



# London Local Authorities and Transport for London Act 2008

## 2008 CHAPTER iii

### PART 5

#### NON-PAYMENT OF PENALTY CHARGES

#### 14 Interpretation of Part 5

(1) In this Part of this Act—

“custodian” means a London authority or a person authorised by a London authority to keep vehicles removed under subsection (4) of section 17 (immobilisation and removal of vehicles) of this Act;

“NTO case” means a case where a penalty charge notice has been issued or served under—

- (a) section 66 of and Schedule 6 to the 1991 Act (parking penalties in London);
- (b) section 4 (penalty charge notices under Part II) of and Schedule 1 to the [London Local Authorities Act 1996 \(c. ix\)](#); or
- (c) regulations made under section 72 (civil penalties for road traffic contraventions) of the 2004 Act if the regulations make provision for the service of a notice to owner in respect of the penalty charge notice in question;

“penalty charge” means a penalty charge payable under regulations made under section 72 of the 2004 Act (civil penalties for road traffic contraventions) or under any other specified enactment and includes—

- (a) an avoided release fee within the meaning of subsection (6) of section 4 (unpaid charges on unlawful release of vehicle: Road Traffic Act 1991) of this Act; and
- (b) any increased charge liable to be paid under a specified enactment;

“prescribed” means prescribed by the joint committee established under section 73 of the 1991 Act (appointment of parking adjudicators) or, if, for the

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

time being, there is no such committee, any other joint committee consisting of all the London borough councils and Transport for London;

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

“specified enactment” means—

- (a) section 66 of and Schedule 6 to the 1991 Act (parking penalties in London);
- (b) section 4 (penalty charge notices under Part II) of and Schedule 1 to the [London Local Authorities Act 1996 \(c. ix\)](#);
- (c) regulations made under section 144 of the [Transport Act 2000 \(c. 38\)](#) (civil penalties for bus lane contraventions);
- (d) section 4 (penalty charges for road traffic contraventions) of and Schedule 1 to the Act of 2003;
- (e) regulations made under paragraph 12 of Schedule 23 to the [Greater London Authority Act 1999 \(c. 29\)](#) (penalty charges for road user charging);
- (f) regulations made under section 72 of the 2004 Act.

(2) The reference in subsection (1) above to section 66 of the 1991 Act shall include a reference to that section as applied by section 77 of that Act.

(3) In this Part—

- (a) a reference in any provision to an authorised person is to a person authorised by a London authority for the purposes of that provision and different persons may be authorised for the purposes of different provisions; and
- (b) where a person has been authorised to act on behalf of a London authority in relation to any matter a reference to the London authority shall be taken to include a reference to that person; and
- (c) where an agreement for this purpose exists between two or more London authorities a person may be authorised to act on behalf of all the London authorities party to that agreement.

(4) Subject to subsection (6) below, for the purposes of this Part of this Act a penalty charge is “outstanding” if the London authority in question have not waived payment (whether by cancellation of a penalty charge notice or otherwise) and—

- (a) if a penalty charge notice has been issued or served and (in an NTO case) a notice to owner has been served—
  - (i) the penalty charge has not been paid;
  - (ii) the owner of the vehicle in question was the owner of the vehicle at the time the penalty charge was incurred; and
  - (iii) any of the circumstances in subsection (5) below apply without subsection (6) below applying; or
- (b) if a penalty charge notice has not been issued or served or (in an NTO case where a penalty charge notice has been issued or served), no notice to owner has been served—
  - (i) the penalty charge relates to a vehicle which, at the time the penalty charge was incurred, either fell within subsection (7) below or was registered but with no address or an incorrect address given for the registered keeper;
  - (ii) the London authority in question having taken reasonable steps have failed to ascertain the name and address of the person on whom a

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- penalty charge notice or notice to owner, as the case may be, could be served; and
- (iii) the penalty charge has not been paid before the end of the period of 35 days beginning with the day after the day on which the relevant time fell.
- (5) The circumstances mentioned in subsection (4)(a)(iii) above are—
- (a) the period allowed by the relevant specified enactment for making representations to the London authority in respect of the penalty charge has expired and no such representations have been made;
- (b) such representations have been made and—
- (i) the London authority have notified the person who made them that they reject the representations or the grounds of the representations, as the case may be; and
- (ii) the period allowed by the relevant specified enactment for making an appeal to an adjudicator in respect of the notification of rejection of representations has expired and no appeal has been made to an adjudicator;
- (c) if such an appeal has been made—
- (i) the appeal was unsuccessful; and
- (ii) the period of 28 days beginning with the date on which the appellant was notified of the decision on the appeal has expired.
- (6) If—
- (a) a warrant of execution has been issued in respect of a county court order which enables the recovery of a penalty charge or an increased charge; and
- (b) a bailiff has been instructed to levy execution of the order,
- the penalty charge in question shall not be treated for the purposes of this Part of this Act as “outstanding” unless the bailiff has agreed otherwise with the London authority which issued the penalty charge notice.
- (7) A vehicle falls within this subsection if at the relevant time—
- (a) the vehicle was not registered under the Vehicle Excise and Registration Act 1994 (c. 22); or
- (b) the vehicle was registered but no person was registered as its keeper.
- (8) In this section “relevant time” means the time at which the penalty charge became payable.
- (9) Regulations under section 72 of the 2004 Act may modify subsections (4) to (8) above in relation to penalty charges payable under regulations made under that section.
- (10) Subject to subsection (11) below—
- (a) the owner of a vehicle for the purposes of this Part of this Act shall be taken to be the person by whom the vehicle is kept; and
- (b) in determining, for the purposes of this Act, who was the owner of a vehicle at any time, it shall be presumed that the owner was the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994 (c. 22).
- (11) Subsection (10) above shall not apply in relation to the references to the owner of a vehicle in paragraph 2(3)(g), (h), (i) and (j) of Schedule 2 to this Act.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (12) For the purposes of the provisions of this Act mentioned in subsection (11) above, the owner of the vehicle at any particular time means the person who would be liable to pay penalty charges in relation to that vehicle under the specified enactment in question.