads in connection with filming

- (1) Section 16A of the 1984 Act (prohibition or restriction on roads in connection with certain events) shall apply in Greater London with the following modifications.
- (2) The expressions “relevant event” and “the holding of a relevant event” include the making of a film.
- (3) After subsection (2), the following subsection is inserted—
“(2A) The traffic authority for a road may at any time by notice restrict or prohibit temporarily the use of the road, or any part of it, by vehicles, or vehicles of any class, or by pedestrians, where it appears to them that it is expedient for the making of a film and that the restriction or prohibition should come into force without delay.”.
- (4) The references, in subsections (3) and (5) to (10), to an order under section 16A include references to a notice under subsection (2A) of that section, as inserted by subsection (3) above, and references to the making of such an order include references to the issuing of such a notice.

13 Restrictions on orders and notices

- (1) Section 16B of the Act of 1984 (restrictions on orders under section 16A) shall apply in Greater London with the following modifications.
- (2) In subsection (1) after the words “three days” the words “(or seven days, in the case of a film order)” are inserted.
- (3) In subsection (6) the words “Subject to subsection (6A),” are inserted at the beginning.

- (4) After subsection (6), the following subsections are inserted—
- “(6A) No more than 6 film orders may be made under section 16A in any calendar year so as to affect any length of road, unless a further film order—
- (a) is made by the Secretary of State as the traffic authority for the road concerned; or
- (b) is made with his consent.
- (6B) No film notice shall continue in force for more than 24 hours from the time at which it comes into effect.
- (6C) In this section, “film orders” and “film notices” are orders and notices under section 16A of this Act which are made or issued in relation to the making of a film.”.
- (5) In subsection (7), for “subsection (6)” there is substituted “subsections (6) and (6A)”.

PART 5

NON-PAYMENT OF PENALTY CHARGES

14 Interpretation of Part 5

- (1) In this Part of this Act—
- “custodian” means a London authority or a person authorised by a London authority to keep vehicles removed under subsection (4) of section 17 (immobilisation and removal of vehicles) of this Act;
- “NTO case” means a case where a penalty charge notice has been issued or served under—
- (a) section 66 of and Schedule 6 to the 1991 Act (parking penalties in London);
- (b) section 4 (penalty charge notices under Part II) of and Schedule 1 to the London Local Authorities Act 1996 (c. ix); or
- (c) regulations made under section 72 (civil penalties for road traffic contraventions) of the 2004 Act if the regulations make provision for the service of a notice to owner in respect of the penalty charge notice in question;
- “penalty charge” means a penalty charge payable under regulations made under section 72 of the 2004 Act (civil penalties for road traffic contraventions) or under any other specified enactment and includes—
- (a) an avoided release fee within the meaning of subsection (6) of section 4 (unpaid charges on unlawful release of vehicle: Road Traffic Act 1991) of this Act; and
- (b) any increased charge liable to be paid under a specified enactment;
- “prescribed” means prescribed by the joint committee established under section 73 of the 1991 Act (appointment of parking adjudicators) or, if, for the time being, there is no such committee, any other joint committee consisting of all the London borough councils and Transport for London;

“road” has the same meaning as in the 1984 Act (see section 142(1) of that Act);

“specified enactment” means—

- (a) section 66 of and Schedule 6 to the 1991 Act (parking penalties in London);
 - (b) section 4 (penalty charge notices under Part II) of and Schedule 1 to the London Local Authorities Act 1996 (c. ix);
 - (c) regulations made under section 144 of the Transport Act 2000 (c. 38) (civil penalties for bus lane contraventions);
 - (d) section 4 (penalty charges for road traffic contraventions) of and Schedule 1 to the Act of 2003;
 - (e) regulations made under paragraph 12 of Schedule 23 to the Greater London Authority Act 1999 (c. 29) (penalty charges for road user charging);
 - (f) regulations made under section 72 of the 2004 Act.
- (2) The reference in subsection (1) above to section 66 of the 1991 Act shall include a reference to that section as applied by section 77 of that Act.
- (3) In this Part—
- (a) a reference in any provision to an authorised person is to a person authorised by a London authority for the purposes of that provision and different persons may be authorised for the purposes of different provisions; and
 - (b) where a person has been authorised to act on behalf of a London authority in relation to any matter a reference to the London authority shall be taken to include a reference to that person; and
 - (c) where an agreement for this purpose exists between two or more London authorities a person may be authorised to act on behalf of all the London authorities party to that agreement.
- (4) Subject to subsection (6) below, for the purposes of this Part of this Act a penalty charge is “outstanding” if the London authority in question have not waived payment (whether by cancellation of a penalty charge notice or otherwise) and—
- (a) if a penalty charge notice has been issued or served and (in an NTO case) a notice to owner has been served—
 - (i) the penalty charge has not been paid;
 - (ii) the owner of the vehicle in question was the owner of the vehicle at the time the penalty charge was incurred; and
 - (iii) any of the circumstances in subsection (5) below apply without subsection (6) below applying; or
 - (b) if a penalty charge notice has not been issued or served or (in an NTO case where a penalty charge notice has been issued or served), no notice to owner has been served
 - (i) the penalty charge relates to a vehicle which, at the time the penalty charge was incurred, either fell within subsection (7) below or was registered but with no address or an incorrect address given for the registered keeper;

- (ii) the London authority in question having taken reasonable steps have failed to ascertain the name and address of the person on whom a penalty charge notice or notice to owner, as the case may be, could be served; and
 - (iii) the penalty charge has not been paid before the end of the period of 35 days beginning with the day after the day on which the relevant time fell.
- (5) The circumstances mentioned in subsection (4)(a)(iii) above are—
- (a) the period allowed by the relevant specified enactment for making representations to the London authority in respect of the penalty charge has expired and no such representations have been made;
 - (b) such representations have been made and—
 - (i) the London authority have notified the person who made them that they reject the representations or the grounds of the representations, as the case may be; and
 - (ii) the period allowed by the relevant specified enactment for making an appeal to an adjudicator in respect of the notification of rejection of representations has expired and no appeal has been made to an adjudicator;
 - (c) if such an appeal has been made—
 - (i) the appeal was unsuccessful; and
 - (ii) the period of 28 days beginning with the date on which the appellant was notified of the decision on the appeal has expired.
- (6) If—
- (a) a warrant of execution has been issued in respect of a county court order which enables the recovery of a penalty charge or an increased charge; and
 - (b) a bailiff has been instructed to levy execution of the order,
- the penalty charge in question shall not be treated for the purposes of this Part of this Act as “outstanding” unless the bailiff has agreed otherwise with the London authority which issued the penalty charge notice.
- (7) A vehicle falls within this subsection if at the relevant time—
- (a) the vehicle was not registered under the Vehicle Excise and Registration Act 1994 (c. 22); or
 - (b) the vehicle was registered but no person was registered as its keeper.
- (8) In this section “relevant time” means the time at which the penalty charge became payable.
- (9) Regulations under section 72 of the 2004 Act may modify subsections (4) to (8) above in relation to penalty charges payable under regulations made under that section.

- (10) Subject to subsection (11) below—
- (a) the owner of a vehicle for the purposes of this Part of this Act shall be taken to be the person by whom the vehicle is kept; and
 - (b) in determining, for the purposes of this Act, who was the owner of a vehicle at any time, it shall be presumed that the owner was the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994 (c. 22).
- (11) Subsection (10) above shall not apply in relation to the references to the owner of a vehicle in paragraph 2(3)(g), (h), (i) and (j) of Schedule 2 to this Act.
- (12) For the purposes of the provisions of this Act mentioned in subsection (11) above, the owner of the vehicle at any particular time means the person who would be liable to pay penalty charges in relation to that vehicle under the specified enactment in question.

15 Preliminary procedure where ownership details not known

- (1) This section applies where an authorised person has reason to believe that—
 - (a) there are, in relation to any one London authority by whom he is authorised, at least three penalty charges outstanding in relation to a vehicle which is stationary on a road in Greater London; and
 - (b) the circumstances described in subsection (4)(b) of section 14 (interpretation of Part 5) of this Act apply in relation to each penalty charge.
- (2) Where this section applies, the authorised person or a person acting under the authorised person's direction may—
 - (a) fix an immobilisation device to the vehicle while it remains in the place where it is stationary; or
 - (b) move it, or require it to be moved, to another place on that road or another road and fix an immobilisation device to the vehicle in that other place.
- (3) On any occasion when an immobilisation device is fixed to a vehicle in accordance with this section, the person fixing the device shall also fix to the vehicle a notice—
 - (a) indicating that such a device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from that device;
 - (b) indicating the reason why the device has been fixed to the vehicle;
 - (c) specifying the steps to be taken in order to secure its release;
 - (d) giving contact information (including a telephone number) which may be used in order to request that the vehicle be released from the immobilisation device under subsection (10) below;
 - (e) giving such other information as may be prescribed by regulations made by the Secretary of State.
- (4) A vehicle to which an immobilisation device has been fixed in accordance with this section may only be released from that device by or under the direction of a person authorised by the relevant London authority to give such a direction.

- (5) A notice fixed to a vehicle in accordance with this section shall not be removed or interfered with except by or under the authority of—
 - (a) the owner, or person in charge, of the vehicle; or
 - (b) the relevant London authority or their authorised agent.
- (6) A person contravening subsection (5) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (7) Any person who, without being authorised to do so in accordance with this section, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) Subject to subsection (9) below, section 70 of the 1991 Act (which makes exemptions from the operation of section 69 of that Act) shall, except for subsection (1)(b) and (c) apply in relation to the fixing of immobilisation devices under this section, and where it so applies, references to section 69(1) of that Act shall be taken to be references to subsection (1) above.
- (9) The reference in subsection (8) above to section 70 of the 1991 Act or to a provision of that section shall include a reference to any equivalent provision replacing that section or provision made by virtue of regulations under section 79 of the 2004 Act (immobilisation of vehicle where penalty charge payable).
- (10) Subject to subsection (4) above, a vehicle to which an immobilisation device has been fixed in accordance with this section shall be released from that device by an authorised person if—
 - (a) the London authority in question is requested to do so; and
 - (b) the conditions of subsection (11) or (12) below are satisfied.
- (11) The conditions of this subsection are that the person making the request (“the claimant”)—
 - (a) provides his name and address;
 - (b) provides satisfactory and verifiable proof of his name and address; and
 - (c) provides the name and address of the owner of the vehicle (if it is not him).
- (12) The conditions of this subsection are that—
 - (a) the claimant provides his name and address; and
 - (b) a bond in the prescribed sum is paid to the authorised person or to one of the London authorities specified by him and by whom he is authorised; and
 - (c) no bond has previously been paid under this subsection in respect of the outstanding penalty charges.
- (13) If a bond is paid to an authorised person or a London authority in accordance with subsection (12)(b) above, the authorised person shall issue to the claimant a certificate in the prescribed form, stating—
 - (a) that the certificate is issued under this section;
 - (b) the date on which the certificate was issued;
 - (c) the registered mark of the vehicle;

- (d) the date on which the certificate expires;
 - (e) the effect of subsection (14) below;
 - (f) the contact details of the London authority to whom information should be provided to satisfy the provisions of subsection (16) or (17) below.
- (14) If a certificate issued under subsection (13) above is being displayed prominently in or on the vehicle to which it relates on or before the date on which it expires—
- (a) no immobilisation device may be fixed to the vehicle under this section; and
 - (b) the vehicle may not be removed under section 17 (immobilisation and removal of vehicles) of this Act.
- (15) A certificate issued under subsection (13) above shall expire at the end of the period of 21 days beginning with the date on which it was issued.
- (16) If the London authority referred to in subsection (13)(f) above is provided with satisfactory and verifiable proof of the name and address of the owner of the vehicle, the London authority shall return the bond to the person by whom it was paid and no further action may be taken in relation to the vehicle under this section in relation to the outstanding penalty charges in question.
- (17) The guidance that shall be published under section 25 (guidance) of this Act shall include provision about what may constitute “satisfactory and verifiable proof” for the purposes of subsections (11)(b) and (16) above.
- (18) A person shall be guilty of an offence if he—
- (a) intentionally obstructs a person exercising any power conferred on him under this section; or
 - (b) in providing proof or information under subsection (11) or (16) above—
 - (i) makes any statement which he knows is false in a material particular;
 - (ii) recklessly makes a statement which is false in a material particular; or
 - (c) displays in or on a vehicle a false certificate, purportedly issued under subsection (13) above.
- (19) A person guilty of an offence under subsection (18)(a) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (20) A person guilty of an offence under subsection (18)(b) or (c) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (21) Section 22 (issue of penalty charge notices, etc. on release or recovery of vehicle) of this Act makes provision about the service of fresh penalty charge notices and notices to owner after the release of a vehicle under this section.
- (22) The power of the Secretary of State to make regulations under subsection (3)(e) above is exercisable by statutory instrument.
- (23) Any such instrument is subject to annulment in pursuance of a resolution of either House of Parliament.

16 Preliminary procedure in other cases

- (1) This section applies where a London authority have reason to believe that—
 - (a) there are, in relation to that authority, at least three penalty charges outstanding in relation to a vehicle; and
 - (b) each of those penalty charges is outstanding because of the application of subsection (4)(a) of section 14 (interpretation of Part 5) of this Act; and
 - (c) a penalty charge notice or (in an NTO case) a notice to owner (including a penalty charge notice or notice to owner of the type referred to in subsections (2) and (3) of section 22 (issue of penalty charge notices, etc. on release or recovery of vehicle) of this Act was served in respect of each outstanding penalty charge.
- (2) Where this section applies, the London authority may serve a notice personally or by post or in such other manner as may be agreed between the parties on the person on whom a penalty charge notice or notice to owner, as the case may be, was served in the case of each outstanding penalty charge.
- (3) If the London authority have reason to believe that the owner of the vehicle is not the same person who was the owner of the vehicle when the last outstanding penalty charge was incurred, they may not serve a notice under subsection (2) above.
- (4) A notice under subsection (2) above shall—
 - (a) require that within the period of 7 days commencing with the date on which the notice was served—
 - (i) the outstanding penalty charges are paid to the London authority; or
 - (ii) a bond in the prescribed sum is paid to the London authority; and
 - (b) explain the consequences, under section 17 (immobilisation and removal of vehicles) of this Act, of failing to comply with those requirements; and
 - (c) inform the person on whom the notice is served of the rights, if those requirements are complied with, to make representations under paragraph 2 of Schedule 2 to this Act, and of appeal under paragraph 3 of the said Schedule 2.
- (5) If a bond is paid to the London authority in response to a notice under subsection (2) above, the London authority shall issue to the person on whom the notice was served a certificate in the prescribed form, stating—
 - (a) that the certificate is issued under this section;
 - (b) the date on which the certificate was issued;
 - (c) the registration mark of the vehicle;
 - (d) the date on which the certificate expires;
 - (e) the effect of subsection (6) below;
 - (f) the effect of paragraph 2 (4) of the said Schedule 2.

- (6) If a certificate issued under subsection (5) above is being displayed prominently in or on the vehicle to which it relates on or before the date on which it expires—
 - (a) no immobilisation device may be fixed to the vehicle under section 15 (preliminary procedure where ownership details not known) of this Act; and
 - (b) the vehicle may not be removed under the said section 17.
- (7) A certificate issued under subsection (5) above may expire no sooner than 14 days after the end of the period beginning with the date after which the relevant London authority are entitled, in accordance with paragraph 2(4) of the said Schedule 2, to disregard any representations received by them.
- (8) A person shall be guilty of an offence, liable on summary conviction to a fine not exceeding level 5 on the standard scale, if he displays in or on a vehicle a false certificate, purportedly issued under subsection (5) above.

17 Immobilisation and removal of vehicles

- (1) Subsection (4) below applies in respect of a vehicle which is stationary on a road in Greater London if—
 - (a) no relevant certificate is being displayed prominently in or on the vehicle; and
 - (b) an authorised person has reason to believe that the conditions of subsection (2) or (3) below are met.
- (2) The conditions of this subsection are that—
 - (a) an immobilisation device has been fixed to a vehicle under subsection (2) of section 15 (preliminary procedure where ownership details not known) of this Act; and
 - (b) the vehicle has not been released in accordance with subsection (10) of that section.
- (3) The conditions of this subsection are that—
 - (a) a notice has been served under subsection (2) of section 16 (preliminary procedure in other cases) of this Act;
 - (b) the period mentioned in subsection (4)(a) of that section has expired; and
 - (c) at least three of the outstanding penalty charges to which the notice related remain unpaid; and
 - (d) a bond has not been paid as mentioned in subsection (4)(a)(ii) of that section.
- (4) Where this subsection applies, the authorised person or a person acting under the authorised person's direction, may remove the vehicle and deliver it to a custodian.
- (5) Where subsection (4) above applies because an authorised person has reason to believe that the conditions of subsection (3) above are met, the authorised person or a person acting under the authorised person's direction may, before the vehicle is removed and delivered to a custodian—
 - (a) fix an immobilisation device to the vehicle while it remains in the place where it is stationary; or

- (b) move it, or require it to be moved, to another place on that road or another road and fix an immobilisation device to the vehicle in that other place.
- (6) Subsections (3) to (9) of the said section 15 shall apply in relation to cases where action is taken under subsection (5) above as they do in relation to cases where action is taken under subsection (2) of that section except that in subsection (3)(d) as so applied, for the reference to subsection (10) of that section there is substituted a reference to subsection (7) below.
- (7) Subject to subsection (4) of the said section 15 (as applied by subsection (6) above), a vehicle to which an immobilisation device has been fixed in accordance with this section shall be released from that device by an authorised person if—
 - (a) the London authority in question is requested to do so; and
 - (b) the conditions of subsection (8) or (9) below are satisfied.
- (8) The conditions of this subsection are that the person making the request (“the claimant”) pays—
 - (a) all penalty charges that are outstanding in relation to the vehicle and which are owed to any of the London authorities by whom the authorised person who took the action (or directed that action be taken) under subsection (5) above is authorised; and
 - (b) such charge in respect of the release as may be prescribed.
- (9) The conditions of this subsection are that—
 - (a) the claimant pays a bond in the prescribed sum to the authorised person or to one of the London authorities specified by him and by whom he is authorised;
 - (b) the claimant satisfies the authorised person that he intends to make representations under paragraph 2 of Schedule 2 to this Act by virtue of paragraph 1(1)(c) of that Schedule;
 - (c) no bond has previously been paid in respect of the outstanding penalty charges in question, either under this subsection or in response to the service of a notice under subsection (4) of section 16 (preliminary procedure in other cases) of this Act; and
 - (d) the claimant provides to the custodian satisfactory and verifiable proof of his name and address and the name and address of the owner of the vehicle (if it is not him).
- (10) If a claimant takes possession of a vehicle, having satisfied the conditions of subsection (9) above, the custodian shall issue to the claimant a certificate in the prescribed form, stating—
 - (a) that the certificate is issued under this section;
 - (b) the date on which the certificate was issued;
 - (c) the registration mark of the vehicle;
 - (d) the date on which the certificate expires;
 - (e) the effect of subsection (12) below;
 - (f) the effect of paragraph 2(4) of the said Schedule 2.

- (11) If a certificate issued under subsection (10) above is being displayed prominently in or on the vehicle to which it relates on or before the date on which it expires—
 - (a) no immobilisation device may be fixed to the vehicle under the said section 15 or this section; and
 - (b) the vehicle may not be removed under this section.
- (12) A certificate issued under subsection (10) above may expire no sooner than 14 days after the end of the period beginning with the date after which the relevant London authority are entitled, in accordance with paragraph 2(4) of the said Schedule 2, to disregard any representations received by them.
- (13) A person shall be guilty of an offence, liable on summary conviction to a fine not exceeding level 5 on the standard scale, if—
 - (a) in giving a relevant person information required to establish whether a condition of subsection (9) above is met, he—
 - (i) makes a statement which he knows is false in a material particular; or
 - (ii) recklessly makes a statement which is false in a material particular; or
 - (b) he displays in or on a vehicle a false certificate, purportedly issued under subsection (10) above.
- (14) Where a vehicle has been removed and delivered into the custody of a custodian in accordance with subsection (4) above in a case where subsection (3) above applies, the custodian may (whether or not any claim is made under section 19 (taking possession of a vehicle) or 21 (claim by the owner of a vehicle after its disposal) of this Act) recover from the person who was the owner of the vehicle when the vehicle was removed—
 - (a) all penalty charges that are outstanding in relation to the vehicle and which are owed to any of the London authorities by whom the authorised person who removed the vehicle is authorised;
 - (b) such charge for its removal as may be prescribed;
 - (c) such charge as may be prescribed for each complete day or part of a day on which it has been held by the custodian; and
 - (d) if the vehicle has been disposed of, such charge as may be prescribed for its disposal.
- (15) Where, by virtue of subsection (14) above (except paragraph (d)), any sum is recoverable in respect of a vehicle by a custodian, the custodian shall be entitled to retain custody of it until that sum is paid.
- (16) In subsection (1) above “relevant certificate” means an unexpired certificate issued under—
 - (a) subsection (13) of the said section 15;
 - (b) subsection (5) of the said section 16;
 - (c) subsection (10) of this section;

- (d) subsection (3) of section 20 (payment of bond to secure removal) of this Act; or
- (e) paragraph 4(1) (representations and appeals in cases where bond is paid) of the said Schedule 2.

18 Disposal of removed vehicles and contents

- (1) Subject to the provisions of this section, the custodian of a vehicle delivered to him as mentioned in subsection (4) of section 17 (immobilisation and removal of vehicles) of this Act may dispose of the vehicle and its contents (if any) by selling them or dealing with them as scrap, as he thinks fit.
- (2) Where the owner of a vehicle has disclaimed all rights of ownership of a vehicle and any contents, they may be disposed of pursuant to this section at any time.
- (3) In a case not falling within subsection (2) above, a vehicle or its contents shall not be disposed of pursuant to this section—
 - (a) before the end of the relevant period; and
 - (b) until the custodian has, for the purpose of ascertaining the owner of the vehicle, taken such of the steps specified in subsection (5) below as are applicable to the vehicle; and
 - (c) either—
 - (i) he has failed to ascertain the name and address of the owner; or
 - (ii) the owner has failed to comply with a notice complying with subsection (6) below served on him by post or such other means as may be agreed by the parties.
- (4) In subsection (3) above, the “relevant period” means—
 - (a) in the case where subsection (2) of the said section 17 applies, the period of eight weeks beginning with the date on which the vehicle was removed as mentioned in subsection (4) of that section;
 - (b) in the case where subsection (3) of the said section 17 applies, the period of five weeks beginning with that date.
- (5) The steps referred to in subsection (3)(b) above are—
 - (a) if the vehicle carries a United Kingdom registration mark, the custodian shall ascertain from the records kept by the Secretary of State under the Vehicle Excise and Registration Act 1994 (c. 22) the name and address of the person by whom the vehicle is kept;
 - (b) if the vehicle does not carry such a registration mark, the custodian shall make such inquiries as appear to him to be practicable to ascertain the identity of the owner of the vehicle.
- (6) A notice under subsection (3)(c)(ii) above shall be a notice addressed to the owner which—
 - (a) states—
 - (i) the outstanding penalty charges payable in respect of the vehicle;
 - (ii) the registration mark and make of the vehicle;
 - (iii) the place where the vehicle was found before it was removed;
 - (iv) the place to which the vehicle has been removed;

- (v) the steps to be taken to obtain possession of the vehicle with its contents (if any) in accordance with section 19 (taking possession of a vehicle) of this Act;
 - (vi) that unless the vehicle with its contents (if any) is removed by the owner before the expiry of the period mentioned in paragraph (b) below, the custodian intends to dispose of it; and
 - (b) requires the owner to remove the vehicle from the custody of the custodian before the expiry of the period of 21 days beginning with the date on which the notice was served.
- (7) The custodian shall be entitled to treat the registered keeper of the vehicle as the person entitled to its contents unless and to the extent that some other person satisfies him of his claim to all or part of them.
- (8) Where there is more than one claim to the vehicle or its contents, the custodian shall determine which person is entitled to the vehicle or its contents on the basis of the evidence provided to him.

19 Taking possession of a vehicle

- (1) A person (“the claimant”) may take possession of a vehicle (with its contents) which has been removed and delivered to a custodian and has not been disposed of under section 18 (disposal of removed vehicles and contents) of this Act, if the conditions specified in subsection (2), (3) or (9) below are satisfied.
- (2) The conditions of this subsection are that the vehicle was removed in circumstances where subsection (2) of section 17 (immobilisation and removal of vehicles) of this Act applied; and the claimant—
 - (a) provides his name and address;
 - (b) provides satisfactory and verifiable proof of his name and address;
 - (c) provides the name and address of the owner of the vehicle (if it is not him); and
 - (d) satisfies the custodian that—
 - (i) he is the owner of the vehicle; or
 - (ii) he is authorised by the owner to take possession of the vehicle.
- (3) The conditions of this subsection are that the vehicle was removed in circumstances where subsection (2) of the said section 17 applied; and
 - (a) the claimant provides his name and address;
 - (b) the claimant satisfies the custodian that—
 - (i) he is the owner of the vehicle; or
 - (ii) that he is authorised by the owner to take possession of the vehicle;
 - (c) a bond in the prescribed sum is paid to the authorised person or to one of the London authorities specified by him and by whom he is authorised; and
 - (d) no bond has previously been paid under this subsection in respect of the outstanding penalty charges.

- (4) If a bond is paid to an authorised person or a London authority in accordance with subsection (3)(b) above, the authorised person shall issue to the claimant a certificate in the prescribed form, stating—
 - (a) that the certificate is issued under this section;
 - (b) the date on which the certificate was issued;
 - (c) the registered mark of the vehicle;
 - (d) the date on which the certificate expires;
 - (e) the effect of subsection (5) below;
 - (f) the contact details of the London authority to whom information should be provided to satisfy the provisions of subsection (7) below.
- (5) If a certificate issued under subsection (4) above is being displayed prominently in or on the vehicle to which it relates on or before the date on which it expires—
 - (a) no immobilisation device may be fixed to the vehicle under section 15 (preliminary procedure where ownership details not known) of this Act; and
 - (b) the vehicle may not be immobilised or removed under the said section 17.
- (6) A certificate issued under subsection (4) above shall expire at the end of the period of 21 days beginning with the date on which it was issued.
- (7) If the London authority referred to in subsection (4)(f) above is provided with satisfactory and verifiable proof of the name and address of the owner of the vehicle, the London authority shall return the bond to the person by whom it was paid and no further action may be taken in relation to the vehicle under this section in relation to the outstanding penalty charges in question.
- (8) The guidance that shall be published under section 25 (guidance) of this Act shall include provision about what may constitute “satisfactory and verifiable proof” for the purposes of subsections (2)(b) and (7) above.
- (9) The conditions of this subsection are that the vehicle was removed in circumstances where subsection (3) of the said section 17 applied; and
 - (a) the claimant satisfies the custodian that—
 - (i) he is the owner of the vehicle; or
 - (ii) he is authorised by the owner to take possession of the vehicle;
 - (b) all penalty charges in respect of the vehicle and which were outstanding at the time that the vehicle was removed under the said section 17 are paid to the relevant authority; and
 - (c) any charges in respect of the removal, storage or release from storage of the vehicle are paid.
- (10) A person shall be guilty of an offence if—
 - (a) in providing proof under subsection (2) or (7) above he—
 - (i) makes any statement which he knows is false in a material particular; or
 - (ii) recklessly makes a statement which is false in a material particular;

- (b) he displays in or on a vehicle a false certificate, purportedly issued under subsection (4) above.
- (11) A person guilty of an offence under subsection (10) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (12) Section 22 (issue of penalty charge notices, etc. on release or recovery of vehicle) of this Act makes provision about the service of fresh penalty charge notices and notices to owner after possession has been taken of a vehicle under this section.

20 Payment of bond to secure removal

- (1) If a person (“the claimant”) is offered the opportunity to do so by the custodian, and the conditions of subsection (2) below are satisfied, instead of paying all outstanding penalty charges and any other charges to the custodian, a person may pay to the custodian a bond in the prescribed sum in order to take possession of a vehicle (with its contents) under section 19 (taking possession of a vehicle) of this Act.
- (2) The conditions of this subsection are—
 - (a) that the claimant satisfies the custodian that—
 - (i) he is the owner of the vehicle or that he is authorised by the owner to take possession of the vehicle;
 - (ii) he intends to make representations under paragraph 2 of Schedule 2 to this Act by virtue of paragraph 1(1)(c) of that Schedule; and
 - (b) no bond has been paid under this section or in response to the service of a notice under subsection (4) of section 16 (preliminary procedure in other cases) of this Act on any previous occasion in respect of any of the outstanding penalty charges in question; and
 - (c) the claimant provides to the custodian satisfactory and verifiable proof of his name and address and the name and address of the owner of the vehicle (if it is not him).
- (3) If a claimant takes possession of a vehicle, having satisfied the conditions of subsection (2) above, the custodian shall issue to the claimant a certificate in the prescribed form, stating—
 - (a) that the certificate is issued under this section;
 - (b) the date on which the certificate was issued;
 - (c) the registration mark of the vehicle;
 - (d) the date on which the certificate expires;
 - (e) the effect of subsection (5) below;
 - (f) the effect of paragraph 2 (4) of the said Schedule 2.
- (4) If a certificate issued under subsection (3) above is being displayed prominently in or on the vehicle to which it relates on or before the date on which it expires—
 - (a) no immobilisation device may be fixed to the vehicle under section 15 (preliminary procedure where ownership details not known) or 17 (immobilisation and removal of vehicles) of this Act; and
 - (b) the vehicle may not be removed under the said section 17.

- (5) A certificate issued under subsection (3) above may expire no sooner than 14 days after the end of the period beginning with the date after which the relevant London authority is entitled, in accordance with paragraph 2(4) of the said Schedule 2, to disregard any representations received by them.
- (6) A person shall be guilty of an offence, liable on summary conviction to a fine not exceeding level 5 on the standard scale, if—
 - (a) in giving a relevant person information required to establish whether a condition of subsection (2) above is met, he—
 - (i) makes a statement which he knows is false in a material particular; or
 - (ii) recklessly makes a statement which is false in a material particular; or
 - (b) he displays in or on a vehicle a false certificate, purportedly issued under subsection (3) above.

21 Claim by the owner of a vehicle after its disposal

- (1) If, after a vehicle has been disposed of by a custodian pursuant to section 18 (disposal of removed vehicles and contents) of this Act, a person claims to have been the owner of the vehicle at the time when it was disposed of and the conditions specified in subsection (2) below are met, there shall be payable to him by the custodian a sum calculated in accordance with subsection (3) below.
- (2) The conditions are that—
 - (a) the claimant satisfies the custodian that he was the owner of the vehicle at the time it was disposed of; and
 - (b) the claim is made before the end of the period of one year beginning with the date on which the vehicle was disposed of.
- (3) The sum payable under subsection (1) above shall be calculated by deducting from the proceeds of sale the sums that would have been payable under subsection (9) of section 19 (taking possession of a vehicle) of this Act, had the vehicle been claimed by the owner immediately before its disposal, together with such charge as may be imposed by section 17 (immobilisation and removal of vehicles) of this Act in respect of the disposal of a vehicle.

22 Issue of penalty charge notices, etc. on release or recovery of vehicle

- (1) This section applies in cases where—
 - (a) a vehicle is released from an immobilisation device under subsection (4) of section 15 (preliminary procedure where ownership details not known) of this Act;
 - (b) details are provided to a London authority in satisfaction of subsection (16) of the said section 15; or
 - (c) a claimant takes possession of a vehicle under section 19 (taking possession of a vehicle) of this Act in circumstances where subsection (2) of that section apply.
- (2) The relevant person may, if he is satisfied that the claimant is the owner of the vehicle, serve on the claimant personally a penalty charge notice or (in NTO cases) a notice to owner in respect of each relevant outstanding penalty charge.

- (3) A London authority may serve a penalty charge notice or (in NTO cases) a notice to owner in respect of each relevant outstanding penalty charge on the person whose name is given as the owner of the vehicle to the relevant person under subsection (11) or (16) of the said section 15 or subsection (2) or (7) of the said section 19 at the address given under the subsection in question.
- (4) A notice served under subsection (2) or (3) above shall, for the purposes of the enactment in respect of which the relevant outstanding penalty charge in question arose be deemed to have been issued or served in compliance with that enactment (including in compliance with any time limits under the enactment).
- (5) A penalty charge in respect of which a notice is served under subsection (2) or (3) above—
 - (a) ceases to be outstanding as described in subsection (4)(b) of section 14 (interpretation of Part 5) of this Act; but
 - (b) may become outstanding as described in subsections (4)(a), (5) and (6) of that section.
- (6) If a penalty charge does become outstanding again as mentioned in subsection (5) above, then—
 - (a) the procedure in section 16 (preliminary procedure in other cases) of this Act may apply in respect of the outstanding penalty charge; and
 - (b) the penalty charge notice or notice to owner in question shall count for the purposes of subsection (1)(c) of that section.
- (7) In this section—
 - “relevant person” means—
 - (a) an authorised person who releases a vehicle or directs another person to release the vehicle from an immobilisation device in accordance with subsection (10) of the said section 15; or
 - (b) a custodian from whom a vehicle is taken possession under subsection (1) of the said section 19, in the case where the conditions of subsection (2) of that section have been satisfied, as the case may be;
 - “claimant” means a claimant for the purposes of the said section 15 or section 19, as the case may be.

23 Representations and appeals

Schedule 2 to this Act shall have effect with respect to representations against penalty charge notices and appeals, and other matters supplementary to the provisions of this Part of this Act.

24 Levels of charges, financial provisions, etc.

- (1) Different levels of charges (but not of bonds) payable or recoverable under this Part of this Act may be prescribed for different cases or classes of case.
- (2) Income and expenditure in respect of this Part of this Act shall be treated by the London authorities under such one or more of the relevant financial provisions as they think fit.
- (3) Regulations under section 88 of the 2004 Act may make provision about—
 - (a) the keeping of accounts and the preparation and publication of statements of account, of the income and expenditure of London authorities in connection with their functions under this Part of this Act; and
 - (b) as to the purposes for which any surpluses may be applied.
- (4) In determining, for the purposes of any provision of this Act, whether a penalty charge has been paid before the end of a particular period, it shall be taken to be paid when it is received by the London authority concerned.
- (5) For the purposes of subsection (2) above, “the relevant financial provisions” means—
 - (a) section 55 of the 1984 Act (financial provisions relating to designation orders);
 - (b) Schedule 2 to the London Local Authorities Act 1996 (c. ix) (financial provisions relating to Part II (bus lanes));
 - (c) regulations made under subsection (8)(d) of section 144 of the Transport Act 2000 (c. 38) (civil penalties for bus lane contraventions);
 - (d) Schedule 2 to the Act of 2003 (financial provisions relating to sections 4 (penalty charges for road traffic contraventions) and 8 to 11 (fixed penalties) of that Act);
 - (e) paragraphs 15 to 18 of Schedule 23 to the Greater London Authority Act 1999 (c. 29) (accounts and funds, etc. for road user charging schemes);
 - (f) regulations made under the said section 88 as mentioned in subsection (3) above.

25 Guidance

Before the appointed day, the London authorities shall publish guidance about the exercise of their functions under this Part of this Act and the London authorities shall have regard to the guidance in exercising those functions.

PART 6

MISCELLANEOUS

26 Fixed penalties under the Act of 2003

Section 9 (fixed penalty notices) of the Act of 2003 is amended as follows—

- (a) in subsection (2)(a), for “14 days” there is substituted “28 days”;

- (b) in subsection (3), the following paragraph is inserted before the word “and” at the end of paragraph (b)—
 - “(ba) that if the fixed penalty is paid before the end of the period of 14 days beginning with the date of the notice, the amount of the fixed penalty will be reduced by the specified proportion;”;
- (c) after subsection (7), the following subsection is inserted—
 - “(8) In this section—
 - (a) “chief finance officer” in relation to a borough council or Transport for London means the person having responsibility for the financial affairs of the council or Transport for London, as the case may be;
 - (b) “specified proportion” means such proportion, applicable in all cases, as may be determined for the purposes of this section by the borough councils acting through the Joint Committee as defined in section 4(16) of this Act.”.

27 Minor amendments to the Act of 2003

The Act of 2003 is amended as follows—

- (a) in subsection (10) of section 4 (penalty charges for road traffic contraventions), for “appointing authorities” there is substituted “the borough councils and Transport for London”;
- (b) in subsection (1) of section 16 (vehicle crossings over footways and verges) for the words from “the relevant authority” to the end of the subsection there is substituted “the relevant authority may serve a notice requiring the occupier, within the period specified in the notice (being no sooner than 28 days from the date on which the notice is served), to cease taking or permitting to be taken mechanically propelled vehicles across the kerbed footway or verge.”;
- (c) in subsections (4)(c)(ii) and (9)(b) of the said section 16 for “the council” there is substituted “the authority”;
- (d) in subsection (7) of section 17 (removal of things deposited on the highway)—
 - (i) for “If the highway authority proceed under this subsection, no sooner” there is substituted “No later”;
 - (ii) for “they shall” there is substituted “the highway authority shall”;
- (e) in subsection (14) of the said section 17, for “removing it”, in both places where those words appear, there is substituted “removing, storing and disposing of it”;
- (f) in subsection (19)(a) of the said section 17, for “subsection (1)” there is substituted “subsection (2)”.

PART 7

SUPPLEMENTAL

28 Liability of directors, etc.

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.
- (2) Where the affairs of the body corporate are managed by its members, subsection (1) above shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

29 Repeal

Section 7 (recovery of unpaid penalty charges) of the London Local Authorities Act 1995 (c. x) is repealed.

S C H E D U L E

SCHEDULE 1

Section 11

SECTIONS OF PUBLIC HEALTH ACT 1936 (C. 49) APPLIED TO SECTION 11 (REMOVAL OF ABANDONED APPARATUS ETC. FROM STREETS) OF THIS ACT

<i>Section</i>	<i>Marginal Note</i>
275	Power of local authority to execute certain works on behalf of owners and occupiers.
278	Compensation to individuals for damage resulting from exercise of powers under Act.
283(1)	Notices to be in writing; forms of notices, etc.
285	Service of notices, etc.
287	Power to enter premises.
289	Power to require occupier to permit works to be executed by owner.
290	Provisions as to appeals against, and enforcement of, notices requiring execution of works.
291	Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments.
297	Continuing offences and penalties.
300	Appeals and applications to courts of summary jurisdiction.
341	Power to apply provisions of Act to Crown property.

SCHEDULE 2

Section 23

REPRESENTATIONS, APPEALS AND ENFORCEMENT

Persons to whom Schedule applies

- 1 (1) This Schedule applies to a person (in this Schedule referred to as a “relevant person”—
 - (a) on whom a notice is served under subsection (2) of section 16 (preliminary procedure in other cases) of this Act and who in accordance with the requirements of the notice pays—
 - (i) the outstanding penalty charges; or
 - (ii) a bond in the prescribed sum;
 - (b) who pays or causes to be paid a penalty charge or other charge to recover a vehicle after it has been removed from a road in accordance with section 17 (immobilisation and removal of vehicles) of this Act;
 - (c) who pays or causes to be paid a bond in accordance with—
 - (i) subsection (9) of the said section 17; or
 - (ii) subsection (1) of section 20 (payment of bond to secure removal) of this Act;

- (d) who receives any sum in respect of a vehicle under section 21 (claim by the owner of a vehicle after its disposal) of this Act after the vehicle has been sold or destroyed in accordance with section 18 (disposal of removed vehicles and contents) of this Act; or
 - (e) who is informed that the proceeds of its disposal do not exceed the amount of the penalty charges and other charges payable in respect of the vehicle in accordance with section 21 (claim by the owner of a vehicle after its disposal) of this Act.
- (2) In this Schedule “the relevant authority”, in relation to the events referred to in paragraphs (a) to (e) of sub-paragraph (1) above is—
- (a) in the case of the said paragraph (a), the authority who served the notice;
 - (b) in the case of the said paragraph (b), the authority to whom the penalty charge is paid or is caused to be paid;
 - (c) in the case of the said paragraph (c), the relevant person to whom the bond is paid or caused to be paid;
 - (d) in the case of the said paragraph (d), the authority from whom the sum is received;
 - (e) in the case of the said paragraph (e), the authority by whom the information is given.

Right to make representations

- 2 (1) A relevant person shall, at the relevant time be informed by notice in writing, by or on behalf of the relevant authority, of his right to make representations under this paragraph and his right of appeal under paragraph 3 below.
- (2) A relevant person may make representations in writing to the relevant authority on one or more of the grounds mentioned in sub-paragraph (3) below.
- (3) The grounds are—
 - (a) that in the particular circumstances of the case, the removal or disposal of the vehicle was not authorised by Part 5 (non-payment of penalty charges) of this Act;
 - (b) that the penalty charge, other charge or bond paid to secure the release or recovery of the vehicle exceeded the amount applicable in the circumstances of the case;
 - (c) that the outstanding penalty charges were all incurred before the owner of the vehicle at the relevant time had become the owner of that vehicle;
 - (d) that the number of outstanding penalty charges incurred after he had become the owner was fewer than three;
 - (e) that the outstanding penalty charges have all been paid;
 - (f) that the relevant person is a vehicle-hire firm and—
 - (i) the vehicle in question was, at the time the outstanding penalty charges were incurred, hired from that firm under a hiring agreement; and

- (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge incurred in respect of the vehicle during the currency of the hiring agreement;
 - (g) that, in respect of an outstanding penalty charge (other than in a case where subsection (4)(b) of section 14 (interpretation of Part 5) of this Act applies), the owner of the vehicle did not receive the penalty charge notice in question (in the case where the outstanding penalty charge arose from a penalty charge notice which purported to have been served by the London authority following the detection of a contravention of an enactment by a camera or other device);
 - (h) that, in respect of an outstanding penalty charge (other than in a case where subsection (4)(b) of the said section 14 applies), the owner of the vehicle did not receive a notice to owner (in the case where the penalty charge arose from a penalty charge notice in respect of which a notice to owner may be served);
 - (i) that the owner of the vehicle made representations to the London authority against the original penalty charge but did not receive a notice of rejection from the London authority;
 - (j) that the owner of the vehicle appealed to a parking adjudicator, a traffic adjudicator or a road user charging adjudicator against the rejection by the London authority of representations made by him but had no response to the appeal.
- (4) A relevant authority may disregard any representations received by them after the end of the period of 28 days beginning with the date on which the relevant person is informed in accordance with sub-paragraph (1) above of his right to make representations.
- (5) It shall be the duty of the relevant authority to whom representations are duly made under this paragraph, before the end of the period of 56 days beginning with the day on which they receive the representations—
 - (a) to consider them and any supporting evidence which the person making them provides; and
 - (b) to serve on that person a notice of their decision as to whether or not they accept that the ground in question has been established.
- (6) Subject to sub-paragraph (11) below, where a relevant authority serve notice under sub-paragraph (5)(b) above that they accept that a ground has been established they shall (when serving that notice or as soon as practicable thereafter) refund (if they have not done so already)—
 - (a) any bond paid to them—
 - (i) in accordance with subsection (12)(b) of section 15 (preliminary procedure where ownership details not known) of this Act;
 - (ii) in response to a notice under subsection (2) of section 16 (preliminary procedure in other cases) of this Act;
 - (iii) under subsection (9) of section 17 (immobilisation and removal of vehicles) of this Act;

- (iv) in accordance with subsection (3)(c) of section 19 (taking possession of a vehicle) of this Act; or
 - (v) under section 20 (payment of bond to secure removal) of this Act; and
- (b) any penalty charge or other charges—
- (i) paid to recover the vehicle after it had been removed from a road;
 - (ii) deducted from the proceeds of sale of the vehicle,
- except to the extent (if any) to which those sums were properly paid or deducted.
- (7) Where a relevant authority serve notice under sub-paragraph (5)(b) above that they do not accept that a ground has been established, that notice shall—
- (a) inform the relevant person of his right to appeal to an adjudicator under paragraph 3 below;
 - (b) indicate the nature of the adjudicator's power to award costs against any person appealing to him under that paragraph;
 - (c) describe in general terms the form and manner in which such an appeal is required to be made; and
 - (d) provide such other information as the relevant authority consider appropriate.
- (8) Where a relevant authority fail to comply with sub-paragraph (5) above before the end of the period of 56 days there mentioned—
- (a) they shall be deemed to have accepted that the ground in question has been established and to have served notice to that effect under sub-paragraph (5)(b) above; and
 - (b) sub-paragraph (6) above shall have effect as if it required any refund to be made immediately after the end of that period.
- (9) Any notice required to be served under this paragraph may be served personally or by post or in such manner as is agreed between the relevant authority and the relevant person.
- (10) Where the person on whom any document is required to be served by sub-paragraph (5) above is a body corporate, the document is duly served if it is sent by post or in any such manner as is agreed to the secretary or clerk to that body.
- (11) Where a relevant authority serve notice under sub-paragraph (5)(b) above that they accept that a ground has been established—
- (a) under sub-paragraph (3)(g) to (i) above, with regard to a valid notice that was sent but not received, a London authority may, in respect of each outstanding penalty charge for which the ground has been established serve a replacement penalty charge notice, notice to owner or notice of rejection, as the case may be; or
 - (b) under sub-paragraph (3)(j) above with regard to a response to an appeal that was sent but not received, a parking, traffic or road user charging adjudicator may, in respect of an outstanding penalty charge for which the ground has been established serve a replacement response to the appeal at the request of a London authority.

- (12) A notice or response served under sub-paragraph (11) above shall be served on the person who made the representations, or, in the case where that person has also established a ground under sub-paragraph (3)(c) or (d) above, on the person whom the authority believes to have been the owner of the vehicle at the time when the penalty charge in question was incurred.
- (13) A notice or response served under sub-paragraph (11) above shall, for the purposes of the enactment in respect of which the relevant outstanding penalty charge in question arose be deemed to have been issued or served in compliance with any time limits under the enactment.
- (14) Where a relevant authority serve notice under sub-paragraph (5)(b) above that they accept that a ground has been established under sub-paragraph (3)(c) to (j) above in the case of some, but not all, of the outstanding penalty charges, sub-paragraph (6) above shall have effect as follows—
 - (a) if the number of remaining outstanding penalty charges in respect of which the representations were made is fewer than three, the only penalty charges which the relevant authority must refund are those in respect of which they accept that a ground was established and they must refund any bond;
 - (b) if the number of remaining outstanding penalty charges in respect of which the representations were made is three or more, the relevant authority need only refund the penalty charges in respect of which they accept that a ground was established and they need not refund any bond, or other penalty charges or charges.
- (15) In this paragraph—
 - “hiring agreement” and “vehicle-hire firm” have the same meanings as in section 66 of the Road Traffic Offenders Act 1988 (c. 53); and
 - “relevant time” means the time of the happening of an event such as is referred to in paragraph 1(1)(a) to (e) of this Schedule.

Right to appeal to an adjudicator

- 3 (1) Where a relevant authority serve notice under paragraph 2(5)(b) above that they do not accept that a ground on which representations were made under paragraph 2 above has been established, the person making those representations may appeal to an adjudicator against the authority’s decision, before—
 - (a) the end of the period of 28 days beginning with the date of service of the notice; or
 - (b) such longer period as an adjudicator may allow following consultation with the relevant authority.
- (2) An adjudicator may allow a longer period for an appeal under sub-paragraph (1)(b) above whether or not the period specified in sub-paragraph (1)(a) above has already expired.

- (3) On an appeal under this paragraph, the 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(3) above and, if he concludes—
- (a) that any of the representations are justified; and
 - (b) that the relevant authority would have been under the duty imposed by paragraph 2(6) above to refund any sum if they had served notice that they accepted that the ground in question had been established,
- he shall direct the authority to make the necessary refund.
- (4) It shall be the duty of a relevant authority to whom such a direction is given to comply with it.

Representations and appeals in cases where bond is paid

- 4 (1) If representations are made to a relevant authority in a case where paragraph 1(1)(a)(ii) or 1(1)(c) above applies, the relevant authority shall issue a certificate to the relevant person.
- (2) A certificate under sub-paragraph (1) above shall state—
- (a) that the certificate is issued under that sub-paragraph;
 - (b) the date on which the certificate was issued;
 - (c) the registration mark of the vehicle;
 - (d) the effect of sub-paragraph (3) below.
- (3) A vehicle may not be immobilised or removed under section 17 (immobilisation and removal of vehicles) of this Act if—
- (a) a certificate issued under sub-paragraph (1) above is being displayed prominently in or on the vehicle to which it relates; and
 - (b) either—
 - (i) the period mentioned in paragraph 2(4) above, after which the relevant authority may disregard any representations received by them, has not expired; or
 - (ii) that period has expired and representations were received by them before its expiry and either of the conditions of sub-paragraph (4) below are met.
- (4) The conditions are—
- (a) no notice has yet been served by the relevant authority under paragraph 2(5)(b) above;
 - (b) the relevant authority have notified the person who made them that they reject the grounds of the representations; and—
 - (i) the period allowed for making an appeal to an adjudicator in respect of the notification of rejection of representations has not yet expired; or
 - (ii) an appeal has been made to the adjudicator and no conclusion has yet been reached by the adjudicator under paragraph 3(3) above.

- (5) This sub-paragraph applies if—
(a) a person who is entitled to—
(i) make representations under paragraph 2 above; or
(ii) appeal to an adjudicator under paragraph 3 above,
fails to do so within the period mentioned in the paragraph in question; and
(b) that person has paid or caused to be paid a bond in accordance with section 20 (payment of bond to secure removal) of this Act.
- (6) If sub-paragraph (5) above applies, the London authority in question shall return the bond to the person in question if he has paid or caused to be paid the outstanding penalty charges in question and any charges incurred in relation to them under this Act.
- (7) The relevant authority may set off any costs in recovering outstanding penalty charges against the bond, and shall return the balance of the bond (if any) to the person in question if—
(a) sub-paragraph (5) above applies; and
(b) the person in question has not paid or caused to be paid the outstanding penalty charges in question or any penalty incurred in relation to them under Part 5 (non-payment of penalty charges) of this Act.

Adjudicators

- 5 (1) Functions of adjudicators under this Schedule shall be discharged by—
(a) the persons who are appointed as parking adjudicators under section 73 of the 1991 Act (until that section is repealed by section 98 of the 2004 Act); or
(b) the persons appointed under regulations made under section 81 of the 2004 Act (adjudicators) as adjudicators for the purposes of Part 6 of that Act (after section 73 is repealed).
- (2) When any of the outstanding penalty charges to which an appeal relates is payable under regulations made under paragraph 12 of Schedule 23 to the Greater London Authority Act 1999 (c. 29) (road user charging), the adjudicator must also be a person appointed under regulations made under paragraph 28(c) of that Schedule.
- (3) Regulations under section 73(11) of the 1991 Act (provision as to procedure to be followed in relation to proceedings before parking adjudicators) may make provision with respect to proceedings before parking adjudicators when exercising the functions of adjudicators under this Schedule; and any regulations under that subsection in force at the coming into operation of Part 5 (non-payment of penalty charges) of this Act shall, with any necessary modifications, apply in relation to such proceedings.
- (4) The references to a parking adjudicator or parking adjudicators in section 73(13) to (15) and (17) and (18) of the Act of 1991 shall include references to a parking adjudicator or parking adjudicators exercising the functions of adjudicators under this Schedule but section 73(15) of that Act shall not apply to a penalty charge under the said Part 5 which remains payable following an adjudication under this Schedule.

- (5) Regulations under section 80 of the 2004 Act (representations and appeals) may make provision in connection with—
- (a) appeals under paragraph 3 above as they do in relation to appeals which may be made under those regulations;
 - (b) adjudicators under this Schedule as they do in relation to adjudicators appointed under section 81 of that Act,
- and any regulations under the said section 80 in force at the coming into operation of the said Part 5 shall, with any necessary modifications, apply in relation to such appeals and adjudicators.
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