



# London Local Authorities and Transport for London Act 2003

## 2003 CHAPTER iii

### PART 2

#### ROAD TRAFFIC AND HIGHWAYS

##### *Removal notices*

#### **17 Removal of things deposited on the highway**

- (1) This section applies in respect of any part of—
  - (a) any highway for which Transport for London are the highway authority; and
  - (b) any highway for which a borough council are the highway authority.
- (2) If the highway authority are satisfied that—
  - (a) things are deposited unlawfully and persistently on any part of the highway to which this section applies; and
  - (b) the depositing of the things is caused by persons having control of or an interest in a business carried on in premises in the vicinity of the part of the highway concerned,the highway authority may serve a notice under this subsection (“a subsection (2) removal notice”) on any person having control of or an interest in the relevant business.
- (3) A subsection (2) removal notice shall—
  - (a) state the date on which it shall come into effect (which shall be no sooner than the date on which the period of 7 days beginning with the date of service of the notice expires);
  - (b) state the date on which it shall expire (which shall be no later than the date on which the period of 28 days beginning with the date on which it comes into effect expires);
  - (c) give a description of the part of the highway to which the notice relates;

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- (d) state that in the period during which the notice has effect, the highway authority may without further notice remove any thing deposited unlawfully on the part of the highway to which the notice relates;
  - (e) state the effect of subsections (5) and (12) below.
- (4) Where a subsection (2) removal notice is served under subsection (2) above, a copy of the notice shall be affixed by the highway authority to a conspicuous place in the vicinity of the part of the highway to which the notice relates.
- (5) If any thing is deposited unlawfully on any part of the highway to which a subsection (2) removal notice relates, the highway authority may—
- (a) remove the thing forthwith; and
  - (b) no sooner than the relevant date, dispose of the thing.
- (6) If a highway authority remove a thing under section 149(2) of the Highways Act 1980 (c. 66) (which makes provision about things deposited on the highway so as to cause a danger), instead of proceeding under subsection (3) of that section, they may proceed in accordance with subsection (7) below.
- (7) If the highway authority proceed under this subsection, no sooner than 24 hours after the removal of the thing under the said section 149(2), they shall issue a notice (“a subsection (7) removal notice”) and proceed in the manner described in subsection (9) below.
- (8) A subsection (7) removal notice shall—
- (a) give a description of the thing removed;
  - (b) state the effect of subsections (10) and (12) below.
- (9) Where a subsection (7) removal notice is issued, the notice or a copy of the notice shall be affixed by the highway authority to a conspicuous place in the vicinity of the part of the highway from which the thing was removed.
- (10) A highway authority may, no sooner than the relevant date, dispose of any thing which they have removed and in respect of which a subsection (7) removal notice has been issued.
- (11) Any person who without reasonable excuse removes, alters or damages a notice affixed to any place under subsection (4) or (9) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (12) The authority by whom a thing is removed in pursuance of this section may recover from the person by whom it was deposited on the highway, or from any person claiming to be entitled to it, any expenses reasonably incurred by the authority in removing, storing or disposing of it.
- (13) After payment out of any proceeds arising from the disposal of the thing of the expenses incurred in the removal, storage and disposal of the thing, the highway authority may apply the balance, if any, of the proceeds to the maintenance of the highways maintainable at the public expense by them.
- (14) If the thing in question is not of sufficient value to defray the expenses of removing it, the highway authority may recover from the person who deposited it on the highway the expenses, or the balance of the expenses, reasonably incurred by them in removing it.

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- (15) If, after a thing has been disposed of by a highway authority pursuant to this section, a person claims to have been the owner of the thing at the time when it was removed and the conditions specified in subsection (16) below are fulfilled, there shall be payable to him by the highway authority a sum calculated in accordance with subsection (17) below.
- (16) The conditions are that—
- (a) the person claiming satisfies the highway authority that he was the owner of the thing at the time it was removed; and
  - (b) the claim is made before the expiry of the period of five months beginning with the date on which the thing was removed.
- (17) The sum payable under subsection (15) above shall be calculated by deducting from the proceeds of sale the charges reasonably incurred by the highway authority for the removing, storing and disposing of the thing.
- (18) In subsections (5) and (10) above, the “relevant date” in respect of a thing is the date on which expires the period of 14 days beginning with the date on which the thing was removed by the highway authority.
- (19) For the purposes of this section and section 18 (Removal notices: appeals) of this Act—
- (a) “the relevant business” means the business referred to in subsection (1) above; and
  - (b) a person having an interest in a relevant business includes a person who—
    - (i) owns the business; or
    - (ii) manages the business; or
    - (iii) employs any person to manage the business; or
    - (iv) is involved in the conduct of the business.

## **18 Removal notices: appeals**

- (1) Any person—
- (a) upon whom a subsection (2) removal notice has been served under section 17 (Removal of things deposited on the highway) of this Act; or
  - (b) having control of or an interest in the relevant business in respect of which the notice was served; or
  - (c) being the owner of a thing which has been removed by the highway authority under the said section 17,
- may appeal to the magistrates' court.
- (2) An appeal under subsection (1) above may be brought—
- (a) on the grounds that any requirement imposed by this Act has not been complied with; and
  - (b) at any time—
    - (i) before the expiry of the period of 21 days beginning with the date on which the subsection (2) removal notice was served in the case of an appeal brought under paragraphs (a) or (b) of subsection (1) above; or
    - (ii) before the expiry of the period of 21 days beginning with the date on which the thing was removed in the case of an appeal brought under paragraph (c) of subsection (1) above.

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- (3) On an appeal to the magistrates' court under this section the court may make such order as it thinks fit and it shall be the duty of the council to give effect to such order.

## **19 Service of removal notices**

- (1) A subsection (2) removal notice under section 17 (Removal of things deposited on the highway) of this Act may be served either—
- (a) by delivering it to the person on whom it is to be served; or
  - (b) by leaving it at the usual or last known place of abode or business of that person or, in a case where an address for service has been given by that person, at that address; or
  - (c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode or business or, in a case where an address for service has been given by that person, at that address; or
  - (d) in the case of a company or body incorporated in England or Wales, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.
- (2) Where the name of the person on whom the subsection (2) removal notice is to be served cannot be ascertained after reasonable inquiry, or that person is a company or body incorporated outside England or Wales, the notice shall be taken to be duly served if a copy of it is affixed conspicuously to some object on the premises in which the relevant business is conducted and—
- (a) it is addressed to that person either by name or by the description of “the owner” or “the manager”, or as the case may be, of the business (describing it) and is delivered or sent in the manner specified in subsection (1)(a), (b) or (c) above; or
  - (b) it is so addressed and is marked in such a manner that it is plainly identifiable as a communication of importance and—
    - (i) it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it; or
    - (ii) it is delivered to some person on those premises.
- (3) This section is without prejudice to section 233 (General provisions as to service of notices by local authorities) of the Local Government Act 1972 (c. 70).