



London Local Authorities and Transport for London Act 2003

2003 CHAPTER iii

PART 2

ROAD TRAFFIC AND HIGHWAYS

Penalty charges

4 Penalty charges for road traffic contraventions

- (1) This section applies where—
- (a) in relation to a GLA road or GLA side road, Transport for London or, subject to subsection (3) below, the relevant borough council; or
 - (b) in relation to any other road in the area of a borough council, the relevant borough council or, subject to subsection (4) below, Transport for London,
- have reason to believe (whether or not on the basis of information provided by a camera or other device) that a penalty charge is payable under this section with respect to a motor vehicle.
- (2) Transport for London or, as the case may be, the relevant borough council may serve a penalty charge notice—
- (a) in relation to a penalty charge payable by virtue of subsection (5) below, on the person appearing to them to be the owner of the vehicle; and
 - (b) in relation to a penalty charge payable by virtue of subsection (7) below, on either or both of the following—
 - (i) the person appearing to them to be the operator of the vehicle; and
 - (ii) the person appearing to them to be the person who was in control of the vehicle at the time of the contravention.

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- (3) The relevant borough council shall not exercise the power exercisable by virtue of subsection (1)(a) above unless they have obtained the consent in writing of Transport for London.
- (4) Transport for London shall not exercise the power exercisable by virtue of subsection (1)(b) above unless they have obtained the consent in writing of the relevant borough council.
- (5) Subject to subsection (6) below, for the purposes of this section, a penalty charge is payable with respect to a motor vehicle by the owner of the vehicle if the person driving or propelling the vehicle—
- (a) acts in contravention of a prescribed order; or
 - (b) fails to comply with an indication given by a scheduled section 36 traffic sign.
- (6) No penalty charge shall be payable under subsection (5)(a) above where—
- (a) the person acting in contravention of the prescribed order also fails to comply with an indication given by a scheduled section 36 traffic sign; or
 - (b) the contravention of the prescribed order would also give rise to a liability to pay a penalty charge under section 77 of the Road Traffic Act 1991 (c. 40).
- (7) For the purposes of this section, a penalty charge is payable with respect to a vehicle by—
- (a) the operator of the vehicle; and
 - (b) the person in control of the vehicle,
- if the person in control of the vehicle acts in contravention of the lorry ban order.
- (8) A penalty charge notice under this section must—
- (a) state—
 - (i) the grounds on which the council or, as the case may be, Transport for London believe that the penalty charge is payable with respect to the vehicle;
 - (ii) the amount of the penalty charge which is payable;
 - (iii) that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice;
 - (iv) 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;
 - (v) that, if the penalty charge is not paid before the end of the 28 day period, an increased charge may be payable;
 - (vi) the amount of the increased charge;
 - (vii) the address to which payment of the penalty charge must be sent; and
 - (viii) that the person on whom the notice is served may be entitled to make representations under paragraph 1 of Schedule 1 to this Act; and
 - (b) specify the form in which any such representations are to be made.
- (9) The Secretary of State may by regulations prescribe additional matters which must be dealt with in any penalty charge notice.
- (10) In subsection (8)(a)(iv) above, “specified proportion” means such proportion, applicable in all cases, as may be determined for the purposes of this section by the appointing authorities acting through the Joint Committee.

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- (11) Schedule 1 to this Act shall have effect with respect to representations against penalty charge notices, and other matters supplementary to the provisions of this section.
- (12) Subject to subsection (13) below, sections 74 and 74A of the Road Traffic Act 1991 (c. 40) shall apply in relation to the levels of penalty charges under this section as they apply in relation to the levels of (among other charges) penalty charges under Part II of that Act.
- (13) Before setting the level of any charges under the said section 74 as applied by subsection (12) above, the borough councils and Transport for London shall consult such bodies as in their opinion are sufficiently representative of such road users as would be affected by the imposition of such charges.
- (14) No provision in this section shall apply to any vehicle on an occasion when it is being used for fire brigade, ambulance or police purposes.
- (15) Schedule 2 to this Act shall have effect with respect to financial provisions relating to the provisions of this section.
- (16) In this section—
- “Joint Committee” means the Joint Committee established under section 73 of the Road Traffic Act 1991;
 - “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads;
 - “prescribed order” means an order under section 6 or 9 of the Act of 1984 which makes provision for a relevant traffic control;
 - “relevant traffic control” means any requirement, restriction or prohibition (other than a requirement, restriction or prohibition under the lorry ban order) which is or may be conveyed by a scheduled traffic sign;
 - “road” has the same meaning as in the Act of 1984;
 - “scheduled section 36 traffic sign” means—
 - (a) a scheduled traffic sign of a type to which section 36 (Drivers to comply with traffic signs) of the Road Traffic Act 1988 (c. 52) applies by virtue of regulations made under section 64(5) of the Act of 1984; but
 - (b) does not include a traffic sign which indicates any prohibition or restriction imposed by the lorry ban order;
 - “scheduled traffic sign” means a traffic sign of a type described in Schedule 3 to this Act;
 - “traffic sign” has the meaning given by section 64(1) of the Act of 1984.
- (17) In this section and section 5 (Contraventions of lorry ban order: supplementary) of this Act—
- “driver’s notice” means a penalty charge notice served under subsection (2) (b)(ii) above on the person appearing to have been the person in control of the vehicle at the time of the alleged contravention of the lorry ban order;
 - “the lorry ban order” means the Greater London (Restriction of Goods Vehicles) Traffic Order 1985 made by the Greater London Council under section 6 of the Act of 1984, as amended, replaced or substituted by any subsequent order;
 - “operator of a vehicle” means the holder of any operator’s licence in respect of that vehicle under section 2 of the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23);

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“operator’s notice” means a penalty charge notice served under subsection (2)(b)(i) above on the person appearing to be the operator of a vehicle;

“relevant borough council” means the borough council in whose area the alleged contravention or failure occurred.

- (18) 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 council concerned, or as the case may be, Transport for London.
- (19) The Secretary of State may, by regulations, amend Schedule 3 to this Act by—
- (a) adding any traffic signs to the list of traffic signs in the Schedule; or
 - (b) making any other amendments to the Schedule as may be necessary as a consequence of any amendment, replacement or substitution of the Traffic Signs Regulations and General Directions 2002 ([S.I. 2002 No. 3113](#)).

5 Contraventions of lorry ban order: supplementary

- (1) An operator’s notice shall state that before the end of the period of 14 days beginning with the date of the notice, the operator of the vehicle must provide the relevant borough council, or as the case may be, Transport for London, with the name and address of the person who was in control of the vehicle when the alleged contravention of the lorry ban order took place.
- (2) Any person who in response to a requirement stated in a penalty charge notice by virtue of subsection (1) above fails to comply with the requirement shall be guilty of an offence unless he shows to the satisfaction of the court that—
 - (a) he was not the operator of the vehicle at the time the alleged contravention of the lorry ban order took place; or
 - (b) he did not know, and could not with reasonable diligence have ascertained, who was the person in control of the vehicle.
- (3) Any person who in response to a requirement stated in a penalty charge notice by virtue of subsection (1) above gives information which is false in a material particular and does so recklessly or knowing it to be false in that particular shall be guilty of an offence.
- (4) Any person guilty of an offence under subsection (2) or (3) above shall be liable on summary conviction—
 - (a) in the case of subsection (2) to a fine not exceeding level 3 on the standard scale; and
 - (b) in the case of subsection (3) to a fine not exceeding level 5 on the standard scale.
- (5) In the case where an operator’s notice is served on the person appearing to be the operator of the vehicle, the provisions of this Act mentioned below shall have effect as follows—
 - (a) for paragraph 1(4)(a) of Schedule 1 there shall be substituted—
 - “(a) that the recipient was not the operator of the vehicle at the time the alleged contravention of the order took place;”;
 - (b) paragraph 1(4)(c) and (d), (5) and (6) of Schedule 1 shall be omitted; and
 - (c) after paragraph 1(4) of Schedule 1 the following sub-paragraph shall be inserted—

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“(4A) Where the ground mentioned in sub-paragraph (4)(a) above is relied on in any representations made under this paragraph, those representations must include a statement of the name and address of the operator of the vehicle at the time of the alleged contravention or failure to comply (if that information is in his possession).”.

(6) In the case where a driver’s notice is served on the person appearing to have been in control of the vehicle at the time of the alleged contravention, the provisions of this Act mentioned below shall have effect as follows—

(a) for paragraph 1(4)(a) of Schedule 1 there shall be substituted—

“(a) that the recipient was not the person in control of the vehicle at the time the alleged contravention of the lorry ban order took place;”;

(b) paragraph 1(4)(c) and (d), (5) and (6) of Schedule 1 shall be omitted; and

(c) after paragraph 1(4) of Schedule 1 the following sub-paragraph shall be inserted—

“(4A) Where the ground mentioned in sub-paragraph (4)(a) 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 in control of the vehicle at the time of the alleged contravention or failure to comply (if that information is in his possession).”.

(7) In the case where, under paragraph 1(4) of Schedule 1 to this Act as so applied and having effect in accordance with subsections (5) or (6) above the relevant borough council or as the case may be Transport for London is provided with the name and address of—

(a) the operator of the vehicle; or

(b) the person who was in control of the vehicle at the time of the alleged contravention of the lorry ban order,

they may serve a fresh penalty charge notice in accordance with paragraph 2(2) of that Schedule on either of those persons, or both.

6 Limitation on service of penalty charge notice

(1) Subject to the provisions of this section, no penalty charge notice may be served under this Act after the expiry of the period of 28 days beginning with the date on which the alleged contravention or failure to comply occurred.

(2) Subject to the provisions of this section, where—

(a) a penalty charge notice has been cancelled under paragraph 2 of Schedule 1 to this Act; or

(b) a penalty charge notice has been cancelled in compliance with a direction given by a traffic adjudicator under paragraph 4(2) of the said Schedule; or

(c) a penalty charge notice is deemed to have been cancelled under paragraph 7(8) (c) of the said Schedule (deemed cancellation where a statutory declaration under paragraph 7(2)(a) of that Schedule is served under paragraph 7(1)(c)),

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 the date of

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the cancellation of the penalty charge notice or, in a case falling within paragraph (c) above, the date on which that council or body are served with notice under paragraph 7(8)(d) of the said Schedule.

- (3) Subsection (6) below applies where the following conditions are met.
- (4) The first condition is that where a borough council or Transport for London, as the case may be, has before the expiry of 14 days from—
- (a) the date on which the alleged contravention or failure to comply occurred; or
 - (b) the date of the cancellation of the penalty charge notice in the case where a penalty charge notice has been cancelled—
 - (i) under paragraph 2 of the said Schedule; or
 - (ii) in compliance with a direction given by a traffic adjudicator under paragraph 4(2) of the said Schedule; or
 - (c) the date on which the borough council or Transport for London, as the case may be, are served with notice under paragraph 7(8)(d) of the said Schedule where the penalty charge notice is deemed to have been cancelled under paragraph 7(8)(c),

made a request to the Secretary of State for the supply of relevant particulars.

- (5) The second condition is that those particulars have not been supplied to the borough council or Transport for London, as the case may be, before the date after which that council or body would not be entitled to serve a penalty charge notice or a fresh penalty charge notice by virtue of subsection (1) or (2) above.
- (6) Where this subsection applies, the borough council or Transport for London, as the case may be, shall continue to be entitled to serve a penalty charge notice or a fresh penalty charge notice for a further period of 6 months beginning with the date mentioned in subsection (5) above.
- (7) In this section, “relevant particulars” are particulars relating to the identity of the owner of the vehicle contained in the register of mechanically propelled vehicles maintained by the Secretary of State under the Vehicle Excise and Registration Act 1994 (c. 22).

7 Disapplication of offences

- (1) This section applies to the following roads—
- (a) GLA roads and GLA side roads; and
 - (b) any other road in the area of a borough council.
- (2) Section 8 of the Act of 1984 shall apply in respect of a road to which this section applies as if after subsection (1A), the following subsection were inserted—
- “(1B) Subsection (1) above does not apply in relation to any person who acts in contravention of or fails to comply with—
- (a) an order under section 6 of this Act; or
 - (b) the lorry ban order within the meaning of section 4 of the London Local Authorities and Transport for London Act 2003 (penalty charges for road traffic contraventions),
- if as a result a penalty charge is payable under subsection (5) or, as the case may be, subsection (7) of section 4 of that Act.”

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- (3) Section 11 of the Act of 1984 shall apply in respect of a road to which this section applies as if after subsection (2), the following subsection were inserted—

“(2A) This section does not apply in relation to any person who acts in contravention of or fails to comply with an experimental traffic order if as a result a penalty charge is payable under section 4(5) of the London Local Authorities and Transport for London Act 2003 (penalty charges for road traffic contraventions).”.

- (4) Section 36 of the Road Traffic Act 1988 (c. 52) shall apply in respect of a road to which this section applies as if after subsection (1), the following subsection were inserted—

“(1A) Subsection (1) above does not apply in relation to any such person who fails to comply with the indication given by the sign if as a result a penalty charge is payable under section 4(5) of the London Local Authorities and Transport for London Act 2003 (penalty charges for road traffic contraventions).”.

Fixed penalties

8 Fixed penalty offences

- (1) Where on any occasion an authorised officer of a borough council or Transport for London finds a person who he has reason to believe has on that occasion committed an offence under any of the enactments—

- (a) mentioned in columns (1) and (2) of the table set out in Schedule 4 to this Act; and
- (b) described in column (3) of that table;

the officer may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

- (2) The powers of an authorised officer of a borough council under subsection (1) above may be exercised only in relation to offences alleged to have been committed in respect of a highway in respect of which the council is highway authority.
- (3) The powers of an authorised officer of Transport for London under subsection (1) above may be exercised only in relation to offences alleged to have been committed in respect of a GLA road or a GLA side road.
- (4) Sections 9 (Fixed penalty notices), 10 (Levels of fixed penalties) and 11 (Fixed penalties: reserve powers of Secretary of State) of this Act shall apply in respect of fixed penalty notices under this section.
- (5) Schedule 2 to this Act shall have effect with respect to financial provisions relating to the administration and enforcement of this section and sections 9 to 11 (Fixed penalties) of this Act.
- (6) The Secretary of State may, by regulations, amend Schedule 4 to this Act by the addition of further offences to the list of offences therein described.

9 Fixed penalty notices

- (1) The provisions of this section shall have effect in relation to notices (“fixed penalty notices”) which may be given under section 8 (Fixed penalty offences) of this Act.

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- (2) Where a person is given a fixed penalty notice in respect of an offence—
 - (a) no proceedings shall be instituted for that offence before the expiration of 14 days following the date of the notice; and
 - (b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.
- (3) A fixed penalty notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—
 - (a) the period during which, by virtue of subsection (2) above, proceedings will not be taken for the offence;
 - (b) the amount of the fixed penalty; and
 - (c) the name of the person to whom and the address at which the fixed penalty may be paid; and, without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).
- (4) Where a letter is sent in accordance with subsection (3) above, payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (5) The form of notices under this section shall be such as the Secretary of State may by regulations prescribe.
- (6) The fixed penalty payable in pursuance of a fixed penalty notice under this section shall be paid to the borough council or Transport for London, as the case may be.
- (7) In any proceedings a certificate which—
 - (a) purports to be signed by or on behalf of the chief finance officer of the council, or as the case may be, Transport for London; and
 - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,shall be evidence of the facts stated.

10 Levels of fixed penalties

- (1) It shall be the duty of the borough councils and Transport for London to set the levels of fixed penalties payable to them.
- (2) Different levels may be set for different areas in Greater London and for different cases or classes of case.
- (3) In setting the level of fixed penalty under subsection (1) above the borough councils and Transport for London may take account of—
 - (a) any reasonable costs or expected costs incurred or to be incurred in connection with the administration of the provisions of the enactment under which the particular fixed penalty offence is created; and
 - (b) the cost or expected cost of enforcing the provisions of the relevant enactment.
- (4) Levels of fixed penalties set by the borough councils and Transport for London in accordance with this section may only come into force in accordance with section 11 (Fixed penalties: reserve powers of Secretary of State) of this Act.

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- (5) The borough councils and Transport for London shall publish, in the same manner as they publish levels of additional parking charges which have been set in accordance with the provisions of section 74 of the Road Traffic Act 1991 (c. 40), the levels of fixed penalties which have been set by them in accordance with this section.
- (6) Before setting the levels of fixed penalties under this section, the borough councils and Transport for London shall establish a single joint committee under section 101(5) of the Local Government Act 1972 (c. 70).
- (7) The functions conferred on borough councils and Transport for London by this section and section 11 (Fixed penalties: reserve powers of Secretary of State) of this Act shall be discharged by the joint committee.

11 Fixed penalties: reserve powers of Secretary of State

- (1) Where the borough councils and Transport for London set any levels of fixed penalties under subsection (1) of section 10 (Levels of fixed penalties) of this Act, they shall notify the Secretary of State of the levels of fixed penalties so set.
- (2) Where notification of any levels of fixed penalties is required to be given under subsection (1) above, the levels of fixed penalties shall not come into force until after the expiration of—
 - (a) the period of one month beginning with the day on which the notification is given; or
 - (b) such shorter period as the Secretary of State may allow.
- (3) If, before the expiration of that period, the Secretary of State gives notice to the joint committee that he objects to the levels of fixed penalties on the grounds that some or all of them are or may be excessive, those levels of fixed penalties shall not come into force unless and until the objection has been withdrawn.
- (4) If, at any time before the levels of fixed penalties required to be notified under subsection (1) above to the Secretary of State have come into force, the Secretary of State considers that some or all of them are excessive, he may make regulations setting the levels of fixed penalties.
- (5) Levels of fixed penalties set under subsection (4) above must be no higher than those notified under subsection (1) above.
- (6) Where the Secretary of State makes any such regulations the borough councils and Transport for London must not set any further fixed penalties under the said subsection (1) until after the expiration of the period of 12 months beginning with the day on which the regulations are made.

Parking

12 Parking: application of revenue

Section 55 of the Act of 1984 shall apply as if, at the end of sub-paragraph (d)(ii) of subsection (4) the following sub-paragraph were inserted—

“and

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(iii) in the case of a London authority, meeting costs incurred by the authority in respect of the maintenance of roads maintained at the public expense by them.”.

13 False applications for parking authorisations

- (1) Insofar as subsection (2) of section 115 of the Act of 1984 (mishandling of parking documents and related offences) relates to any authorisation which may be issued by a borough council or by Transport for London—
- (a) proceedings for an offence under that section may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge, but
 - (b) no such proceedings shall be brought by virtue of this section more than three years after the commission of the offence.
- (2) For the purposes of subsection (1) above a certificate signed by or on behalf of the prosecutor and stating the date on which evidence such as is mentioned in that subsection came to his knowledge, shall be conclusive evidence of that fact; and a certificate purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

14 Parking at dropped footways

- (1) This section shall apply to any part of the carriageway of—
- (a) any GLA road or GLA side road in a special parking area; and
 - (b) any other road in a special parking area in the area of a borough council, which is adjacent to a dropped footway.
- (2) But this section shall not apply in respect of any part of the carriageway during any period in which—
- (a) an order under section 6 or section 9 of the Act of 1984 (which make provision about road traffic regulation orders) prohibits or permits the waiting of vehicles on it; or
 - (b) an order under section 45 of the Act of 1984 (Designation of parking places on highways) provides for its use as a designated parking place.
- (3) A driver of a vehicle shall not at any time cause it to wait on a part of a road to which this section applies and the prohibition under this subsection shall be enforceable as if it had been imposed by an order under the said section 6.
- (4) In the case where—
- (a) residential premises have a driveway which is not shared by other premises; and
 - (b) the purpose of the dropped footway is to assist vehicles to enter or leave the road from or to the driveway,
- the relevant borough council or Transport for London, as the case may be, may not issue a penalty charge notice in respect of any breach of the prohibition under subsection (3) above unless requested to do so by the occupier of the premises.
- (5) Nothing in subsection (3) above shall require the placing of any traffic signs in connection with the prohibition thereby imposed.

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- (6) Nothing in this section shall prohibit the driver of a vehicle from causing it to wait in the circumstances mentioned in subsection (3) above—
- (a) if the vehicle is being used for fire brigade, ambulance or police purposes;
 - (b) if the driver is prevented from proceeding by circumstances beyond his control or it is necessary for him to wait in order to avoid an accident;
 - (c) for so long as may be necessary for the purpose of enabling persons to board or alight from the vehicle;
 - (d) for so long as may be necessary (up to a maximum of 20 minutes) for the delivery or collection of goods or merchandise or the loading or unloading of the vehicle at any premises if that cannot reasonably be carried out as respects those premises without waiting as mentioned in subsection (3) above; or
 - (e) if the vehicle is being used for a purpose to which subsection (7) below applies and cannot be used for that purpose without so waiting.
- (7) This subsection applies to any purpose connected with—
- (a) any building operation, demolition or excavation;
 - (b) the collection of waste by or on behalf of any council;
 - (c) the removal of any obstruction to traffic;
 - (d) the maintenance, improvement or reconstruction of the road; or
 - (e) the laying, erection, alteration, repair or cleaning of—
 - (i) any traffic sign, traffic light or street light;
 - (ii) any sewer or any main, pipe, cable or apparatus for the supply of water, gas or electricity; or
 - (iii) any telegraph or telephone wire, cable, post or support.
- (8) In this section—
- “dropped footway” means any part of the footway or verge where it has been lowered to meet the level of the carriageway of a road for the purpose of—
- (a) assisting pedestrians crossing the road; or
 - (b) assisting vehicles to enter or leave the road across the footway or verge;
- “special parking area” means a special parking area designated by an order made by the Secretary of State under section 76(1) of the Road Traffic Act 1991 (c. 40);
- “road” has the same meaning as in section 142(1) of the Act of 1984.

15 Penalty charges under Road Traffic Act 1991: statutory declarations

- (1) Paragraph 8 of Schedule 6 to the Road Traffic Act 1991 applies as follows insofar as it relates to matters arising from the issuing of a penalty charge notice under section 66 (Parking penalties in London) of that Act by a parking attendant employed by—
- (a) a borough council or Transport for London; or
 - (b) any person with whom a borough council or Transport for London have made arrangements for the purposes of section 63A (Parking attendants) of the Act of 1984.
- (2) After sub-paragraph (2) the following sub-paragraphs are inserted—

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“(2A) A statutory declaration under this paragraph is invalid and sub-paragraph (5) below shall not apply in relation to the declaration if one or more of the following grounds is met—

- (a) the person who made the declaration claims that more than one of the grounds mentioned in sub-paragraph (2) above is met;
- (b) the declaration is not signed by any person purporting to make it;
- (c) the declaration is not signed by or does not contain an address for a person purporting to be a witness to the signature of the person making it.

(2B) The Secretary of State may by regulations amend sub-paragraph (2A) above by the addition of further grounds for a statutory declaration to be invalid.”.

(3) After sub-paragraph (3) the following sub-paragraph is inserted—

“(3A) In considering an application under sub-paragraph (3) above the district judge must take into consideration any representations made by the London authority before the expiry of the period of 14 days beginning on the date on which copies of the application and the statutory declaration are served by the court on the London authority.”.

(4) In sub-paragraph (5), at the beginning the words “Subject to sub-paragraphs (2A) above and (5A) below” are inserted.

(5) After sub-paragraph (5) the following sub-paragraph is inserted—

“(5A) Where—

- (a) sub-paragraph (4) above applies; and
- (b) the order of the court is deemed to have been revoked under sub-paragraph (5) above,

the London authority concerned shall not be liable to pay the person making the declaration any sums other than the increased charge which was payable under the county court order.”.

Vehicle Crossings

16 Vehicle crossings over footways and verges

(1) Where—

- (a) the occupier of any premises adjoining or having access to a highway habitually takes or permits to be taken a mechanically propelled vehicle (other than an invalid carriage) across a kerbed footway or a verge in the highway to or from those premises; and
- (b) the highway authority—
 - (i) have not constructed a vehicle crossing for the premises (whether under section 184 of the Act of 1980 or any corresponding earlier enactment or otherwise); and
 - (ii) have not served a notice under subsection (1) or (3) of that section on the owner and the occupier of the premises,

the relevant authority may serve a notice within the period specified in the notice, being no sooner than 28 days from the date on which the notice is served, requiring

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the occupier to cease taking or permitting to be taken mechanically propelled vehicles across the kerbed footway or verge.

- (2) Nothing in a notice under subsection (1) above shall have the effect of prohibiting the occupier from enjoying the benefit of—
- (a) any relevant development of the premises which is authorised by a planning permission granted on an application made at least 8 weeks before the date on which this section comes into force; or
 - (b) any established or proposed relevant use of the premises, or any relevant operations carried out or proposed to be carried out in, over or under the premises, the lawfulness of which is conclusively presumed under section 191 or 192 of the Town and Country Planning Act 1990 (c. 8) by virtue of a certificate issued on an application made not less than 8 weeks before that date (whether under that section or any corresponding earlier enactment); or
 - (c) any relevant development of the premises which is permitted development under the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995 No. 418) (or any corresponding earlier order) and which is carried out before that date.
- (3) In determining whether to exercise their powers under subsection (1) above, the relevant authority shall have regard to—
- (a) the need to prevent damage to a footway or verge;
 - (b) the need to ensure so far as practicable, safe access to and egress from premises;
 - (c) the need to facilitate, so far as practicable, the passage of vehicular traffic in and parking of vehicles on highways; and
 - (d) the need to prevent obstruction of the footway or verge.
- (4) A notice under subsection (1) above shall—
- (a) inform the person on whom it is served of his right to object to the notice;
 - (b) state the effect of subsection (10) below; and
 - (c) inform that person—
 - (i) of the relevant authority's powers under section 184(1) or 184(3) of the Act of 1980, as the case may be, to execute works for the construction of a vehicle crossing over the footway; and
 - (ii) of any reasons why the council would be unlikely to execute such works if requested so to do.
- (5) A person on whom a notice is served under subsection (1) above may within 21 days from the date of his being served therewith serve an objection in writing on the highway authority.
- (6) The highway authority shall consider any objection served under subsection (5) above and, within 21 days from the date of their being served therewith—
- (a) serve a notice in writing on the person who served the objection stating that the notice under subsection (1) above shall not be withdrawn; or
 - (b) withdraw the notice.
- (7) A person on whom a notice under subsection (6) above is served may within 28 days from the date of his being served therewith appeal to the county court on any of the following grounds—
- (a) that the notice is not justified by the terms of subsection (1) above;

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- (b) that there has been some defect or error in, or in connection with, the notice;
 - (c) that the requirement in the notice is unreasonable.
- (8) On an appeal to the county court under this section, the court shall make such order as it thinks fit.
- (9) A notice under subsection (1) above becomes effective—
- (a) in the case where no objection is served under subsection (5) above, at the expiration of the period during which the person served with the notice may serve an objection;
 - (b) in the case where a notice is served by the council under subsection (6) above, and no appeal is made under subsection (7) above at the expiration of the period during which the person served with the notice may appeal; or
 - (c) where such an appeal is made and is unsuccessful on the date on which the order of the court is made.
- (10) Where a notice under subsection (1) above has become effective, the authority by whom the notice was served may execute such works as may be necessary to prevent mechanically propelled vehicles from being taken across the footway or verge, and may recover the expenses reasonably incurred by them in so doing from the owner or occupier of the premises in question.
- (11) Where at the time when any works are proposed under subsection (10) above any occupier of the premises in question habitually takes an invalid carriage across the footway or verge at the place where the works are proposed, no works may be executed under that subsection so as to prevent invalid carriages of the same type being taken across the footway or verge at that place.
- (12) If a person—
- (a) knowingly uses a footway or verge as a crossing in contravention of a notice given under subsection (1) above; or
 - (b) knowingly permits it to be so used; or
 - (c) without reasonable excuse removes, damages, alters or defaces any works executed under subsection (10) above,
- he is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.
- (13) In this section—
- “the Act of 1980” means the Highways Act 1980 (c. 66);
 - “highway” means a highway maintainable at the public expense by a borough council or by Transport for London;
 - “invalid carriage” means a vehicle constructed or adapted for use for the carriage of one person, being a person suffering from some physical defect or disability;
 - “relevant authority” means—
 - (a) a borough council, in respect of any kerbed footway or verge in any highway maintained by them; and
 - (b) Transport for London in respect of a kerbed footway or verge in a highway maintained by them;
 - “relevant development” and “relevant operations” mean development or operations carried out for the purpose of parking a mechanically propelled vehicle on the premises;

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“relevant use” means use of the premises for the purpose of parking such a vehicle.

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;
 - (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.

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- (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.
- (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

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- (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.
- (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

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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).