



# Traffic Management Act 2004

## 2004 CHAPTER 18

### PART 6

#### CIVIL ENFORCEMENT OF TRAFFIC CONTRAVENTIONS

##### *Notification, adjudication and enforcement*

#### **78 Notification of penalty charge**

- (1) The Lord Chancellor may make regulations for and in connection with the notification of penalty charges.
- (2) The regulations may provide for notification of a penalty charge to be given in respect of a stationary vehicle—
  - (a) by a notice affixed to the vehicle,
  - (b) by a notice given to a person appearing to be in charge of the vehicle, or
  - (c) in such other manner as may be specified by the regulations.
- (3) The regulations may provide for notification of a penalty charge otherwise than in respect of a stationary vehicle to be given in such manner as may be specified by the regulations.
- (4) The regulations may not confer power to stop vehicles.
- (5) The regulations may provide that, if it appears to the enforcement authority that both the operator of a vehicle and the person in control of the vehicle are liable to a penalty charge, they may give notice to the operator requiring him to provide them with the name and address of the person who was in control of the vehicle at the time of the alleged contravention.
- (6) The regulations may include provision creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be specified.

*Changes to legislation: There are currently no known outstanding effects for the Traffic Management Act 2004, Cross Heading: Notification, adjudication and enforcement. (See end of Document for details)*

#### Commencement Information

- I1** S. 78 in force at 26.10.2006 for W. by [S.I. 2006/2826](#), [art. 2\(1\)\(2\)\(c\)](#)
- I2** S. 78 in force at 23.7.2007 for E. by [S.I. 2007/2053](#), [arts. 1\(2\)](#), [2\(1\)\(2\)\(e\)](#) (with [art. 4](#)) (as amended (17.3.2008) by [S.I. 2008/757](#), art. 3)

### [<sup>F1</sup>78A Notification of penalty charge: parking contraventions in England

- (1) Regulations under section 78 must include provision requiring notification of a penalty charge to be given by a notice affixed to the vehicle where the charge is in respect of a parking contravention on a road in a civil enforcement area in England.
- (2) The regulations may, however, provide that the requirement does not apply in circumstances specified in the regulations (which may be framed by reference to the type of contravention, the circumstances in which a contravention occurs or in any other way) and, where the regulations so provide, they may make any such alternative provision for notification as is authorised by section 78.]

#### Textual Amendments

- F1** [S. 78A](#) inserted (26.3.2015 for specified purposes, 1.4.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), [ss. 53\(2\)](#), [115\(2\)\(b\)](#); [S.I. 2015/994](#), art. 2(b)

### 79 Immobilisation of vehicle where penalty charge payable

- (1) The appropriate national authority may make provision by regulations for or in connection with—
  - (a) the fixing of an immobilisation device to a stationary vehicle found in any place where there is reason to believe the vehicle has been permitted to remain at rest there in circumstances in which a penalty charge has become payable, and
  - (b) the release of the vehicle from the device only on payment of—
    - (i) the penalty charge mentioned in paragraph (a),
    - (ii) such unpaid earlier penalty charges relating to the vehicle as may be specified in the regulations, and
    - (iii) the charge payable in respect of the release.
- (2) The regulations may make provision authorising—
  - (a) the fixing of an immobilisation device to the vehicle while it remains in the place where it was found, or
  - (b) the moving of the vehicle to another place and the fixing of an immobilisation device to it in that other place,

and providing for any power of removal that was exercisable in relation to the vehicle before it was so moved to continue to be exercisable in relation to the vehicle while it remains in the place to which it was so moved.
- (3) The regulations may provide—
  - (a) that on any occasion when an immobilisation device is fixed to a vehicle in accordance with the regulations, the person fixing the device shall also fix to the vehicle a notice—

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- (i) 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 unless it has been released from the device;
    - (ii) specifying the steps to be taken in order to secure its release; and
    - (iii) giving such other information as may be specified by the regulations; and
  - (b) that a notice fixed to a vehicle in accordance with the regulations shall not be removed or interfered with except by or under the authority of—
    - (i) the owner or person in charge of the vehicle, or
    - (ii) the enforcement authority,and that a person contravening that prohibition commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) The regulations may also provide—
  - (a) that a vehicle to which an immobilisation device has been fixed in accordance with the regulations may only be released from the device by or under the direction of a person authorised by the enforcement authority; and
  - (b) that a person who, without being authorised to do so in accordance with the regulations, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with the regulations commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) The regulations shall provide—
  - (a) that an immobilisation device must not be fixed to a vehicle if a current disabled person's badge is displayed on the vehicle; and
  - (b) that if, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (a), the vehicle was not being used—
    - (i) in accordance with regulations under section 21 of the Chronically Sick and Disabled Persons Act 1970 (c. 44), and
    - (ii) in circumstances falling within section 117(1)(b) of the Road Traffic Regulation Act 1984 (c. 27) (use where a disabled person's concession would be available),the person in charge of the vehicle commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- [<sup>F2</sup>(5A) The regulations shall provide—
  - (a) that an immobilisation device must not be fixed to a vehicle if a current recognised badge is displayed on the vehicle; and
  - (b) that if, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (a), the vehicle was not being used—
    - (i) in accordance with regulations under section 21A of the Chronically Sick and Disabled Persons Act 1970, and
    - (ii) in circumstances falling within section 117(1A)(b) of the Road Traffic Regulation Act 1984 (use where a disabled person's concession would be available by virtue of displaying a non-GB badge),the person in charge of the vehicle commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

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- (6) The regulations shall also provide that an immobilisation device must not be fixed to a vehicle in a parking place in respect of a contravention consisting of, or arising out of, a failure—
- (a) to pay a parking charge with respect to the vehicle,
  - (b) properly to display a ticket or parking device, or
  - (c) to remove the vehicle from the parking space by the end of a period for which the appropriate charge was paid,
- until 15 minutes have elapsed since the giving of a notification of a penalty charge in respect of the contravention.
- (7) In this section—
- “disabled person's badge” has the same meaning as in section 142(1) of the Road Traffic Regulation Act 1984;
- “parking device” means a parking device within the meaning of section 35(3B) or 51(4) of that Act; <sup>F3</sup>...
- “parking place” means—
- (a) a parking place designated by an order under section 45 of that Act, or
  - (b) an off-street parking place provided under section 32(1)(a) or 57(1)(b), or under a letting or arrangement made under section 33(4), of that Act;
- [<sup>F4</sup>“recognised badge” has the meaning given by section 21A of the Chronically Sick and Disabled Persons Act 1970.]

#### Textual Amendments

- F2** S. 79(5A) inserted (30.6.2005 for E., 30.3.2008 for W.) by [Disability Discrimination Act 2005 \(c. 13\)](#), s. 20(4), [Sch. 1 para. 48\(2\)](#); [S.I. 2005/1676](#), art. 3(b); [S.I. 2007/3285](#), art. 2(b)
- F3** Word in s. 79(7) repealed (30.6.2005 for E., 30.3.2008 for W.) by [Disability Discrimination Act 2005 \(c. 13\)](#), s. 20(3), [Sch. 2](#); [S.I. 2005/1676](#), art. 3(c); [S.I. 2007/3285](#), art. 2(c)
- F4** Words in s. 79(7) inserted (30.6.2005 for E., 30.3.2008 for W.) by [Disability Discrimination Act 2005 \(c. 13\)](#), s. 20(4), [Sch. 1 para. 48\(3\)](#); [S.I. 2005/1676](#), art. 3(b); [S.I. 2007/3285](#), art. 2(b)

#### Commencement Information

- I3** S. 79 in force at 26.10.2006 for W. by [S.I. 2006/2826](#), art. 2(1)(2)(c)
- I4** S. 79 in force at 23.7.2007 for E. by [S.I. 2007/2053](#), arts. 1(2), 2(1)(2)(e) (with art. 4) (as amended (17.3.2008) by [S.I. 2008/757](#), art. 3)

## 80 Representations and appeals

- (1) The Lord Chancellor may make provision by regulations entitling a person—
- (a) who is or may be liable to pay a penalty charge, or
  - (b) who secures the release of a vehicle from an immobilisation device on payment of an amount in accordance with regulations under section 79,
- to make representations to the enforcement authority and to appeal to an adjudicator if his representations are not accepted.
- (2) The regulations may make such provision in connection with the rights conferred as appears to the Lord Chancellor to be appropriate, and may in particular make provision—

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- (a) requiring the authority to give a person notice of the rights conferred by the regulations,
  - (b) as to the grounds on which, and time within which, representations may be made,
  - (c) requiring supporting evidence in such circumstances as may be specified,
  - (d) as to the duties of the authority when representations are received,
  - (e) as to the circumstances in which there is a right of appeal to an adjudicator,
  - (f) generally as to the making, determination and effect of, and procedure in connection with, appeals, and
  - (g) enabling an adjudicator to review any decision made on, or in the course of, an appeal.
- (3) The regulations may provide that, as respects a ground on which representations may be made, the adjudicator's function on an appeal is to decide whether to direct the enforcement authority to consider or re-consider (as the case may be) any representations relating to that ground.
- (4) The regulations may include provision—
  - (a) authorising an adjudicator to require a person—
    - (i) to attend to give evidence at the hearing of an appeal, and
    - (ii) to produce any documents in his custody or under his control relating to any matter relevant for the purposes of the appeal, and
  - (b) making it a criminal offence triable summarily and punishable with a fine not exceeding level 2 on the standard scale to fail to comply with such a requirement.
- (5) The regulations may provide that a person who makes a representation that is false in a material particular, and does so recklessly or knowing it to be false, commits an offence triable summarily and punishable with a fine not exceeding level 5 on the standard scale.
- (6) The regulations may include provision authorising an adjudicator to make an order for the payment of costs and expenses by a party to an appeal in such circumstances as may be specified.

#### Commencement Information

- I5** S. 80 in force at 26.10.2006 for W. by [S.I. 2006/2826](#), [art. 2\(1\)\(2\)\(c\)](#)
- I6** S. 80 in force at 23.7.2007 for E. by [S.I. 2007/2053](#), [arts. 1\(2\), 2\(1\)\(2\)\(e\)](#) (with [art. 4](#)) (as amended (17.3.2008) by [S.I. 2008/757](#), art. 3)

## 81 Adjudicators

- (1) The Lord Chancellor may make provision by regulations for and in connection with the appointment of adjudicators for the purposes of this Part.
- (2) The following provisions apply in relation to the office of adjudicator—
  - (a) to be qualified for appointment as an adjudicator, a person must [<sup>F5</sup>satisfy the judicial-appointment eligibility condition on a 5-year basis;]
  - (b) an adjudicator is appointed for a term, not exceeding five years, specified in his instrument of appointment;

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- (c) on the expiry of a term of appointment an adjudicator is eligible for re-appointment;
  - (d) an adjudicator may be removed from office only for misconduct or on the ground that he is unable or unfit to discharge his functions, but otherwise holds and vacates office in accordance with the terms of his appointment.
- (3) The regulations shall provide—
  - (a) for adjudicators to be appointed by the relevant enforcement authorities on such terms as those authorities may decide, and
  - [<sup>F6</sup>(b) for the consent of the Lord Chancellor to be required for any decision by those authorities to appoint a person as an adjudicator;
  - (c) for the consent of the Lord Chancellor and the Lord Chief Justice to be required for any decision by those authorities—
    - (i) not to re-appoint a person as an adjudicator, or
    - (ii) to remove a person from his office as an adjudicator.]
- [<sup>F7</sup>(3A) The regulations may provide for the Lord Chief Justice to nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise any of his functions under the regulations.]
- (4) The relevant enforcement authorities shall—
  - (a) provide, or make arrangements for the provision of, accommodation and administrative staff and facilities for adjudicators, and
  - (b) determine the places where adjudicators are to sit,
 and shall defray all the expenses of the adjudication process and, in particular, expenses in relation to the remuneration of adjudicators.
- (5) The regulations shall provide—
  - (a) for each adjudicator to make an annual report to the relevant enforcement authorities in accordance with such requirements as may be imposed by those authorities, and
  - (b) for those authorities to make and publish an annual report to the appropriate national authority on the discharge by the adjudicators of their functions.
- (6) In this section “the relevant enforcement authorities” means the authorities who are enforcement authorities for the purposes of this Part in relation to road traffic contraventions (of any description).
- (7) The regulations may provide for the functions of the relevant enforcement authorities under this section—
  - (a) to be discharged separately for Greater London, England (outside Greater London) and Wales;
  - (b) to be discharged by means of arrangements under section 101 of the Local Government Act 1972 (c. 70) (arrangements for discharge of functions by local authorities) or in such other way as the regulations may provide.
- (8) The regulations may make provision—
  - (a) for treating adjudicators appointed before the commencement of this Part under section 73 of the Road Traffic Act 1991 (c. 40), or under regulations made under section 144 of the Transport Act 2000 (c. 38), as if they had been appointed under this section;

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- (b) for continuing in force for the purposes of this section any arrangements in force immediately before the commencement of this Part for the discharge of functions corresponding to the functions of relevant enforcement authorities under this section.
- (9) The expenses of the relevant enforcement authorities under this section shall be defrayed by them in such proportions—
  - (a) as they may decide, or
  - (b) in default of a decision by them, as may be determined in accordance with regulations made—
    - (i) by the Secretary of State, or
    - (ii) if the functions of those authorities are discharged separately for Wales, by the appropriate national authority.
- (10) Regulations under subsection (9)(b) may, in particular, provide—
  - (a) for the matter to be determined by an arbitrator appointed by a body specified in the regulations, and
  - (b) for the giving of directions by the Secretary of State or, as the case may be, the appropriate national authority in order to secure that the matter is referred to arbitration.

#### Textual Amendments

- F5** Words in s. 81(2)(a) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 39](#); [S.I. 2008/1653](#), art. 2(d) (with arts. 34)
- F6** S. 81(3)(b)(c) substituted for s. 81(3)(b) (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 1, [Sch. 1 para. 19](#)
- F7** S. 81(3A) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 1, [Sch. 1 para. 20](#)

#### Commencement Information

- I7** S. 81 in force at 26.10.2006 for W. by [S.I. 2006/2826](#), [art. 2\(1\)\(2\)\(c\)](#)
- I8** S. 81 in force at 23.7.2007 for E. by [S.I. 2007/2053](#), [arts. 1\(2\)](#), [2\(1\)\(2\)\(e\)](#) (with [art. 4](#)) (as amended (17.3.2008) by [S.I. 2008/757](#), art. 3)

## 82 Enforcement of penalty charges

- (1) The Lord Chancellor may make regulations for or in connection with the enforcement of penalty charges.
- (2) The regulations may include provision—
  - (a) creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be specified;
  - (b) for amounts payable under or by virtue of any provision of this Part to be recoverable, <sup>[F8]</sup>if the county ] court so orders, as if they were payable under a county court order.

An amount to which paragraph (b) applies that is so recoverable is referred to below as a “traffic contravention debt”.

- (3) The Lord Chancellor may by order make provision—

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- <sup>F9</sup>(a) .....
- (b) as to the requirements that must be satisfied before a person takes any other step of a kind specified in the order, with a view to enforcing the payment of—
- (i) a traffic contravention debt, or
  - (ii) such class or classes of traffic contravention debts as may be so specified.
- (4) Any such order may make such incidental and supplementary provision (including modifications of any enactment other than this Act) as the Lord Chancellor considers appropriate in consequence of the provision made by the order.
- (5) Any order in force immediately before the commencement of this Part under section 78(2) of the Road Traffic Act 1991 (c. 40) shall have effect after that commencement as if made under the corresponding provisions of this section and shall apply in relation to the enforcement of any traffic contravention debt.

#### Textual Amendments

- F8** Words in s. 82(2)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 135](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F9** S. 82(3)(a) repealed (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 156\(a\)](#), [Sch. 23 Pt. 3](#) (with s. 89); [S.I. 2014/768](#), art. 2(1)(b)

#### Modifications etc. (not altering text)

- C1** S. 82 modified (temp.) by 2003 c. iii Sch. 1 para. 6(3) (as modified by [SI 2007/2053](#) art. 8(4)(a), as added) (17.3.2008) by [Traffic Management Act 2004 \(Commencement No.5 and Transitional Provisions\) \(England\) \(Amendment\) Order 2008 \(S.I. 2008/757\)](#), [art. 5](#)
- C2** S. 82 modified (temp.) by 1996 c. ix Sch. 1 para. 9(3) (as modified by [SI 2007/2053](#) art. 5(5), as added) (17.3.2008) by [Traffic Management Act 2004 \(Commencement No.5 and Transitional Provisions\) \(England\) \(Amendment\) Order 2008 \(S.I. 2008/757\)](#), [art. 5](#)

#### Commencement Information

- I9** S. 82 in force at 26.10.2006 for W. by [S.I. 2006/2826](#), [art. 2\(1\)\(2\)\(c\)](#)
- I10** S. 82 in force at 23.7.2007 for E. by [S.I. 2007/2053](#), [arts. 1\(2\)](#), 2(1)(2)(e) (with [art. 4](#)) (as amended (17.3.2008) by [S.I. 2008/757](#), art. 3)

### <sup>F10</sup>83 Certificated bailiffs

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#### Textual Amendments

- F10** S. 83 repealed (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 156\(b\)](#), [Sch. 23 Pt. 3](#) (with s. 89); [S.I. 2014/768](#), art. 2(1)(b)

#### Modifications etc. (not altering text)

- C3** S. 83 saving with effect by 2007 c. 15, [Sch. 13 para. 156](#) (6.4.2014) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential, Transitional and Saving Provision\) Order 2014 \(S.I. 2014/600\)](#), [arts. 2\(1\)](#), [5](#) (with [arts. 3](#), 4)



**Changes to legislation:**

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