



# London Local Authorities Act 1996

## CHAPTER ix

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**ELIZABETH II**



**1996 CHAPTER ix**

**An Act to confer further powers upon local authorities in London; and for related purposes.**

**[17th October 1996]**

**W**HEREAS—

(1) It is expedient that further and better provision should be made for the improvement and development of local government services in London and for the benefit of persons residing therein and that the powers of London borough councils and the Common Council of the City of London (hereinafter referred to as “London borough councils”) should be extended and amended as provided in this Act:

(2) It is expedient that the London borough councils should have powers of enforcement in relation to bus lanes:

(3) It is expedient that the London borough councils should have power to control occasional sales:

(4) It is expedient that the arrangements for the applications in relation to fire safety and entertainment and other licensing be amended:

(5) It is expedient that the other provisions contained in this Act should be enacted:

(6) The purposes of this Act cannot be effected without the authority of Parliament:

(7) 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 and the other London borough councils have complied with the requirements of section 87 of the Local Government Act 1985:

1972 c. 70.

1985 c. 51.

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, that is to say:—

## PART I

### PRELIMINARY

Citation and commencement.

1990 c. vii.  
1990 c. xxx.  
1991 c. xiii.  
1994 c. xii.  
1995 c. x.

1.—(1) This Act may be cited as the London Local Authorities Act 1996 and except where otherwise provided shall come into operation at the end of the period of two months beginning with the date on which it is passed.

(2) The London Local Authorities Act 1990, the London Local Authorities (No. 2) Act 1990, the London Local Authorities Act 1991, the London Local Authorities Act 1994, the London Local Authorities Act 1995 and this Act may together be cited as the London Local Authorities Acts 1990 to 1996.

Interpretation.

2. In this Act, except as otherwise expressly provided or unless the context otherwise requires—

“authorised officer” means an officer of a borough council authorised by the council in writing to act in relation to the relevant provision of this Act;

“borough council” means London borough council and includes the Common Council of the City of London; and “borough” and “council” shall be construed accordingly.

## PART II

### BUS LANES

Interpretation of Part II.  
1991 c. 40.  
Part I of S.I. 1994/1519.

1984 c. 27.  
1988 c. 52.

1988 c. 53.

3.—(1) In this Part of this Act—

“the Act of 1991” means the Road Traffic Act 1991;

“bus lane” has the meaning given in regulation 23 of the Traffic Signs Regulations 1994 and any regulation amending or revoking and re-enacting that regulation;

“bus lane offence” means an offence under section 8, 11 or 13 of the Road Traffic Regulation Act 1984 or section 36 of the Road Traffic Act 1988 which relates to the contravention of or failure to comply with an order or traffic sign in so far as it makes provision for or indicates a reservation of all or part of a carriageway of a road as a bus lane;

“Joint Committee” means the Joint Committee established under section 73 of the Act of 1991;

“prescribed device” means a device prescribed under section 20(9) of the Road Traffic Offenders Act 1988 or a device of a description specified in regulations made for the purposes of this section by the Secretary of State;

“road” has the same meaning as in section 142(1) of the Road Traffic Regulation Act 1984;

PART II  
—cont.

“vehicle” means a mechanically propelled vehicle intended or adapted for use on roads.

1984 c. 27.

(2) For the purposes of this Part of and Schedule 1 to this Act, the owner of a vehicle shall be taken to be the person by whom the vehicle is kept.

(3) In determining, for the purposes of this Part of and Schedule 1 to 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.

1994 c. 22.

4.—(1) Where a council, on the basis of information provided by the use of a prescribed device, has reason to believe that a penalty charge is payable under this Part of this Act with respect to a vehicle, they may serve a penalty charge notice on the person appearing to them to be the owner of the vehicle.

Penalty charge notices under Part II.

(2) For the purposes of this Part of this Act, a penalty charge is payable to a borough council with respect to a vehicle if the person in charge of the vehicle acts in contravention of or fails to comply with an order under section 6 or 9 or regulations under section 12 of the Road Traffic Regulation Act 1984 in so far as provision is made thereby for the reservation of all or part of a carriageway of a road as a bus lane.

(3) A penalty charge notice under this Part of this Act must state —

- (a) the grounds on which the council believe that the penalty charge is payable with respect to the vehicle;
- (b) the amount of the penalty charge which is payable;
- (c) that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice;
- (d) that if the penalty charge is paid before the end of the period of 14 days beginning with the date of the notice, the amount of the penalty charge will be reduced by the specified proportion;
- (e) that, if the penalty charge is not paid before the end of the 28 day period, an enforcement notice may be served by the council on the person appearing to them to be the owner of the vehicle;
- (f) the address to which payment of the penalty charge must be sent; and
- (g) the effect of paragraph 2 of Schedule 1 to this Act.

(4) In subsection (3)(d) above, “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.

5. No provision in this Part of this Act shall apply to any vehicle on an occasion when it is being used for fire brigade, ambulance or police purposes.

Exemption of fire brigade, ambulance and police vehicles under Part II. Enforcement notices, etc., under Part II.

6.—(1) Schedule 1 to this Act shall have effect with respect to penalty charges under this Part of this Act, enforcement notices and other matters supplementary to the provisions of this Part of this Act; and the functions of traffic adjudicators under that Schedule shall be discharged by the persons who are appointed as parking adjudicators under section 73 of the Act of 1991.

PART II  
—cont.

(2) Regulations under section 73(11) of the Act of 1991 (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 traffic adjudicators; and any regulations under that subsection in force at the coming into operation of this Part of this Act shall, with any necessary modifications, apply in relation to such proceedings.

(3) 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 traffic adjudicators but section 73(15) of that Act shall not apply to a penalty charge under this Part of this Act which remains payable following an adjudication under paragraph 6 of Schedule 1 to this Act.

## Financial provisions under Part II.

7. Schedule 2 to this Act shall have effect with respect to financial provisions relating to the provisions of this Part of this Act.

## Fixing of penalty charges.

8. Section 74 of the Act of 1991 shall, with the omission of subsection (3), apply in relation to the levels of penalty charges under this Part of this Act as it applies in relation to the levels of (among other charges) penalty charges under Part II of that Act.

## Penalty charge not payable in certain cases.

9. No penalty charge shall be payable under this Part of this Act in respect of any conduct where—

1988 c. 53.

- (a) a notice is given to the driver under section 54(2) or (4) of the Road Traffic Offenders Act 1988 in respect of a bus lane offence constituted by that conduct; or
- (b) notification of an intention to prosecute the driver in respect of such an offence is given by the Commissioner of Police of the Metropolis or of the City of London to the council of the borough in which the alleged offence took place before the expiry of the period of 14 days, beginning with the day on which the alleged offence takes place.

## PART III

## OCCASIONAL SALES

## Meaning of "occasional sale".

10. In this Part of this Act "occasional sale" means a concourse of buyers and sellers of articles held otherwise than on a highway or in a building (except a car park) and comprising not less than five stalls, stands, vehicles (whether movable or not) or pitches from which articles are sold, but does not include—

- (a) a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by statute;
- (b) a sale by auction of farm livestock or deadstock;
- (c) sales of a class which from time to time is by resolution of the borough council excluded from the operation of this Part of this Act;

- (d) a market held in accordance with a planning permission granted under section 58(1)(b) of the Town and Country Planning Act 1990 (which provides for the granting of planning permission) or under a similar provision of a predecessor to that Act; or
- (e) a market the holding of which commenced before 1st July 1948 and has continued without extinguishment.

PART III  
—cont.  
1990 c. 8.

11.—(1) This Part of this Act applies to a borough as from such day as may be fixed in relation to that borough by resolution of the borough council, subject to and in accordance with the provisions of this section.

Application of  
Part III.

(2) The borough council shall cause to be published in a local newspaper circulating in the borough notice—

- (a) of the passing of any such resolution and of a day fixed thereby; and
- (b) of the general effect of the provisions of this Part of this Act;

and the day so fixed shall not be earlier than the expiration of three months from the publication of the said notice.

(3) Either a photostatic or other reproduction certified by the officer appointed for that purpose by the borough council to be a true reproduction of a page or part of a page of any such newspaper bearing the date of its publication and containing any such notice shall be evidence of the publication of the notice, and of the date of publication.

12.—(1) Subject to the provisions of this Part of this Act it shall be unlawful for any person to hold an occasional sale within a borough unless that person is authorised to do so by a licence under this Part of this Act.

Licensing of  
occasional sales.

(2) No licence under this Part of this Act is required if the proceeds of the occasional sale are to be applied solely or principally for charitable, social, sporting, religious or political purposes.

(3) A person holds an occasional sale for the purposes of this Part of this Act if—

- (a) he receives or is entitled to receive payment for any space or pitch hired or let on the site of the sale to persons wishing to trade at the sale; or
- (b) as a person promoting the sale, or as the agent, licensee or assignee of a person promoting the sale, he receives or is entitled to receive payment from persons trading at the sale for goods sold or services rendered to persons attending the sale.

13.—(1) An application for a licence under this Part of this Act shall be made in writing to the borough council, not later than 42 days before the date on which the occasional sale is to be held:

Application for  
licence.

Provided that nothing in this section shall prevent a borough council from granting a licence, notwithstanding that application has been made at a later date than aforesaid if they consider it reasonable in the circumstances so to do.

PART III  
—cont.

(2) An application made under this section shall be in writing and shall specify —

- (a) the proposed date and time of commencement, expected duration and location of the intended occasional sale;
- (b) the extent of the premises to be occupied or used for the purposes of the sale;
- (c) the name and address (other than an address temporarily occupied for the purposes of the sale) of the person who proposes to hold the occasional sale, and the name and address of a person appointed to receive and answer complaints about the occasional sale;
- (d) an estimate of the number of persons expected to attend the occasional sale;
- (e) the arrangements proposed for accommodating vehicles of persons attending the occasional sale;
- (f) the arrangements proposed for controlling road congestion, litter and noise.

(3) An applicant for the grant of a licence under this Part of this Act shall pay a reasonable fee determined by the borough council.

## Grant of licence.

14.—(1) The borough council may grant a licence under this Part of this Act, and in granting a licence may impose reasonable conditions relating to—

- (a) the time of commencement of the occasional sale;
- (b) the duration of the occasional sale;
- (c) the arrangements to be made for accommodating the vehicles of persons attending the occasional sale;
- (d) the arrangements to be made for controlling road congestion, litter and noise caused by the occasional sale;
- (e) a requirement that the names and addresses of persons selling articles at the occasional sale are publicly displayed.

(2) If the borough council have not refused to grant a licence within 21 days of the receipt by them of an application duly made for a licence under subsection (1) of section 13 (Application for licence) of this Act, they shall be deemed to have granted a licence for an occasional sale in accordance with the details specified in the application.

(3) The borough council shall grant an application for a licence under this Part of this Act unless they consider that the application ought to be refused on one or more of the grounds specified in subsection (4) below.

(4) The borough council may refuse an application on any of the following grounds:—

- (a) that inadequate arrangements have been proposed for accommodating the vehicles of persons attending the occasional sale;
- (b) that inadequate arrangements have been proposed for controlling road congestion, litter or noise caused by the occasional sale; or
- (c) that the applicant has been granted a licence by any borough council for an occasional sale within three years before the date of the application and failed to comply with conditions imposed in relation to that licence.



15.—(1) If the borough council refuse to grant a licence under this Part of this Act they shall notify the applicant in writing—

- (a) of their decision and of the ground or grounds for such refusal; and
- (b) of his rights of appeal specified in this section.

(2) Any person aggrieved—

- (a) by the refusal of a borough council to grant a licence; or
- (b) by a condition imposed by a borough council under subsection (1) of section 14 (Grant of licence) of this Act;

may appeal to a magistrates' court acting for the area in which the proposed occasional sale is to be held.

(3) A person desiring to appeal against such refusal or condition shall give a written notice to the magistrates' court and to the borough council specifying the refusal or condition against which he wishes to appeal and the grounds upon which such appeal is made.

(4) 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 borough council to give effect to the order.

16.—(1) Any person who holds an occasional sale shall display his full name and business address and the full name and business address of the person appointed to receive and answer complaints about the occasional sale in a prominent position at the place where the sale is held.

(2) Any person who holds an occasional sale shall display on all notices, leaflets and posters given, distributed or exhibited by him or on his behalf in connection with the sale the full name and business address of—

- (a) himself; and
- (b) the person appointed to receive and answer complaints about the occasional sale.

17. An authorised officer on producing if so required a duly authenticated document showing his authority, or any constable, may enter and inspect any premises if he has reasonable cause to believe that they are being, have been or are intended to be, used for or in connection with an occasional sale for the purpose of ascertaining whether there is or has been or is intended to be a contravention of this Part of this Act in, or in connection with, the premises.

18.—(1) Any person who contravenes section 12 (Licensing of occasional sales) of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Any person who contravenes a condition imposed under section 14 (Grant of licence) of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Any person who without reasonable excuse contravenes section 16 (Display of names, etc.) of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

19. The written consent of the Director of Public Prosecutions is needed for the laying of an information of an offence created by this Part of this Act by any person other than an authorised officer or a constable.

PART III  
—cont.

Part III appeals.

Display of  
names, etc.

Powers of entry.

Enforcement.

Restriction on  
right to  
prosecute.

## PART IV

## FIRE SAFETY AND ENTERTAINMENT LICENSING

Music and dancing, sports, boxing and wrestling licences.  
1963 c. 33.

20. Schedule 12 to the London Government Act 1963 shall be amended as follows:—

- (1) In paragraph 1(4), “occasional music licence” shall be substituted by the words “occasional licence”.
- (2) For paragraph 2 there shall be substituted the following paragraph:—

“2.—(1) An applicant for the grant, renewal or transfer of a licence under paragraph 1 or the variation of such a licence under paragraph 18 of this Schedule shall, not later than the day the application is made, send a copy of the application to the Commissioner of Police in whose area the premises are situated (in this Schedule referred to as “the Commissioner”) and to the London Fire and Civil Defence Authority (in this Schedule referred to as “the fire authority”) and, subject to sub-paragraph (2) below, no such application shall be considered by the Council unless the applicant complies with this sub-paragraph.

(2) Where an application for the grant, renewal, transfer or variation of a licence has been made and the applicant has failed to send a copy of the application in accordance with the requirement of sub-paragraph (1) above the Council may, in such cases as they think fit and after duly consulting with the party who was not supplied with a copy of the said application, waive such a requirement.

(3) In considering any such application the Council shall have regard to any observations submitted to them by the Commissioner and the fire authority within twenty-eight days of the making of the application and may have regard to any observation submitted by them thereafter.

(4) An applicant for any such grant, renewal, transfer or variation of a licence shall furnish such particulars and give such other notices, including the public advertisement of the application, as the Council may by regulation prescribe.

(5) Save where a shorter period is agreed by the Council, an applicant for the grant of an occasional licence shall make such application not less than twenty-eight days in advance of the occasion for which the occasional licence is sought and shall send a copy of the application to the Commissioner and to the fire authority.

(6) Regulations under sub-paragraph (4) above may prescribe the procedure for determining applications.”.

- (3) For paragraph 3B there shall be substituted the following paragraph:—

“3B.—(1) An applicant for the grant, renewal or transfer of a licence under paragraph 3A or the variation of such a licence under paragraph 18 of this Schedule shall, not later than the day the application is made, send a copy of the application to the Commissioner and to the fire authority and, subject to sub-paragraph (2) below, no such application shall be considered by the Council unless the applicant complies with this sub-paragraph.

(2) Where an application for the grant, renewal, transfer or variation of a licence has been made and the applicant has failed to send a copy of the application in accordance with the requirement of sub-paragraph (1) above the Council may, in such cases as they think fit and after duly consulting with the party who was not supplied with a copy of the said application, waive such a requirement.

(3) In considering any such application the Council shall have regard to any observations submitted to them by the Commissioner and the fire authority within twenty-eight days of the making of the application and may have regard to any observation submitted by them thereafter.

(4) An applicant for any such grant, renewal, transfer or variation of a licence shall furnish such particulars and give such other notices, including the public advertisement of the application, as the Council may by regulation prescribe.

(5) Regulations under sub-paragraph (4) above may prescribe the procedure for determining applications.”.

- (4) For paragraph 5 there shall be substituted the following paragraph:—

“5.—(1) An applicant for the grant, renewal, transfer or variation of a licence under paragraph 4 or the variation of such a licence under paragraph 18 of this Schedule shall not later than the day the application is made send a copy of the application to the Commissioner and to the fire authority and, subject to sub-paragraph (2) below, no such application shall be considered by the Council unless the applicant complies with this sub-paragraph.

(2) Where an application for the grant, renewal, transfer or variation of a licence has been made and the applicant has failed to send a copy of the application in accordance with the requirement of sub-paragraph (1) above the Council may, in such cases as they think fit and after duly consulting with the party who was not supplied with a copy of the said application, waive such a requirement.

(3) In considering any such application the Council shall have regard to any observations submitted to them by the Commissioner and the fire authority within twenty-eight days of the making of the application and may have regard to any observation submitted by them thereafter.

(4) An applicant for any such grant, renewal, transfer or variation of a licence shall furnish such particulars and give such other notices, including the public advertisement of the application, as the Council may by regulation prescribe.

(5) Regulations under sub-paragraph (4) above may prescribe the procedure for determining applications.”.

21. Section 3 of the Private Places of Entertainment (Licensing) Act 1967 shall apply to a borough as though—

- (a) in subsection (1), after “inspection of the premises” there were inserted “including securing entry and inspection by an authorised officer of the fire authority”; and  
(b) after subsection (4) the following subsections were inserted:—

Private places of  
entertainment.  
1967 c. 19.

PART IV  
—cont.

“(5) The person making an application for any such grant, renewal, transfer or variation of a licence shall not later than the day the application is made send a copy of the application to the Commissioner of Police in whose area the premises are situated (in this section referred to as “the Commissioner”) and to the London Fire and Civil Defence Authority (in this section referred to as the “fire authority”) and, subject to subsection (6) below, no such application shall be considered by the licensing authority unless the applicant complies with this subsection.

(6) Where an application for the grant, renewal, transfer or variation of a licence has been made and the applicant has failed to send a copy of the application in accordance with the requirement of sub-paragraph (1) above the Council may, in such cases as they think fit and after duly consulting with the party who was not supplied with a copy of the said application, waive such a requirement.

(7) In considering any such application the licensing authority shall have regard to any observations submitted to them by the Commissioner and the fire authority within twenty-eight days of the making of the application and may have regard to any observation submitted by them thereafter.

(8) An applicant for any such grant, renewal, transfer or variation of a licence shall furnish such particulars and give such other notices, including the public advertisement of the application, as the licensing authority may by regulation prescribe.

(9) Regulations under subsection (8) above may prescribe the procedure for determining applications.”.

Theatres.  
1968 c. 54.

22. Schedule 1 to the Theatres Act 1968 shall apply in relation to applications for the grant, renewal, transfer or variation of licences in respect of premises within a borough as though the following paragraph were substituted for paragraph 2 of that Schedule:—

“2.—(1) An applicant for the grant, renewal, transfer or variation of a licence under this Act in respect of any premises shall not later than the day the application is made send a copy of the application to the Commissioner of Police in whose area the premises are situated (in this paragraph referred to as “the Commissioner”) and to the London Fire and Civil Defence Authority (in this paragraph referred to as “the fire authority”) and, subject to sub-paragraph (2) below, no such application shall be considered by the licensing authority unless the applicant complies with this sub-paragraph.

(2) Where an application for any such grant, renewal, transfer or variation of a licence has been made and the applicant has failed to send a copy of the application in accordance with the requirement of sub-paragraph (1) above the licensing authority may, in such cases as they think fit and after duly consulting with the party who was not supplied with a copy of the said application, waive such a requirement.

(3) In considering any such application the licensing authority shall have regard to any observations submitted to them by the Commissioner and the fire authority within twenty-eight days of the making of the application and may have regard to any observation submitted by them thereafter.

(4) An applicant for any such grant, renewal, transfer or variation of a licence shall furnish such particulars and give such other notices, including the public advertisement of the application, as the licensing authority may by regulation prescribe.

PART IV  
—cont.

(5) Regulations under sub-paragraph (4) above may prescribe the procedure for determining applications.”.

23. Section 17 (1) (a) (Powers of entry) of the London Local Authorities Act 1990 shall be amended by the addition after “authorised officer” of the words “or officer of the fire authority, authorised by the fire authority in writing to act in relation to this Part of this Act”.

Night cafés.  
1990 c. vii.

## PART V

### MISCELLANEOUS

24. The Environmental Protection Act 1990 shall have effect in a borough as though —

Application of  
Environmental  
Protection Act  
1990.  
1990 c. 43.

(1) in section 79 (which relates to statutory nuisances and inspections therefor) —

(a) in subsection (1), after paragraph (ga) there were inserted the following paragraph: —

“(gb) smoke, fumes or gases emitted from any vehicle, machinery or equipment on a street so as to be prejudicial to health or a nuisance other than from any vehicle, machinery or equipment being used for fire brigade purposes;”;

(b) after subsection (6A) there were inserted the following subsection: —

“(6B) Subsection (1) (gb) above does not apply in relation to smoke, fumes or gases emitted from the exhaust system of a vehicle.”; and

(c) in subsection (7), after the definition of “street” there were inserted —

“ ‘vehicle’ means a mechanically propelled vehicle intended or adapted for use on roads, whether or not it is in a fit state for such use, and includes any trailer intended or adapted for use as an attachment to such a vehicle, any chassis or body, with or without wheels, appearing to have formed part of such a vehicle or trailer and anything attached to such a vehicle or trailer;”;

(2) in section 80A (1), after “section 79 (1) (ga)” there were inserted “or (gb)”.

25.—(1) Section 23 (Audible intruder alarms) of the London Local Authorities Act 1991 shall be amended as follows: —

Amendment of  
London Local  
Authorities Act  
1991.  
1991 c. xiii.

(a) by the substitution, in subsections (1) (a) (i), (1) (b) (i) and (2) (a) for “fitted with a device” of the words “fitted with a working device”;

(b) by the insertion, after subsection (6), of the following subsection: —

“(6A) An authorised officer may de-activate an alarm where, under subsection (7) below, he has been authorised to enter premises to do so.”; and

PART V  
—cont.

(c) by the insertion, in subsection (7) (a), after “operating” of the words “either continuously or intermittently,”;

(d) by the insertion, after subsection (11) of the following subsections:—

“(11A) Where any premises are entered by virtue of subsection (7) above in a case where the occupier of those premises is convicted of an offence under subsection (6) above in respect of the premises any expenses reasonably incurred by the council in connection with the entry, turning off the alarm or complying with subsection (10) above may be recovered by the council from that occupier.

(11B) Nothing done by, or by a member of, a borough council or by an officer of or another person authorised by a borough council shall, if done in good faith for the purposes of this section, subject them or any of them personally to any action, liability, claim or demand whatsoever, other than any liability under section 19 or 20 of the Local Government Finance Act 1982.”

1982 c. 32.

(2) The said section 23 shall apply additionally to the City of London, and references in that section to “borough” and “council” shall be construed as including references to the City of London and to the Common Council of the City of London.

Public charitable  
collections.  
1990 c. vii.

26.—(1) Subsection (2) of section 21 (Interpretation of Part III) of the London Local Authorities Act 1990 shall be amended by the substitution of the following paragraph for paragraph (h):—

“(h) the doing of anything authorised by any permit or order under Part III of the Charities Act 1992;”

1992 c. 41.

(2) This section shall come into operation on the day Part III of the Charities Act 1992 comes into operation.

Application of  
London Local  
Authorities Act  
1995 to Tower  
Hamlets.  
1995 c. x.  
Obstruction of  
authorised  
officer.

27. The definition of “participating council” in section 2 (Interpretation) of the London Local Authorities Act 1995 shall be amended by the deletion of the words “other than Tower Hamlets”.

28.—(1) Any person who—

(a) intentionally obstructs any authorised officer acting in the exercise of his powers under this Act; or

(b) without reasonable cause fails to give any authorised officer any assistance or information which the officer may reasonably require of him for the purposes of the exercise of the officer’s functions under any provision of this Act;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Subsection (1) (b) above applies in relation to a constable as it applies in relation to an authorised officer.

(3) A person shall be guilty of an offence if, in giving any information which is required of him by virtue of subsection (1) (b) above—

(a) he makes any statement which he knows is false in a material particular; or

(b) he recklessly makes a statement which is false in a material particular.

PART V  
—cont.

(4) A person guilty of an offence under subsection (3) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**29.**—(1) In proceedings for an offence under this Act it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Defence of due diligence.

(2) If in any case the defence provided under subsection (1) above involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, no later than 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of that other person.

**30.**—(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.

Liability of directors, etc.

(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.

**31.**—(1) Any power to make regulations conferred by this Act shall be exercised by statutory instrument.

Regulations.

(2) Any statutory instrument made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## SCHEDULES

## SCHEDULE 1

Sections 4 and 6.

ENFORCEMENT NOTICES, ETC., UNDER PART II (BUS LANES) OF THIS ACT

*Enforcement notices*

## 1.—(1) Where —

- (a) a penalty charge notice has been served with respect to a vehicle under section 4 (Penalty charge notices under Part II) of this Act or paragraph 4 (1) below; and
- (b) the period of 28 days for payment of the penalty charge has expired without that charge being paid; and
- (c) representations have not been made in respect of that penalty charge notice under paragraph 2 below;

the council concerned may serve a notice (in this Schedule referred to as an “enforcement notice”)—

- (i) on the person who appears to them to have been the owner of the vehicle when the conduct giving rise to the service of the penalty charge is alleged to have taken place; or
- (ii) where the penalty charge notice has been served under paragraph 4 (1) below on the person on whom that notice was served.

## (2) An enforcement notice must state—

- (a) the amount of the penalty charge payable;
- (b) the grounds on which the council believe that a penalty charge is payable with respect to the vehicle;
- (c) that the penalty charge must be paid before the end of the period of 28 days beginning with the date on which the enforcement notice is served;
- (d) that failure to pay the penalty charge may lead to an increased charge being payable;
- (e) the amount of that increased charge;
- (f) that the person on whom the notice is served may be entitled to make representations under paragraph 2 below; and
- (g) the effect of paragraph 6 below.

(3) The Secretary of State may by regulations prescribe additional matters which must be dealt with in any enforcement notice.

*Representations against penalty charge notice or enforcement notice*

2.—(1) Where it appears to a person on whom a penalty charge notice has been served under section 4 (Penalty charge notices under Part II) of this Act, or paragraph 4 (1) below, or a person on whom an enforcement notice has been served under paragraph 1 above (in this Schedule referred to as “the recipient”) that one or other of the grounds mentioned in sub-paragraph (4) below is satisfied, he may make representations to that effect to the council who served the notice on him.

(2) Any representations under this paragraph must be made in such form as may be specified by the councils, acting through the Joint Committee.

(3) The council may disregard any such representations which are received by them after the end of the period of 28 days beginning with the date on which the penalty charge notice or enforcement notice in question was served.



- (4) The grounds referred to in sub-paragraph (1) above are —
- (a) where the penalty charge notice was served pursuant to the said section 4 or, where an enforcement notice was served, that the recipient —
- (i) never was the owner of the vehicle in question;
  - (ii) had ceased to be its owner before the date on which the penalty charge was alleged to have become payable; or
  - (iii) became its owner after that date;
- (b) that there was no breach of an order or regulations of the type described in subsection (2) of the said section 4;
- (c) that at the time the alleged breach of such order or regulations took place the recipient was not in charge of the vehicle.

SCH. 1  
—cont.

(5) Where the ground mentioned in sub-paragraph (4) (a) (ii) above is relied on in any representations made under this paragraph, those representations must include a statement of the name and address of the person to whom the vehicle was disposed of by the person making the representations (if that information is in his possession).

(6) Where the ground mentioned in sub-paragraph (4) (a) (iii) above is relied on in any representations made under this paragraph, those representations must include a statement of the name and address of the person from whom the vehicle was acquired by the person making the representations (if that information is in his possession).

(7) Where the ground mentioned in sub-paragraph (4)(c) above is relied on in any representations made under this paragraph, those representations must include a statement by the person making the representations of the name and address of the person whom he believed to be in charge of the vehicle at the time of the alleged breach of the order described in subsection (2) of the said section 4.

(8) A person who fails to comply with the requirements of sub-paragraph (7) above shall be guilty of an offence unless he shows to the satisfaction of the court that he did not know, and could not with reasonable diligence have ascertained, who was the driver of the vehicle.

(9) A person guilty of any offence under sub-paragraph (8) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) It shall be the duty of the council to whom representations are duly made under this paragraph —

- (a) to consider them and any supporting evidence which the person making them provides; and
- (b) to serve on that person notice of their decision as to whether they accept that the ground in question has been established.

*Cancellation of penalty charge notice or enforcement notice*

3.—(1) Where representations are made under paragraph 2 above and the council concerned accept that the ground in question has been established they shall —

- (a) cancel the penalty charge notice or enforcement notice; and
- (b) state in the notice served under sub-paragraph (10) of paragraph 2 above that the penalty charge notice or enforcement notice has been cancelled.

(2) The cancellation of a penalty charge notice or enforcement notice under this paragraph shall not be taken to prevent the council concerned serving a fresh penalty charge notice or enforcement notice on another person.

SCH. 1  
—cont.

*Reissue of penalty charge notice*

4.—(1) Where representations are made under paragraph 2 above on the grounds mentioned in sub-paragraph (4)(c) of that paragraph and the council concerned accept that the ground in question has been established, they may, after cancelling the penalty charge notice or enforcement notice in accordance with paragraph 3 (1) (a) above, serve a fresh penalty charge notice on any person mentioned in the statement made under paragraph 2 (7) above or on any other person whom they have reasonable grounds to believe to have been in charge of the vehicle.

(2) Any penalty charge notice served under sub-paragraph (1) above must comply with the requirements of subsection (3) of section 4 (Penalty charge notices under Part II) of this Act.

*Rejection of representations against enforcement notice*

5. Where any representations are made under paragraph 2 above but the council concerned do not accept that a ground has been established, the notice served under sub-paragraph (10) of the said paragraph 2 (in this Schedule referred to as “the notice of rejection”) must —

- (a) state that a charge certificate may be served under paragraph 8 below unless before the end of the period of 28 days beginning with the date of service of the notice of rejection —
  - (i) the penalty charge is paid; or
  - (ii) the person on whom the notice is served appeals to a traffic adjudicator against the penalty charge; and
- (b) describe in general terms the form and manner in which such an appeal must be made;

and may contain such other information as the council consider appropriate.

*Adjudication by traffic adjudicator*

6.—(1) Where a council serve a notice of rejection, the person who made the representations under paragraph 2 above in respect of which that notice was served may, before —

- (a) the end of the period of 28 days beginning with the date of service of that notice; or
- (b) such longer period as a traffic adjudicator may allow,

appeal to a traffic adjudicator against the council’s decision.

(2) On an appeal under this paragraph, the traffic 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 (4) above and may give the council concerned such directions as he considers appropriate.

(3) It shall be the duty of the council to whom a direction is given under sub-paragraph (2) above to comply with it forthwith.

*Admissibility of certain evidence*

7.—(1) Evidence of a fact relevant to proceedings under paragraph 6 above may be given by the production of —

- (a) a record produced by a prescribed device; and
- (b) (in the same or another document) a certificate as to the circumstances in which the record was produced signed by an authorised officer of the council of the borough in which the

breach of the order or regulations described in subsection (2) of section 4 (Penalty charge notices under Part II) of this Act is alleged to have taken place.

SCH. 1  
—cont.

(2) A record produced or measurement made by a prescribed device shall not be admissible as evidence of a fact relevant to proceedings under paragraph 6 above unless—

- (a) the device is of a type approved by the Secretary of State; and
- (b) any conditions subject to which the approval was given are satisfied.

(3) Any approval given by the Secretary of State for the purposes of this paragraph may be given subject to conditions as to the purposes for which, and the manner and other circumstances in which, any device of the type concerned is to be used.

(4) In proceedings under paragraph 6 above, evidence—

- (a) of a measurement made by a device, or of the circumstances in which it was made; or
- (b) that a device was of a type approved for the purposes of this paragraph, or that any conditions subject to which an approval was given were satisfied;

may be given by the production of a document which is signed as mentioned in sub-paragraph (1) above and which, as the case may be, gives particulars of the measurement or of the circumstances in which it was made, or states that the device was of such a type or that, to the best of the knowledge and belief of the person making the statement, all such conditions were satisfied.

(5) For the purposes of this paragraph a document purporting to be a record of the kind mentioned in sub-paragraph (1) above, or to be a certificate or other document signed as mentioned in that sub-paragraph or in sub-paragraph (4) above, shall be deemed to be such a record, or to be so signed, unless the contrary is proved.

(6) Nothing in sub-paragraph (1) or (4) above makes a document admissible as evidence in proceedings under paragraph 6 above unless a copy of it has not less than 7 days before the hearing, been served on the appellant; and nothing in those paragraphs makes a document admissible as evidence of anything other than the matters shown on a record produced by a prescribed device if that person, not less than three days before the hearing or within such further time as the traffic adjudicator may in special circumstances allow, serves a notice on the council requiring attendance at the hearing or trial of the person who signed the document.

#### *Charge certificates*

8.—(1) Where a penalty charge notice or enforcement notice is served on any person and the penalty charge to which it relates is not paid before the end of the relevant period, the council serving the notice may serve on that person a statement (in this paragraph referred to as a “charge certificate”) to the effect that the penalty charge in question is increased by 50 per cent.

(2) The relevant period, in relation to a penalty charge notice, is the period of 28 days beginning—

- (a) where representations are made under paragraph 2 above and a notice of rejection is served by the borough council and no appeal against the notice of rejection is made, with the date on which the notice of rejection is served; or
- (b) where there has been an unsuccessful appeal against a notice of rejection, with the date on which notice of the adjudicator’s decision is served on the appellant.

SCH. 1  
—cont.

(3) The relevant period, in relation to an enforcement notice is the period of 28 days beginning—

- (a) where no representations are made under paragraph 2 above, with the date on which the enforcement notice is served;
- (b) where such representations are made and a notice of rejection is served by the council concerned and no appeal against the notice of rejection is made with the date on which the notice of rejection is served; or
- (c) where there has been an unsuccessful appeal against a notice of rejection, with the date on which notice of the adjudicator's decision is served on the appellant.

(4) Where an appeal against a notice of rejection is made but is withdrawn before the decision of the adjudicator is made the relevant period in relation to an enforcement notice is the period of 14 days beginning with the date on which the appeal is withdrawn.

#### *Enforcement of charge certificate*

9.—(1) Where a charge certificate has been served on any person and the increased penalty charge provided for in the certificate is not paid before the end of the period of 14 days beginning with the date on which the certificate is served, the council concerned may, if a county court so orders, recover the increased charge as if it were payable under a county court order.

(2) Any notice of any county court order made under this paragraph and being served on any person shall be accompanied by a copy of the penalty charge notice and, where appropriate, the enforcement notice to which the penalty charge relates.

(3) Section 78 of the Act of 1991 (which makes provision for the recovery of sums that are payable under or by virtue of any provision of Part II of that Act and are recoverable as if they were payable under a county court order) shall have effect as though an increased penalty charge recoverable under sub-paragraph (1) above were a Part II debt for the purposes of that section.

#### *Invalid notices*

10.—(1) This paragraph applies where—

- (a) a county court makes an order under paragraph 9 above;
- (b) the person against whom it is made makes a statutory declaration complying with sub-paragraph (2) below; and
- (c) that declaration is, before the end of the period of 21 days beginning with the date on which notice of the county court's order is served on him, served on the county court which made the order.

(2) The statutory declaration must state that the person making it—

- (a) did not receive the enforcement notice in question;
- (b) made representations to the council concerned under paragraph 2 above but did not receive a notice of rejection from that council; or
- (c) appealed to a traffic adjudicator under paragraph 6 above against the rejection by that council of representations made by him under paragraph 2 above but had no response to the appeal.

(3) Sub-paragraph (4) below applies where it appears to a district judge, on the application of a person on whom a charge certificate has been served, that it would be unreasonable in the circumstances of his case to insist on him serving his statutory declaration within the period of 21 days allowed for by sub-paragraph (1) above.

(4) Where this sub-paragraph applies, the district judge may allow such longer period for service of the statutory declaration as he considers appropriate.

SCH. 1  
—cont.

(5) Where a statutory declaration is served under sub-paragraph (1) (c) above—

- (a) the order of the court shall be deemed to have been revoked;
- (b) the charge certificate shall be deemed to have been cancelled;
- (c) in the case of a statutory declaration under sub-paragraph (2) (a) above, the enforcement notice to which the charge certificate relates shall be deemed to have been cancelled; and
- (d) the district judge shall serve written notice of the effect of service of the statutory declaration on the person making it and on the council concerned.

(6) Service of a declaration under sub-paragraph (2) (a) above shall not prevent the borough council serving a fresh enforcement notice but if, when it was served, the relevant order under paragraph 9 was accompanied by a copy of the enforcement notice to which the charge certificate relates, a fresh enforcement notice in the same terms shall be deemed to have been served on the person making the declaration on the same day as the declaration was served.

(7) Where a declaration has been served under sub-paragraph (2) (b) or (c) above, the borough council shall refer the case to the traffic adjudicator who may give such direction as he considers appropriate.

*Offence of giving false information*

11.—(1) A person who, in response to a penalty charge notice or enforcement notice served under this Schedule makes any representation under paragraph 2 or 6 above which is false in a material particular and does so recklessly or knowing it to be false in that particular is guilty of an offence.

(2) Any person guilty of such an offence shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

*Service by post*

12. Any charge certificate, or notice under Part II (Bus lanes) of this Act or this Schedule—

- (a) may be served by post; and
- (b) where the person on whom it is to be served is a body corporate, is duly served if it is sent by post to the secretary or clerk of that body.

## SCHEDULE 2

## Section 7.

## FINANCIAL PROVISIONS RELATING TO PART II (BUS LANES) OF THIS ACT

1. A borough council shall keep an account of their income and expenditure in respect of Part II (Bus lanes) of this Act.

2. At the end of each financial year any deficit in the account shall be made good out of the general rate fund, and (subject to paragraph 3 below) any surplus shall be applied for all or any of the purposes specified in paragraph 6 below and, in so far as it is not so applied, shall be appropriated to the carrying out of some specific project falling within those purposes and carried forward until applied to carrying it out.

3. If the borough council so determine, any amount not applied in any financial year, instead of being or remaining so appropriated, may be carried forward in the account kept under paragraph 1 above to the next financial year.

4. Each borough council shall, after each financial year, report to the Secretary of State on any action taken by them, pursuant to paragraph 2 or 3 above, in respect of any deficit or surplus in their account for the year.

5. The report under paragraph 4 above shall be made as soon after the end of the financial year to which it relates as possible.

6. The purposes referred to in paragraph 2 above are the following, that is to say:—

- (a) the making good to the general rate fund of any amount charged to that fund under paragraph 2 above in the four years immediately preceding the financial year in question;
- (b) meeting costs incurred, whether by the borough council or by some other person, in the provision or operation of, or of facilities for, public passenger transport services; and
- (c) the purposes of a project connected with the carrying out by the appropriate highway authority (whether or not the borough council) of any operation which, within the meaning of the Highways Act 1980, constitutes the improvement of a highway in the borough council's area.

1980 c. 66.

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