



# London Local Authorities and Transport for London Act 2013

## 2013 CHAPTER v

### PART 3

#### BUILDERS' SKIPS

#### 7 Interpretation of Part 3

In this Part—

- “the 2007 Act” means the London Local Authorities Act 2007;
- “builder's skip” has the same meaning as in section 139(11) of the 1980 Act;
- “immobilisation device” means any device or appliance designed or adapted to be fixed to a builder's skip for the purpose of preventing it from being moved;
- “owner” in relation to a builder's skip, is to be construed in accordance with section 139(11) of the 1980 Act.

#### 8 Identifying the “owner” of a builder's skip

- (1) A relevant highway authority may, for the purposes of identifying who is responsible for paying a penalty charge for the purposes of section 61 of the 2007 Act as applied by virtue of section 9, require the relevant person to provide them with the name and address of the owner of the builder's skip.
- (2) In subsection (1), the “relevant person” is—
  - (a) if a permission was given to a person in respect of the skip in question under section 139(1) of the 1980 Act and the penalty charge became payable during the period of the permission, that person;
  - (b) if different from the person mentioned in paragraph (a) (if there is such a person), the person who the relevant highway authority have reason to believe—

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- (i) in the case of a builder's skip that is the subject of a hiring agreement for a hire of not less than one month, the person from whom the skip was hired; and
  - (ii) in the case of a builder's skip that is the subject of a hire purchase agreement, the bailor under that agreement.
- (3) The person identified by the relevant person shall be an individual, a body corporate, an unincorporated association or other body that is capable of being sued.
- (4) A requirement under this section shall specify the period within which it must be complied with, which must be a period no shorter than 14 working days beginning with the date on which the request was made.
- (5) A person on whom a requirement is imposed under this section commits an offence if—
- (a) without reasonable excuse he fails to comply within the period specified in accordance with subsection (4);
  - (b) in responding to the requirement he gives information that he knows is false in a material particular.
- (6) A person convicted of an offence under subsection (5) is liable on summary conviction—
- (a) in the case of an offence under paragraph (a) to a fine not exceeding level 3 on the standard scale;
  - (b) in the case of an offence under paragraph (b) to a fine not exceeding level 5 on the standard scale.

## **9 Builders' skips: penalty charge provisions**

- (1) This section is a penalty charge provision for the purposes of section 61 of the 2007 Act (penalty charges).
- (2) Part 4 of the 2007 Act shall have effect so far as that Part applies by virtue of this section being designated as a penalty charge provision as mentioned in subsection (1) as if for references to a borough council there were substituted references to a relevant highway authority within the meaning of this Act.
- (3) A penalty charge is payable to a relevant highway authority for the purposes of the said section 61 if—
- (a) a builder's skip is deposited on a highway without a permission granted under section 139 of the 1980 Act (control of builders' skips);
  - (b) a builder's skip has been deposited on a highway in accordance with a permission granted under the said section 139 but the owner of the skip does not secure that—
    - (i) the skip is properly lighted during the hours of darkness;
    - (ii) the skip is marked or lighted in accordance with regulations made under the said section 139 requiring builders' skips to be so marked or lighted;
    - (iii) the skip is clearly and indelibly marked with the owner's name and with his telephone number or address;
    - (iv) the skip is removed as soon as practicable after it has been filled;

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- (v) each of the conditions subject to which the permission was granted is complied with;
  - (c) the owner of a builder's skip who, under subsection (2) of section 140 of the 1980 Act (removal of builders' skips), is required to remove or reposition the skip or cause it to be removed or repositioned has failed to comply with the requirement as soon as is practicable.
- (4) For the purposes of the said section 61 of the 2007 Act as it applies in respect of penalty charges payable under that section by virtue of subsection (3), a penalty charge is payable to a relevant highway authority by the owner of the builder's skip in respect of which the contravention of the relevant provision in question is alleged to have occurred.
- (5) The owner of the builder's skip is the appropriate recipient for the purposes of the said section 61.
- (6) For the purposes of section 62(1) of the 2007 Act (representations and appeals) the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this section are—
- (a) that the recipient—
    - (i) never was the owner of the builder's skip in question;
    - (ii) had ceased to be the owner before the date on which the penalty charge was alleged to have become payable;
    - (iii) became the owner after that date;
  - (b) that there was no contravention of the relevant provision in question and in respect of which the penalty charge notice was issued;
  - (c) that the penalty charge exceeded the amount applicable in the circumstances of the case;
  - (d) that the contravention of the relevant provision in question was due to the act or default of another person and that he took all precautions and exercised all due diligence to avoid the contravention by himself or another person under his control.
- (7) Where any of the grounds mentioned in subsection (6)(a) is relied on in any representations made under the said section 62(1), those representations must include a statement of the name and address of the owner (if that information is in the recipient's possession).
- (8) Where the ground mentioned in subsection (6)(d) is relied on in any representations made under the said section 62(1), the relevant highway authority may disregard the representations unless, before the representations are considered, the person making the representations has served on the relevant highway authority a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.
- (9) Subsections (3) to (7) of section 139 and subsection (3) of section 140 of the 1980 Act (offences related to builders' skips) cease to have effect in Greater London.
- (10) Section 140(9) of the 1980 Act in its application to Greater London, is amended by the substitution for “guilty of an offence under section 139(4) above of failing” of the words “liable to pay a penalty charge under section 9 of the London Local Authorities and Transport for London Act 2013 in relation to the failure”.

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- (11) The entries numbered 4 to 9 in the table contained in Schedule 4 to the London Local Authorities and Transport for London Act 2003 are repealed.

## **10 Builders' skips: requirements as to lighting and guarding**

Conditions of the type referred to in section 139(2)(e) of the 1980 Act to which a permission under section 139 of the 1980 Act may be made subject, may include conditions that builders' skips have a light or lights or a guard or system of guarding that is or are an integral part of the skip.

## **11 Builders' skips: provision of lighting and covering by highway authority**

- (1) Subsection (2) applies if a builder's skip is found by a relevant highway authority to be deposited on a highway in Greater London and the skip—
- (a) is not lighted or covered in accordance with the conditions of a permission under section 139 of the 1980 Act;
  - (b) was deposited without a permission under that section having been obtained; or
  - (c) is not properly lighted during the hours of darkness (or is not marked in accordance with regulations made under section 139(4)(a) of the 1980 Act).
- (2) Where this section applies, the relevant highway authority in question may themselves light, cover or mark the skip or cause it to be lighted, covered or marked.
- (3) Any expenses reasonably incurred by a relevant highway authority in the lighting, covering or marking of a skip under subsection (2) may be recovered from the owner of the skip in any court of competent jurisdiction or summarily as a civil debt.
- (4) The owner of a skip is not liable to pay a penalty charge under section 9 in relation to a failure to secure that a condition or requirement relating to the lighting, covering or marking of the skip was complied with if the failure resulted from the lighting, covering or marking of the skip under subsection (2).

## **12 Builders' skips: immobilisation devices**

- (1) Where a penalty charge notice has been served in accordance with section 61 of the 2007 Act in relation to a penalty charge payable under section 9(3), an authorised officer of the relevant highway authority or a person acting under his direction may fix an immobilisation device to the builder's skip concerned while it remains in the place where it was found.
- (2) On any occasion when an immobilisation device is fixed to a skip in accordance with this section, the person fixing the device shall also fix to the skip a notice—
- (a) indicating that such a device has been fixed to the skip and warning that no attempt should be made to move it until it has been released from that device;
  - (b) specifying the steps to be taken in order to secure its release; and
  - (c) warning that unlawful removal of an immobilisation device is an offence.
- (3) A notice fixed to a skip in accordance with this section shall not be removed or interfered with except by or under the authority of—
- (a) the owner of the skip; or
  - (b) the relevant highway authority.

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- (4) A person contravening subsection (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) Any person who, without being authorised to do so in accordance with this section, removes or attempts to remove an immobilisation device fixed to a skip in accordance with this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **13 Release of immobilised skips**

- (1) A skip to which an immobilisation device has been fixed in accordance with section 12 may only be released from that device by or under the direction of a person authorised by the relevant highway authority to give such a direction.
- (2) Subject to subsection (1), such a skip shall be released from the device on payment in any manner specified in the notice fixed to the skip under section 12(2) of—
  - (a) the penalty charge payable in respect of the contravention in question; and
  - (b) such charge in respect of the release as may be prescribed by a joint committee.
- (3) Section 66(2), (4) and (5) (levels of penalty charge) and section 67 (penalty charges: reserve powers of Secretary of State) of the 2007 Act shall apply in relation to the levels of charge prescribed by a joint committee under subsection (2) as they apply in relation to the levels of penalty charges set by borough councils under section 66(1) of that Act.

### **14 Appeals in relation to immobilisation**

- (1) If the owner of a skip makes representations under section 62(1) of the 2007 Act to a relevant highway authority in an immobilisation case, and the relevant highway authority accepts that a ground specified in section 9(6) applies, it shall, when it serves notice that it accepts that ground, refund (in addition to a sum representing the penalty charge paid) a sum representing the amount of any charge paid under section 13(2)(b).
- (2) If the owner of a skip appeals to an adjudicator under section 62 of the 2007 Act (or regulations made under that section) in an immobilisation case, and the adjudicator accepts that a ground specified in section 9(6) applies the adjudicator shall direct the relevant highway authority to refund (in addition to a sum representing the penalty charge paid) a sum representing the amount of any charge paid under section 13(2)(b).
- (3) It shall be the duty of a relevant highway authority to which a direction is given under subsection (2) to comply with it forthwith.
- (4) In this section an “immobilisation case” means a case where a penalty charge notice has been served in accordance with section 61 of the 2007 Act in relation to a penalty charge payable under section 9(3) and an immobilisation device has been fixed to the skip under section 12.