Road Traffic Regulation Act 1984

1984 CHAPTER 27

PART VIII

CONTROL AND ENFORCEMENT

Traffic wardens

95 Appointment of traffic wardens.

(1) A police authority in England or Wales may, subject to subsection (5) below, appoint persons to discharge, in aid of the police, functions normally undertaken by the police in connection with the control and regulation of, or the enforcement of the law relating to, traffic (including pedestrians) or stationary vehicles; and persons so appointed shall act under the direction of the chief officer of police, but shall be deemed to be employed by the police authority.

(2) Where under section 9 of the [M1]Police (Scotland) Act 1967 a police authority employs persons to discharge any such functions as are mentioned in subsection (1) above, those persons shall act under the directions of the chief officer of police.

(3) Persons employed under subsection (1) or in accordance with subsection (2) above shall be known as "traffic wardens".

(4) A police authority (whether in England or Wales or in Scotland) employing traffic wardens for the purposes mentioned in subsection (1) above may also (subject to subsection (5) below) employ them to act, under the direction of the chief officer of police, for other purposes connected with the control and regulation of traffic (including pedestrians) or stationary vehicles; and in particular—

(a) where the police authority provide school crossing patrols under section 26 of this Act, whether as being the appropriate authority or by aggreement with the appropriate authority, the traffic wardens may be employed to act as school crossing patrols, and

(b) the police authority may, under arrangements made with a local authority or (in England or Wales) with the Secretary of State, employ the traffic wardens

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to act as parking attendants at street parking places provided or controlled by the local authority or, as the case may be, by the Secretary of State.

[[F1](4A) For the purposes of subsection (4) above, Transport for London is a local authority.**]**

(5) Traffic wardens shall not be employed to discharge functions other than those prescribed as appropriate for the purpose by order of the Secretary of State made by statutory instrument; and no order shall be made under this subject unless a draft of the order has been laid before, and approved by resolution of, each House of Parliament.

(6) A police authority shall not employ as a traffic warden any person who is a constable, and shall take steps to ensure that only persons adequately qualified are appointed traffic wardens, and that traffic wardens are suitably trained before undertaking their duties.

(7) Traffic wardens shall wear such uniform as the Secretary of State may determine, and shall not act as traffic wardens when not in uniform.

Textual Amendments

F1 S. 95(4A) inserted (3.7.2000) by 1999 c. 29, **s. 290** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, **Sch.**

Modifications etc. (not altering text)

C1 S. 95(5) restricted by Road Traffic Offenders Act 1988 (c. 53, SIF 107:1), **s. 86(1)**

Marginal Citations

M1 1967 c. 77**(95).**

96 Additional powers of traffic wardens.

(1) An order under section 95(5) of this Act may provide that, for the purposes of any functions which traffic wardens are authorised by the order to discharge, but subject to the provisions of subsection (3) below, references to a constable or police constable in all or any of the enactments specified in subsection (2) below shall include references to a traffic warden.

(2) The enactments referred to in subsection (1) above are—

(a) section 52 of the [M2]Metropolitan Police Act 1839, so far as it relates to the giving by the commissioner of directions to constables for preventing obstructions;

(b) section 22 of the [M3]local Act of the second and third year of the reign of Queen Victoria, chapter 94, so far as it makes similar provision with respect to the City of London;

[[F2](bb) in this Act—

(i) section 100(3) (which relates to the interim disposal of vehicles removed under section 99); and

(ii) sections 104 and 105 (which relate to the immobilisation of illegally parked vehicles);**]**

(c) in **[**[F3]the Road Traffic Act 1988**]**—

(i) **[**[F4]sections 35(1), 36 and 37**]** (which relate to compliance with traffic directions given by police constables);

(ii) **[**[F5]section 163**]** (which relates to the power of a constable to stop vehicles);

(iii) **[**[F6]section 164(1), (2) and (6)**]** (which relate to the power of a constable to require the production of a driving licence in certain circumstances); **[**[F7] and**]**

(iv) **[**[F8]sections 165 and 169**]** (which relate to the powers of constables to obtain names and addresses of drivers and others and to require production of evidence of insurance or security and test certificates); and

[[F9](d) section 11 of the Road Traffic Offenders Act 1988**]**.

(3) Any power of a constable for the purposes of the following provisions of **[**[F10]the Road Traffic Act 1988, namely, sections 163, 164(1), (2) and (6) and 165**]**, shall be exercisable by a traffic warden under an order made by virtue of subsection (1) above only where—

(a) the traffic warden is assisting a constable, or

(b) the traffic warden has reasonable cause to believe that an offence has been committed of a description specified in relation to the section in question for the purposes of this paragraph by the order, and, in the case of a power for the purposes of **[**[F11]section 165 of the Road Traffic Act 1988**]**, the order authorises the use of that power in relation to that offence, or

(c) in the case of a power for the purposes of **[**[F12]section 163 of the Road Traffic Act 1988**]**, the traffic warden is exercising functions in connection with the control and regulation of traffic (including pedestrians) or stationary vehicles.

[[F13](4) Where an order has been made pursuant to subsection (2)(bb)(i) above, in section 100(3) of this Act the words "chief officer of the police force to which the constable belongs" shall be deemed to include a reference to a chief officer of police under whose direction a traffic warden acts.

(5) Any order made under section 95(5) of this Act may make different provision for different cases or classes of case, or in respect of different areas.**]**

Textual Amendments

F2 S. 96(2)(bb) inserted (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4**, para. 31(2); S.I. 1991/2054, **art. 3**,Sch.

F3 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 25(6)**

F4 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 25(6)(a)**

F5 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 25(6)(b)**

F6 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 25(6)(c)**

F7 Word inserted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 25(6)(c)**

F8 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 25(6)(d)**

F9 S. 96(2)(d) substituted for s. 96(2)(c)(v) and (d) by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 25(6)(e)**

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Changes to legislation: *There are currently no known outstanding effects for the Road Traffic Regulation Act 1984, Part VIII. (See end of Document for details)*

F10 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 25(7)(a)**

F11 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 25(7)(b)**

F12 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 25(7)(c)**

F13 S. 96(4)(5) added (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4**, para. 31(3); S.I. 1991/2054, **art. 3**,Sch.

Marginal Citations

M2 1839 c. 47**(95).**

M3 1839 c. xciv.

97 Supplementary provisions as to traffic wardens.

(1) Neither regulations under section 7 of the [M4]Superannuation Act 1972 nor any local Act scheme within the meaning of section 8 of that Act shall apply to traffic wardens by virtue of section 95 or 96 of this Act; but, in relation to such traffic wardens [F14]. . . as the police authority may determine, those regulations (or, if the expenses of the police authority are paid by a local Act authority, the local Act scheme) shall apply, subject to such adaptations, modifications and exceptions as the Sectetary of State may by regulations prescribe.

[[F15](2) Where traffic wardens are employed by a police authority which is a committee of the council of a county, they shall be treated as employed by the committee as constituted from time to time; but the committee's employment of traffic wardens shall not subject members of the committee to any personal liability under contract or otherwise**]**.

(3) The expenses incurred for the purposes of or in connection with the functions of a police authority under section 95 of this Act shall be defrayed as if those expenses were expenses incurred for the purposes of the police force maintained by the authority.

[F16](4) . . . . . .

(5) Any power to acquire, or authorise the acquisition of, land for the purposes of a police force shall include power to acquire, or authorise the acquisition of land for the purposes of the functions of the police authority under sections 95 and 96 of this Act; and any land occupied for the purposes of those functions shall be deemed to be occupied for the purposes of the police force.

Textual Amendments

F14 Words in s. 97(1) repealed (3.7.2000) by 1999 c. 29, ss. 325, 423, Sch. 27 para. 48, **Sch. 34 Pt. VII** (with Sch. 12 para. 9(1)); S.I. 2000/1648, art. 2, **Sch.**

F15 S. 97(2) repealed (1.4.1995 for E.W., otherwise prosp.) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4(1), **Sch.**

F16 S. 97(4) repealed (3.7.2000) by 1999 c. 29, ss. 325, 423, Sch. 27 para. 48, **Sch. 34 Pt. VII** (with Sch. 12 para. 9(1)); S.I. 2000/1648, art. 2, **Sch.**

Marginal Citations

M4 1972 c. 11**(101A:1).**

[F17]98 . . . . . .

Textual Amendments

F17 S. 98 repealed with savings by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1 Pt. I, Sch. 4 paras. 1–3, **5(1)**

Removal or immobilisation of vehicles

99 Removal of vehicles illegally, obstructively or dangerously parked, or abandoned or broken down.

(1) The Secretary of State may by regulations make provision for the removal of vehicles which have been permitted to remain at rest—

(a) on a road in contravention of any statutory prohibition or restriction, or

(b) on a road in such a position or in such condition or in such circumstances as to cause obstruction to other persons using the road or as to be likely to cause danger to such persons, or

(c) on a road, or on any land in the open air, in such a position or in such condition or in such circumstances as to appear, to an authority empowered by the regulations to remove such vehicles, to have been abandoned without lawful authority,

or which have broken down on a road.

(2) Regulations under this section—

(a) may provide, in the case of a vehicle which may be removed from a road, for the moving of the vehicle from one position on a road to another position on that or another road;

(b) may provide for repealing byelaws dealing with the same subject-matter as the regulations, and for suspending, while the regulations remain in force, any power of making such byelaws; [F18] . . .

(c) . . . . . .

(3) Where it appears to an authority which (apart from this subsection) is empowered to remove a vehicle in pursuance of regulations under this section that the vehicle is on land which is occupied by any person, the authority shall give him notice in the prescribed manner that they propose to remove the vehicle in pursuance of the regulations, and shall not be entitled to remove it if he objects to the proposal in the prescribed manner and within the prescribed period.

(4) Where in pursuance of regulations under this section an authority proposes to remove a vehicle which appears to the authority to be abandoned and in their opinion is in such a condition that it ought to be destroyed, then (except where they are empowered by the regulations to remove the vehicle from a road in a case falling within paragraph (a) or paragraph (b) of subsection (1) above) they shall, not less than the prescribed period before removing it, cause to be affixed to the vehicle a notice stating that they propose to remove it for destruction when that period expires.

(5) In this section “vehicle” means any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have

formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle.

[[F19](6) For the purposes of this section, the suspension under section 13A or 49 of this Act of the use of a parking place is a restriction imposed under this Act.**]**

Textual Amendments

F18 S. 99(2)(c) and the word "and" preceding it repealed (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 83, **Sch.8**; S.I. 1991/2054, **art. 3**,Sch.

F19 S. 99(6) inserted (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4**, para. 32; S.I. 1991/2054, art. 3, **Sch.**

Modifications etc. (not altering text)

C2 S. 99 extended by Airports Act 1986 (c. 31, SIF 9), **s. 66(3)**
S. 99 extended (E.W.) (4.10.2004 for E. and 1.5.2009 for W.) by The Traffic Management Act 2004 (c. 18), **ss. 9**, 99 (with s. 38); S.I. 2004/2380, **art. 2(a)**; S.I. 2009/1095, **art. 2(a)**

C3 S. 99 modified (3.4.1996) by 1989 c. 4, **s. 16D** (as added by 1996 c. 7, **s. 5**)
S. 99 modified (19.2.2001) by 2000 c. 11, **ss. 49(3)(a)**, 128; S.I. 2001/421, **art. 2**

C4 S. 99: certain functions transferred (31.12.2004) by The National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044), art. 2, **Sch. 1**

100 Interim disposal of vehicles removed under s. 99.

[F20](1) . . . . . .

(2) Any vehicle removed by the council of a **[**[F21]non-metropolitan**]** district in England under regulations made under section 99 of this Act shall be delivered by them to the council of the county comprising the district in accordance with such arrangements (including arrangements as to the sharing of any expenses incurred or sums received by the two councils under section 99 of this Act or this section or under section 101 or 102 of this Act) as may be agreed between the two councils or, in default of agreement, as may be determined by the Secretary of State.

(3) Any vehicle removed by a constable in pursuance of any such regulations and appearing to him to have been abandoned may be delivered by the chief officer of the police force to which the constable belongs to a local authority, with the consent of that authority.

(4) While a vehicle is in the custody of an authority in pursuance of this section or of regulations under section 99 of this Act, other than a vehicle which in the opinion of that authority is in such a condition that it ought to be destroyed, it shall be the duty of that authority to take such steps as are reasonably necessary for the safe custody of the vehicle.

(5) In this section "local authority"—

(a) in relation to England, means **[**[F22]the council of a county, metropolitan district or London borough **[**[F23], the Common Council of the City of London or Transport for London;**]]**;

(b) in relation to Wales, means the council of a county **[**[F24]or county borough**]**; and

[[F25](c) in relation to Scotland, means a **[**[F26]council constituted under section 2 of the Local Government etc.(Scotland Act 1994)**]]**

and "vehicle" has the meaning assigned to it by section 99(5) of this Act.

Textual Amendments

F20 S. 100(1) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102(2)(3), **Sch. 17**

F21 Word inserted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 8(1), **Sch. 5 para. 4(31)**(*a*)

F22 Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 8(1), **Sch. 5 para. 4(31)**(*b*)

F23 Words in s. 100(5)(a) substituted (4.4.2001) by S.I. 2001/1353, **art. 4**

F24 Words in s. 100(5)(b) substituted (1.4.1996) by c. 19, s. 22(1), Sch. 13 para. 38(8) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(2), 23(3)); S.I. 1996/396, **art. 3 Sch. 1**

F25 S. 100(5)(c) substituted (1.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59 s. 108), s. 168(1), **Sch. 8 para. 68**; S.I. 1991/2286, art. 2(2), **Sch. 2**

F26 Words in s. 100(5)(c) substituted (S.)(1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 38(8)**; S.I. 1996/323, **art. 3(c)**

Modifications etc. (not altering text)

C5 S. 100 extended by Airports Act 1986 (c. 31, SIF 9), **s. 66(3)**

C6 S. 100: certain functions transferred (31.12.2004) by The National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044), art. 2, **Sch. 1**

C7 Ss. 100-102: power to amend or apply (with modifications) conferred (E.W.) (4.10.2004 for E. and 1.5.2009 for W.) by Traffic Management Act 2004 (c. 18), **ss. 9(2)**, 99 (with s. 38); S.I. 2004/2380, **art. 2(a)**; S.I. 2009/1095, **art. 2(a)**

C8 S. 100(3) extended (21.3.1999) by S.I. 1999/854, **art. 3(2)(a)(i)**

101 Ultimate disposal of vehicles abandoned and removeable under this Act.

(1) Subject to subsections (3) to **[**[F27](5A)**]** below, a competent authority may, in such manner as they think fit, dispose of a vehicle which appears to them to be abandoned and which has been, or could at any time be, removed in pursuance of—

(a) an order to which this section applies, or

(b) regulations under section 99 of this Act.

(2) This section applies to the following orders, that is to say—

(a) any order under section 35 of this Act;

(b) any order relating to a parking place designated under section 45 of this Act; and

(c) any order containing a provision having effect by virtue of section 53(3) of this Act.

(3) The time at which a competent authority may dispose of a vehicle under subsection (1) above is as follows, that is to say—

(a) in the case of a vehicle which in their opinion is in such a condition that it ought to be destroyed and on which no current licence was displayed at the time of its removal, any time after its removal;

(b) in the case of a vehicle which in their opinion is in such condition that it ought to be destroyed and on which a current licence was so displayed, any time after the licence expires;

(c) in any other case, any time after such steps as may be prescribed have been taken by a competent authority (or partly by one competent authority and partly by the other) to find a person appearing to the authority taking such steps to be the owner of the vehicle and either—

(i) they have failed to find such a person, or

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(ii) he has failed to comply with a notice served on him in the prescribed manner by a competent authority requiring him to remove the vehicle from their custody within the prescribed period.

but, in a case where it appears to the authority proposing to dispose of the vehicle that a licence is in force in respect of the vehicle, not a time earlier than the expiry of the licence.

(4) If, before a vehicle **[**[F28]found outside Greater London**]** is disposed of by an authority in pursuance of subsections (1) to (3) above, the vehicle is claimed by a person who satisfies the authority that he is its owner and pays such sums in respect of its removal and storage as may be prescribed to the authority entitled to those sums, the authority shall permit him to remove the vehicle from their custody within such period as may be prescribed.

[[F29](4A) If, before a vehicle found in Greater London is disposed of by an authority in pursuance of subsections (1) to (3) above, the vehicle is claimed by a person who satisfies the authority that he is its owner and pays—

(a) any penalty charge payable in respect of the parking of the vehicle in the place from which it was removed; and

(b) such sums in respect of the removal and storage of the vehicle—

(i) as the authority may require; or

(ii) in the case of sums payable to a competent authority which is not a local authority, as may be prescribed,

the authority shall permit him to remove the vehicle from their custody within such period as they may specify or, where paragraph (b)(ii) applies, as may be prescribed.**]**

(5) If, before the end of the period of one year beginning with the date on which a vehicle **[**[F30]found outside Greater London**]**is sold by an authority in pursuance of this section, any person satisfies that authority that at the time of the sale he was the owner of the vehicle, that authority shall pay him any sum by which the proceeds of sale exceed the aggregate of such sums in respect of the removal, storage and disposal of the vehicle as may be prescribed.

[[F31](5A) If, before the end of the period of one year beginning with the date on which a vehicle found in Greater London is sold by an authority in pursuance of this section, any person satisfies that authority that at the time of the sale he was the owner of the vehicle, that authority shall pay him any sum by which the proceeds of sale exceed the aggregate of—

(a) any penalty charge payable in respect of the parking of the vehicle in the place from which it was removed; and

(b) such sums in respect of the removal, storage and disposal of the vehicle—

(i) as the authority may require; or

(ii) in the case of sums payable to a competent authority which is not a local authority, as may be prescribed.**]**

(6) If in the case of any vehicle it appears to the authority in question that more than one person is or was its owner at the relevant time, such one of them as the authority think fit shall be treated as its owner for the purposes of subsections (4) **[**[F32]to (5A)**]** above.

(7) The Secretary of State may by regulations require an authority by whom a vehicle is disposed of in pursuance of this section to give such information relating to the disposal as may be prescribed to such persons as may be prescribed.

(8) In this section—

"competent authority", in relation to a vehicle, means—

(a) the chief officer of the police force in whose area is the place which the vehicle has been removed or could at any time be removed, [F33]. . .

(b) the local authority **[**[F34](other than Transport for London)**]** in whose area that place is or to whom the vehicle has been delivered by the chief officer of a police force; **[**[F35]or

(c) Transport for London, where the vehicle has been removed by a parking attendant on its behalf;**]**

"licence", in relation to a vehicle, means a licence issued for the vehicle under the **[**[F36]Vehicles Excise and Registration Act 1994**]**;

"owner", in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, includes the person entitled to possession of the vehicle under the agreement; and

"local authority" has the meaning assigned to it by section 100(5) and "vehicle" has the meaning assigned to it by section 99(5) of this Act.

Textual Amendments

F27 Words in s. 101(1) substituted (5.7.1993) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 67(2)** (with s. 79(1)); S.I. 1993/1461, **art. 4**.

F28 Words in s. 101(4) inserted (5.7.1993) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 67(3)** (with s. 79(1)); S.I. 1993/1461, **art. 4**.

F29 S. 101(4A) inserted by Road Traffic Act 1991 (5.7.1993, 4.10.1993, 6.12.1993, 31.1.1994 and 4.7.1994 respectively for specified London boroughs and otherwise 10.4.1998) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 67(4)** (with s. 79(1)); S.I. 1993/1461, **art. 4**; S.I. 1993/2229, **art. 4**; S.I. 1993/2803, **art. 3**; S.I. 1993/3238, **art. 3**; S.I. 1994/1482, art. 2(a), **Sch.**; S.I. 1998/967, **art. 2(2)**

F30 Words in s. 101(5) inserted (5.7.1993) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 67(5)** (with s. 79(1)); S.I. 1993/1461, **art. 4**

F31 S. 101(5A) inserted (5.7.1993, 4.10.1993, 6.12.1993, 31.1.1994 and 4.7.1994 respectively for specified London boroughs and otherwise prosp.) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 67(6)** (with s. 79(1)); S.I. 1993/1461, **art. 4**; S.I. 1993/2229, **art. 4**; S.I. 1993/2803, **art. 3**; S.I. 1993/3238, **art. 3**; S.I. 1994/1482, art. 2(a), **Sch.**

F32 Words in s. 101(6) substituted (5.7.1993) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 67(7)** (with s. 79(1)); S.I. 1993/1461, **art. 4**.

F33 Word in definition of "competent authority" in s. 101(8) omitted (4.4.2001) by virtue of S.I. 2001/1353, **art. 5(a)**

F34 Words in definition of "competent authority" in s. 101(8)(b) inserted (4.4.2001) by S.I. 2001/1353, **art. 5(b)**

F35 Para. (c) and preceding word in definition of "competent authority" in s. 101(8) inserted (4.4.2001) by S.I. 2001/1353, **art. 5(c)**

F36 Word in definition of "licence" in s. 101(8) substituted (1.9.1994) by 1994 c. 22, ss. 63, 66, **Sch. 3 para. 18(1)** (with s. 57(4))

Modifications etc. (not altering text)

C9 S. 101 modified (10.6.1993) by S.I. 1993/1461, **art. 4(2)**.
S. 101 applied (with modifications) (8.1.1996) by 1995 c. x, **s. 6**

C10 S. 101: certain functions transferred (31.12.2004) by The National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044), art. 2, **Sch. 1**

C11 Ss. 100-102: power to amend or apply (with modifications) conferred (E.W.) (4.10.2004 for E. and 1.5.2009 for W.) by Traffic Management Act 2004 (c. 18), **ss. 9(2)**, 99 (with s. 38); S.I. 2004/2380, **art. 2(a)**; S.I. 2009/1095, **art. 2(a)**

VALID FROM 26/10/2006

[F37 101A *Right of owner to recover vehicle or proceeds of sale*

(1) If before a vehicle is disposed of by an authority under section 101 above it is claimed by a person who—

(a) satisfies the authority that he is its owner, and

(b) pays the relevant charges,

the authority shall permit him to remove the vehicle from their custody within such period as they may specify or, in the case of an authority other than a local authority, as may be prescribed.

(2) If before the end of the period of one year beginning with the date on which a vehicle is sold by an authority under section 101 above a person satisfies the authority that at the time of the sale he was the owner of the vehicle, the authority shall pay him any sum by which the proceeds of sale exceed the amount of the relevant charges.

(3) In the case of a vehicle found in an area that is a civil enforcement area for parking contraventions, the relevant charges are—

(a) any penalty charge payable in respect of the parking of the vehicle in the place from which it was removed,

(b) such unpaid earlier penalty charges relating to the vehicle as may be prescribed, and

(c) such sums in respect of the removal and storage of the vehicle—

(i) as the authority may require in accordance with Schedule 9 of the Traffic Management Act 2004, or

(ii) in the case of an authority other than a local authority, as may be prescribed.

(4) In any other case the relevant charges are such sums in respect of the removal and storage of the vehicle as may be prescribed.

(5) If in the case of any vehicle it appears to the authority in question that more than one person is or was its owner at the relevant time, such one of them as the authority think fit shall be treated as its owner for the purposes of this section.

(6) In this section—

"civil enforcement area for parking contraventions" and "penalty charge" have the same meaning as in Part 6 of the Traffic Management Act 2004; and

"owner" has the same meaning as in section 101 above.**]**

Textual Amendments

F37 S. 101A inserted (E.W.) (26.10.2006 for W. and 31.3.2008 for E.) by Traffic Management Act 2004 (c. 18), ss. 91, 99, **Sch. 11 para. 3(2)** (with s. 38); S.I. 2006/2826, **art. 2(2)(c)**; S.I. 2007/2053, **art. 3(1)(2)(g)** (with arts. 1(2), 4-8) (as amended (17.3.2008) by S.I. 2008/757, arts. 3(c), 5)

VALID FROM 26/10/2006

[F38 101B *Representations and appeals*

(1) The Lord Chancellor may make regulations entitling a person who in the case of a vehicle found in an area that is a civil enforcement area for parking contraventions—
   (a) is required to pay an amount on recovering the vehicle under section 101A(1), or
   (b) receives a sum in respect of the vehicle under section 101A(2) or is informed that the proceeds of sale did not exceed the aggregate amount mentioned in that provision,

   to make representations to the authority concerned and to appeal to an adjudicator if his representations are not accepted.

(2) The regulations may make such provision in connection with the rights conferred as appears to the Lord Chancellor to be appropriate, and may in particular make provision—
   (a) requiring the authority to give a person notice of the rights conferred by the regulations,
   (b) as to the grounds on which, and time within which, representations may be made;
   (c) requiring supporting evidence in such circumstances as may be specified;
   (d) as to the duties of the authority when representations are received;
   (e) as to the circumstances in which there is a right of appeal to an adjudicator,
   (f) generally as to the making, determination and effect of, and procedure in connection with, such appeals, and
   (g) enabling an adjudicator to review any decision made on, or in the course of, an appeal.

(3) The regulations may include provision authorising an adjudicator to require a person—
   (a) to attend to give evidence at the hearing of an appeal, and
   (b) to produce any documents in his custody or under his control relating to any matter relevant for the purposes of the appeal,

   and making it a criminal offence triable summarily and punishable with a fine not exceeding level 2 on the standard scale to fail to comply with such a requirement.

(4) The regulations may include provision authorising an adjudicator to make an order for the payment of costs and expenses by a party to an appeal in such circumstances as may be specified.

(5) The functions of adjudicators under this section shall be discharged by the persons appointed as adjudicators for the purposes of Part 6 of the Traffic Management Act

2004 (civil enforcement of road traffic contraventions) and any arrangements made for the discharge of their functions under that Part also have effect for the purposes of this section.**]**

Textual Amendments

F38 S. 101B inserted (E.W.) (26.10.2006 for W. and 23.7.2007 for E.) by Traffic Management Act 2004 (c. 18), ss. 91, 99, **Sch. 11 para. 3(2)** (with s. 38); S.I. 2006/2826, **art. 2(2)(c)**; S.I. 2007/2053, **art. 2(1)(2)(i)**

102 Charges for removal, storage and disposal of vehicles.

(1) The provisions of this section shall have effect where a vehicle—

(a) is removed from a parking place in pursuance of an order to which section 101 of this Act applies, or

(b) is removed from a road, or from land in the open air, in pursuance of regulations under section 99 of this Act.

(2) In any such case—

(a) the appropriate authority shall be entitled to recover from any person responsible such charges as may be prescribed in respect of the removal of the vehicle;

(b) the chief officer of a police force or a local authority **[**[F39]other than a London authority**]** in whose custody any such vehicle is during any period shall be entitled to recover from any person responsible charges ascertained by reference to a prescribed scale in respect of that period; [F40]. . .

(c) the chief officer of a police force or a local authority **[**[F39]other than a London authority**]** who dispose of any such vehicle in pursuance of section 101 of this Act shall be entitled to recover from any person responsible charges determined in the prescribed manner in respect of its disposal.**[**[F41]and

(d) a London authority shall be entitled to recover from any person responsible, such charges in respect of the removal, storage and disposal of a vehicle removed from a parking place designated under section 6, 9 or 45 of this Act or otherwise provided or controlled by that authority as they may require.**]**

(3) Any sum recoverable by virtue of this section shall, in England or Wales, be recoverable as a simple contract debt in any court of competent jurisdiction or, in the case of a sum not exceeding £20, summarily as a civil debt.

(4) Without prejudice to subsection (3) above, where by virtue of paragraph (a) or (b) of subsection (2) above any sum is recoverable in respect of a vehicle by the chief officer of a police force or a local authority in whose custody the vehicle is, the chief officer or local authority shall be entitled to retain custody of it until that sum has been paid.

(5) The court by which a person is convicted of an offence under section 2(1) of the [M5]Refuse Disposal (Amenity) Act 1978 in respect of a motor vehicle may, on the application of an authority and in addition to any other order made by the court in relation to that person, order him to pay to the authority any sum which, in the opinion of the court, the authority are entitled to recover from him under this section in respect of the vehicle.

(6) For the purposes of this section a vehicle removed, as mentioned in subsection (1) above, **[**[F42]by the council of a non-metropolitan district**]** in England shall be treated as in the custody of the council of the county comprising that district while it is in the custody of the district council by whom it was so removed.

(7) Any sum recovered under this section by the chief officer of a police force shall be paid into the police fund.

(8) In this section—

"appropriate authority"—

(a) in relation to a vehicle removed by a constable or a person acting in aid of a police force, means the chief officer of the police force to which the constable belongs or in whose aid that person was acting, and

(b) **[**[F43]in relation to a vehicle removed (by a person other than a constable or person acting in aid of a police force) from a place outside Greater London, which is a parking place provided or controlled by a local authority, or from a place (not being a parking place) on a road or land in the open air, means the local authority in whose area that place is,**]**

. . .

"person responsible", in relation to a vehicle, means—

(a) the owner of the vehicle at the time when it was put in the place from which it was removed as mentioned in subsection (1) above, unless he shows that he was not concerned in, and did not know of, its being put there;

(b) any person by whom the vehicle was put in that place;

(c) any person convicted of an offence under section 2(1) of the [M6]Refuse Disposal (Amenity) Act 1978 in consequence of the putting of the vehicle in that place; [F40]. . .

"local authority" has the meaning assigned to it by section 100(5) **[**[F44], except that it does not include Transport for London,**]** and "vehicle" has the meaning assigned to it by section 99(5) of this Act. **[**[F45]and

"London authority" means any council of a London borough **[**[F46], the Common Council of the City of London or Transport for London.**]]**

[[F47](9) For the purposes of—

(a) subsection (2)(d) above, and

(b) paragraph (b) in the definition of "appropriate authority" in subsection (8) above,

a parking place provided under a letting or arrangements made by a local authority in pursuance of section 33(4) of this Act shall be treated as provided by that authority.**]**

Textual Amendments

F39 Words in s. 102(2)(b)(c) inserted (5.7.1993) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 68(2)(a)** (with s. 79(1)); S.I. 1993/1461, **art. 5**.

F40 Word in s. 102(2)(b)(8) repealed (5.7.1993) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 83, **Sch. 8**; S.I. 1993/1461, **art. 2(g)**.

F41 S. 102(2)(d) and immediate preceding word added (5.7.1993, 4.10.1993, 6.12.1993, 31.1.1994 and 4.7.1994 respectively for specified London boroughs and otherwise 10.4.1998) by Road Traffic Act

1991 (c. 40, SIF 107:1), **s. 68(2)(b)** (with s. 79(1)); S.I. 1993/1461, **art. 5**; S.I. 1993/2229, **art. 5**; S.I. 1993/2803, **art. 4**; S.I. 1993/3238, **art. 4**; S.I. 1994/1482, art. 2(a), **Sch.**; S.I. 1998/967, **art. 2(2)**

F42 Words in s. 102(6) substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 8(1), **Sch. 5 para. 4(32)**

F43 Para. (b) in definition of "appropriate authority" in s. 102(8) substituted (5.7.1993) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 68(3)(a)** (with s. 79(1)); S.I. 1993/1461, **art. 5**.

F44 Words in definition of "local authority" in s. 102(8) inserted (4.4.2001) by S.I. 2001/1353, **art. 6(a)**

F45 S. 102(8): definition of "London authority" added (5.7.1993) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 68(3)(c)** (with s. 79(1)); S.I. 1993/1461, **art. 5**.

F46 Words in definition of "London authority" in s. 102(8) substituted (4.4.2001) by S.I. 2001/1353, **art. 6(b)**

F47 S. 102(9) added (5.7.1993) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 68(4)** (with s. 79(1)); S.I. 1993/1461, **art. 5**.

Modifications etc. (not altering text)

C12 S. 102 excluded (23.6.1999) by S.I. 1999/1736, **art. 8(1)(b)(2)(a)**

C13 S. 102: certain functions transferred (31.12.2004) by The National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044), art. 2, **Sch. 1**

C14 Ss. 100-102: power to amend or apply (with modifications) conferred (E.W.) (4.10.2004 for E. 1.5.2009 for W.) by Traffic Management Act 2004 (c. 18), **ss. 9(2)**, 99 (with s. 38); S.I. 2004/2380, **art. 2(a)**; S.I. 2009/1095, **art. 2(a)**

C15 S. 102(2) applied (with modifications) (1.1.1997) by S.I. 1996/3038, **art. 5(2)**

C16 S. 102(2) modified (5.7.1993) by S.I. 1993/1474, **art. 5(2)**
S. 102(2) modified (4.10.1993) by S.I. 1993/2237, **art. 5(2)**.
S. 102(2) modified (6.12.1993) by S.I. 1993/2804, **art. 4(2)**.
S. 102(2) modified (31.1.1994) by S.I. 1993/3239, **art. 4(2)**.
S. 102(2) modified (15.11.2004) by The Road Traffic (Special Parking Area) (GLA Roads and GLA Side Roads) Order 2004 (S.I. 2004/2684), **art. 4(2)**

Marginal Citations

M5 1978 c. 3**(100:3).**

M6 1978 c. 3**(100:3).**

103 Supplementary provisions as to removal of vehicles.

(1) The Secretary of State may by regulations provide that, in relation to any vehicle which is or was in any part of a loading area while the parking of it in that area is or was prohibited by virtue of section 61 of this Act, sections 99 to 102 of this Act shall have effect with such additions, omissions and amendments as are prescribed by the regulations.

(2) In this section "loading area" has the same meaning as in section 61 of this Act.

[[F48](3) Regulations made under sections 99 to 102 of this Act may make different provision for different cases or classes of case or in respect of different areas.**]**

Textual Amendments

F48 S. 103(3) substituted (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4**, para.33; S.I. 1991/2054, **art. 3**,Sch.

Modifications etc. (not altering text)

C17 S. 103 excluded (23.6.1999) by S.I. 1999/1736, **art. 8(2)(a)**

C18 S. 103: certain functions transferred (31.12.2004) by The National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044), art. 2, **Sch. 1**

104 Immobilisation of vehicles illegally parked.

(1) Subject to sections 105 and 106 of this Act, where a constable finds on a road a vehicle which has been permitted to remain at rest there in contravention of any prohibition or restriction imposed by or under any enactment, he may—

(a) fix an immobilisation device to the vehicle while it remains in the place in which he finds it; or

(b) move it from that place to another place on the same or another road and fix an immobilisation device to it in that other place;

or authorise another person to take under his direction any action he could himself take by virtue of paragraph (a) or (b) above.

(2) On any occasion when an immobilisation device is fixed to a vehicle in accordance with this section the constable or other person fixing the device shall also affix to the vehicle a notice—

(a) indicating that such a device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from that device;

(b) specifying the steps to be taken in order to secure its release; and

(c) giving such other information as may be prescribed.

(3) A vehicle to which an immobilisation device has been fixed in accordance with this section may only be released from that device by or under the direction of a **[**[F49]person authorised to give such a direction by the chief officer of police within whose area the vehicle in question was found**]**.

(4) Subject to subsection (3) above, a vehicle to which an immobilisation device has been fixed in accordance with this section shall be released from that device on payment in any manner specified in the notice affixed to the vehicle under subsection (2) above of such charge in respect of the release as may be prescribed.

(5) A notice affixed to a vehicle under this section shall not be removed or interfered with except by or under the authority of the person in charge of the vehicle or the person by whom it was put in the place where it was found by the constable; and any person contravening this subsection shall be guilty of an offence.

(6) 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 vehicle in accordance with this section shall be guilty of an offence.

(7) Where a vehicle is moved in accordance with this section before an immobilisation device is fixed to it, any power of removal under regulations for the time being in force under section 99 of this Act which was exercisable in relation to that vehicle immediately before it was so moved shall continue to be exercisable in relation to that vehicle while it remains in the place to which it was so moved.

(8) In relation to any vehicle which is removed in pursuance of any such regulations or under section 3 of the [M7]Refuse Disposal (Amenity) Act 1978 (duty of local authority

to remove abandoned vehicles) from a place to which it was moved in accordance with this section, references in the definition of "person responsible" in section 102(8) of this Act and section 5 of the said Act of 1978 mentioned above (recovery from person responsible of charges and expenses in respect of vehicles removed) to the place from which the vehicle was removed shall be read as references to the place in which it was immediately before it was moved in accordance with this section.

(9) In this section "immobilisation device" means any device or appliance designed or adapted to be fixed to a vehicle for the purpose of preventing it from being driven or otherwise put in motion, being a device or appliance of a type approved by the Secretary of State for use for that purpose in accordance with this section.

[F50](10) . . . . . .

(11) Any sum received by virtue of subsection (4) above shall be paid into the police fund.

(12) Regulations under subsection (2) or (4) above may make different provision for different cases **[**[F51]or classes of case or in respect of different areas**]**.

[[F52](12A) For the purposes of this section, the suspension under section 13A or 49 of this Act of the use of a parking place is a restriction imposed under this Act.**]**

Textual Amendments

F49 Words in s. 104(3) substituted (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 34(2)**; S.I. 1991/2054, **art. 3**,Sch.

F50 S. 104(10) repealed (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 83, **Sch.8**; S.I. 1991/2054, **art. 3**,Sch.

F51 Words in s. 104(12) added (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4**, para. 34(3); S.I. 1991/2054, **art. 3**,Sch.

F52 S. 104(12A) inserted (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4**, para.35; S.I. 1991/2054, **art. 3**,Sch.

Modifications etc. (not altering text)

C19 S. 104 extended (21.3.1999) by S.I. 1999/854, **art. 3(2)(a)(ii)**

C20 S. 104(9): definition of "immobilisation device" applied (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 82(1)**, (with s. 79(1)); S.I. 1991/2054, **art. 3**,Sch

Marginal Citations

M7 1978 c. 3**(100:3).**

105 Exemptions from s. 104.

(1) Subject to the following provisions of this section, section 104(1) of this Act shall not apply in relation to a vehicle found by a constable in the circumstances mentioned in that subsection if either—

(a) a current disabled person's badge is displayed on the vehicle; or

(b) the vehicle is in a meter bay within a parking place designated by a designation order.

(2) The exemption under subsection (1)(b) above shall not apply in the case of any vehicle **[**[F53]found otherwise than in Greater London**]** if—

(a) the meter bay in which it was found was not authorised for use as such at the time when it was left there (referred to below in this section as the time of parking); or

(b) an initial charge was not duly paid at the time of parking; or

(c) there has been since that time any contravention in relation to the relevant parking meter of any provision made by virtue of section 46(2)(c) of this Act; or

(d) more than two hours have elapsed since the end of any period for which an initial charge was duly paid at the time of parking or (as the case may be) since the end of any unexpired time in respect of another vehicle available on the relevant parking meter at the time of parking.

[[F54](2A) The exemption under subsection (1)(b) above shall not apply in the case of any vehicle found in Greater London if the meter bay in which it was found was not authorised for use as such at the time when it was left there.**]**

(3) For the purposes of **[**[F55]subsections (2)(a) and (2A)**]** above, a meter bay in a parking place designated by a designation order is not authorised for use as such at any time when—

(a) by virtue of section 49(1)(a) of this Act the parking place is treated for the purposes of sections 46 and 47 of this Act as if it were not designated by that order; or

(b) the use of the parking place or of any part of it that consists of or includes that particular meter bay is suspended **[**[F56]under section 49(4) of this Act**]**.

(4) In relation to any vehicle found in a meter bay within a parking place designated by a designation order, references in subsection (2) above to an initial charge are references to an initial charge payable in respect of that vehicle under section 45 or 50 of this Act.

(5) In any case where section 104(1) of this Act would apply in relation to a vehicle but for subsection (1)(a) above, the person guilty of contravening the prohibition or restriction mentioned in section 104(1) is also guilty of an offence und\er this subsection if the conditions mentioned in subsection (6) below are met.

(6) Those conditions are that at the time when the contravention occurred—

(a) the vehicle was not being used **[**[F57]in accordance with regulations under**]** section 21 of the [M8]Chronically Sick and Disabled Persons Act 1970 (badges for display on motor vehicles used by disabled persons); and

(b) he was not using the vehicle in circumstances falling within section **[**[F58]117(1)(b)**]**of this Act.

(7) In this section, "meter bay" means a parking space equipped with a parking meter; and the references in subsection (2) above to the relevant parking meter are references to the parking meter relating to the meter bay in which the vehicle in question was found.

Textual Amendments

F53 Words in s. 105(2) inserted (10.4.1998) by Road Traffic Act 1991 (c. 40, SIF 107:1), ss. 81, **Sch. 7**, para. 6(2); S.I. 1998/967, **art. 2(1)**

F54 S. 105(2A) inserted (10.4.1998) by Road Traffic Act 1991 (c. 40, SIF 107:1), ss. 81, **Sch. 7**, para. 6(3); S.I. 1998/967, **art. 2(1)**

F55 Words in s. 105(3) substituted (10.4.1998) by Road Traffic Act 1991 (c. 40, SIF 107:1), ss. 81, **Sch. 7**, para. 6(4); S.I. 1998/967, **art. 2(1)**

F56 Words in s. 105(3)(b) repealed (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 83, **Sch. 8**; S.I. 1991/2054, art. 3, **Sch. 8**

F57 Words in s. 105(6)(a) substituted (1.4.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4**, para. 36(2); S.I. 1992/421, art. 2, **Sch.**

F58 Words in s. 105(6)(b) substituted (1.4.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4**, para. 36(3); S.I. 1992/421, art. 2, **Sch.**

Modifications etc. (not altering text)

C21 S. 105 extended (21.3.1999) by S.I. 1999/854, **art. 3(2)(a)(iii)**

Marginal Citations

M8 1970 c. 44**(81:3).**

106 Initial experimental period for immobilisation of vehicles.

(1) Sections 104 and 105 of this Act (referred to below in this section as the principal sections) shall extend only to such areas as the Secretary of State may by order specify; and the power of the Secretary of State to extend those sections to any area is subject to the following provisions of this section.

[F59](2) . . . . . .

[F59](3) . . . . . .

[F59](4) . . . . . .

(5) [F60] . . . for the purposes of the principal sections any order under this section extending those sections to any area may be made for a limited period or without limit of time (subject to variation or revocation by a further order under this section).

[F59](6) . . . . . .

(7) The Secretary of State shall not by order under this section (including any order varying an existing order) extend the principal sections to any area for the first time unless requested to do so by **[**[F61]the local traffic authority**]**.

[F62](8) . . . . . .

(9) The power of the Secretary of State to make any order under this section shall be exercisable by statutory instrument which, [F60] . . . , shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[F59](10) . . . . . .

Textual Amendments

F59 S. 106(2)-(4)(6)(10) repealed (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 83, **Sch. 8**; S.I. 1991/2054, art. 3, **Sch.**

F60 Words in s. 106(5)(9) repealed (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 83, **Sch. 8**; S.I. 1991/2054, art. 3, **Sch.**

F61 Words in s. 106(7) substituted (1.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 168(1) Sch. 8 para. 69(a)**; S.I. 1991/2286, art. 2(2), **Sch. 2**; S.I. 1991/2288, art. 3, **Sch.**

F62 S. 106(8) repealed (1.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1)(2) Sch. 8 para. 69(b), **Sch. 9**; S.I. 1991/2286, art. 2(2), **Sch. 2**; S.I. 1991/2288, art. 3, **Sch.**

[F63 106A Immobilisation of vehicles in London

(1) Sections 104 and 105 of this Act shall extend throughout Greater London if the Secretary of State makes an order to that effect.

(2) If such an order is made, section 106 of this Act shall cease to apply in relation to Greater London when the order comes into force.

(3) Before such an order comes into force, section 106 of this Act shall have effect as if in subsection (7) the words "or by the Traffic Director for London" were added at the end and as if the following subsection were inserted after subsection (7)—

"(7A) Before making an order under this section at the request of the Traffic Director for London, the Secretary of State shall consult the appropriate local authority."

(4) The power of the Secretary of State\ to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F63 S. 106A inserted (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s.75**, (with s. 79(1)); S.I. 1991/2054, **art. 3**,Sch.

Enforcement of excess parking charges

107 Liability of vehicle owner in respect of excess parking charge.

(1) This section applies where—

(a) an excess charge has been incurred in pursuance of an order under sections 45 and 46 of this Act;

(b) notice of the incurring of the excess charge has been given or affixed as provided in the order; and

(c) the excess charge has not been duly paid in accordance with the order;

and in the following provisions of this Part of this Act "the excess charge offence" means the offence under section 47 of this Act of failing duly to pay the excess charge.

(2) Subject to the following provisions of this section—

(a) for the purposes of ths institution of proceedings in respect of the excess charge offence against any person as being the owner of the vehicle at the relevant time, and

(b) in any proceedings in respect of the excess charge offence brought against any person as being the owner of the vehicle at the relevant time,

it shall be conclusively presumed (notwithstanding that that person may not be an individual) that he was the driver of the vehicle at that time and, accordingly, that acts or omissions of the driver of the vehicle at that time were his acts or omissions.

(3) Subsection (2) above shall not apply in relation to any person unless, within the period of 6 months beginning on the day on which the notice of the incurring of the excess charge was given or affixed as mentioned in subsection (1)(b) above, a notice under section 108 of this Act has been served on him—

Status: *Point in time view as at 25/11/2002. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Road Traffic Regulation Act 1984, Part VIII. (See end of Document for details)*

(a) by or on behalf of the authority which is the local authority for the purposes of sections 45 and 46 of this Act in relation to the parking place concerned, or

(b) by or on behalf of the chief officer of police.

(4) If the person on whom a notice under section 108 of this Act is served in accordance with subsection (3) above was not the owner of the vehicle at the relevant time, subsection (2) above shall not apply in relation to him if he furnishes a statutory statement of ownership to that effect in compliance with the notice.

(5) The presumption in subsection (2) above shall not apply in any proceedings brought against any person as being the owner of the vehicle at the relevant time if, in those proceedings, it is proved—

(a) that at the relevant time the vehicle was in the possession of some other person without the consent of the accused, or

(b) that the accused was not the owner of the vehicle at the relevant time and that he has a reasonable excuse for failing to comply with the notice under section 108 of this Act served on him in accordance with subsection (3) above.

108 Notice in respect of excess parking charge.

(1) A notice under this section shall be in the prescribed form, shall give particulars of the excess charge and shall provide that, unless the excess charge is paid before the expiry of the appropriate period, the person on whom the notice is served—

(a) is required, before the expiry of that period, to furnish to the authority or chief officer of police by or on behalf of whom the notice was served a statutory statement of ownership (as defined in Part I of Schedule 8 to this Act), and

(b) is invited, before the expiry of that period, to furnish to that authority or chief officer of police a statutory statement of facts (as defined in Part II of that Schedule).

(2) If, in any case where—

(a) a notice under this section has been served on any person, and

(b) the excess charge specified in the notice is not paid within the appropriate period,

the person so served fails without reasonable excuse to comply with the notice by furnishing a statutory statement of ownership he shall be guilty of an offence.

(3) If, in compliance with or in response to a notice under this section any person furnishes a statement which is false in a material particular, and does so recklessly or knowing it to be false in that particular, he shall be guilty of an offence.

(4) Where a notice under this section has been served on any person in respect of any excess charge—

(a) payment of the charge by any person before the date on which proceedings are begun for the excess charge offence, or, as the case may be, for an offence under subsection (2) above in respect of a failure to comply with the notice, shall discharge the liability of that or any other person (under this or any other enactment) for the excess charge offence or, as the case may be, for the offence under subsection (2) above;

(b) conviction of any person of the excess charge offence shall discharge the liability of any other person (under this or any other enactment) for that

offence and the liability of any person for an offence under subsection (2) above in respect of a failure to comply with the notice; and

(c) conviction of the person so served of an offence under subsection (2) above in respect of a failure to comply with the notice shall discharge the liability of any person for the excess charge offence;

but, except as provided by this subsection, nothing in section 107 of this Act or this section shall affect the liability of any person for the excess charge offence.

109 Modifications of ss. 107 and 108 in relation to hired vehicles.

(1) This section shall apply where—

(a) a notice under section 108 of this Act has been served on a vehicle-hire firm, and

(b) at the relevant time the vehicle in respect of which the notice was served was let to another person by the vehicle-hire firm under a hiring agreement to which this section applies.

(2) Where this section applies, it shall be a sufficient compliance with the notice served on the vehicle-hire firm if the firm furnishes to the chief officer of police or local authority by or on behalf of whom the notice was served a statement in the prescribed form, signed by or on behalf of the vehicle-hire firm, stating that at the relevant time the vehicle concerned was hired under a hiring agreement to which this section applies, together with—

(a) a copy of that hiring agreement, and

(b) a copy of a statement of liability in the prescribed form, signed by the hirer under that hiring agreement;

and accordingly, in relation to the vehicle-hire firm on whom the notice was served, the reference in section 108(2) of this Act to a statutory statement of ownership shall be construed as a reference to a statement under this subsection together with the documents specified in paragraphs (a) and (b) above.

(3) If, in a case where this section applies, the vehicle-hire firm has complied with the notice served on the firm by furnishing the statement and copies of the documents specified in subsection (2) above, then sections 107 and 108 of this Act shall have effect as if in those provisions—

(a) any reference to the owner of the vehicle were a reference to the hirer under the hiring agreement, and

(b) any reference to a statutory statement of ownership were a reference to a statutory statement of hiring.

(4) Where, in compliance with a notice under section 108 of this Act, a vehicle-hire firm has furnished copies of a hiring agreement and statement of liability as mentioned in subsection (2) above, a person authorised in that behalf by the chief officer of police or local authority to whom the documents are furnished may, at any reasonable time within 6 months after service of that notice, and on production of his authority, require the production by the firm of the originals of those documents; and if, without reasonable excuse, a vehicle-hire firm fails to produce the original of a document when required to do so under this subsection, the firm shall be treated as not having complied with the notice under section 108 of this Act.

(5) This section applies to a hiring agreement, under the terms of which the vehicle concerned is let to the hirer for a fixed period of less than 6 months (whether or not

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that period is capable of extension by agreement between the parties or otherwise); and any reference in this section to the currency of the hiring agreement includes a reference to any period during which, with the consent of the vehicle-hire firm, the hirer continues in possession of the vehicle as hirer, after the expiry of the fixed period specified in the agreement, but otherwise on terms and conditions specified in it.

(6) In this section "statement of liability" means a statement made by the hirer under a hiring agreement to which this section applies to the effect that the hirer acknowledges that he will be liable, as the owner of the vehicle, in respect of any excess charge which, during the currency of the hiring agreement, may be incurred with respect to the vehicle in pursuance of an order under sections 45 and 46 of this Act.

(7) In this section—

"hiring agreement" refers only to an agreement which contains such particulars as may be prescribed and does not include a hire-purchase agreement within the meaning of the [M9]Consumer Credit Act 1974, and

"vehicle-hire firm" means any person engaged in hiring vehicles in the course of a business.

Marginal Citations

M9 1974 c. 39**(60).**

110 Time for bringing, and evidence in, proceedings for certain offences.

(1) Proceedings in England or Wales for an offence under section 108(3) of this Act 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 no such proceedings shall be brought by virtue of this section more than 3 years after the commission of the offence.

(2) Proceedings in Scotland for an offence to which subsection (1) above applies shall not be commenced after the expiry of the period of 3 years from the commission of the offence; but, subject to the foregoing limitation, and notwithstanding anything in **[**[F64]section 136 of the Criminal Procedure (Scotland) Act 1995**]**, any such proceedings may be commenced at any time within 6 months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings came to his knowledge or, where such evidence was reported to him by a local authority, within 6 months after the date on which it came to their knowledge; and subsection (3) of the said **[**[F65]section 136**]** shall apply for the purposes of this subsection as it applies for the purpose of that section.

(3) For the purposes of subsections (1) and (2) above a certificate signed by or on behalf of the prosecutor or, as the case may be, the Lord Advocate or the local authority, and stating the date on which evidence such as is mentioned in the subsection in question came to his or their knowledge, shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(4) Where any person is charged with the offence of failing to pay an excess charge, and the prosecutor produces to the court any of the statutory statements in Schedule 8 to this Act or a copy of a statement of liability (within the meaning of section 109 of this Act) purporting—

(a) to have been furnished in compliance with or in response to a notice under section 108 of this Act, and

(b) to have been signed by the accused,

the statement shall be presumed, unless the contrary is proved, to have been signed by the accused and shall be evidence (and, in Scotland, sufficient evidence) in the proceedings of any facts stated in it tending to show that the accused was the owner, the hirer or the driver of the vehicle concerned at a particular time.

Textual Amendments

F64 Words in s. 110(2) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 49(a)**

F65 Words in s. 110(2) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 49(b)**

111 Supplementary provisions as to excess charges.

(1) The provisions of Schedule 8 to this Act shall have effect for the purposes of sections 107 to 109 of this Act (in this section referred to as "the specified sections").

(2) In the specified sections—

"appropriate period", in relation to a notice under section 108 of this Act, means the period of 14 days from the date on which the notice is served, or such longer period as may be specified in the notice or as may be allowed by the chief officer of police or authority by or on behalf of whom the notice is served;

"driver", in relation to an excess charge and in relation to an offence of failing duly to pay such a charge, means the person driving the vehicle at the time when it is alleged to have been left in the parking place concerned;

"relevant time", in relation to an excess charge, means the time when the vehicle was left in the parking place concerned, notwithstanding that the period in respect of which the excess charge was incurred did not begin at that time.

(3) For the purposes of the specified sections the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and for the purpose of determining, in the course of any proceedings brought by virtue of the specified sections, who was the owner of the vehicle at any time, it shall be presumed that the owner was the person who was the registered keeper of the vehicle at that time.

(4) Notwithstanding the presumption in subsection (3) above, it shall be open to the defence in any proceedings to prove that the person who was the registered keeper of a vehicle at a particular time was not the person by whom the vehicle was kept at that time, and it shall be open to the prosecution to prove that the vehicle was kept by some other person at that time.

(5) A notice under section 108 of this Act may be served on any person—

(a) by delivering it to him or by leaving it at his proper address, or

(b) by sending it to him by post;

and, where the person on whom such a notice is to be served is a body corporate, it shall be duly served if it is served on the secretary or clerk of that body.

(6) For the purposes of subsection (5) above and of section 7 of the [M10]Interpretation Act 1978 (references to service by post) in its application to that subsection, the proper address of any person on whom such a notice is to be served—

(a) shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of that body or the registered address of the person who is the registered keeper of the vehicle concerned at the time of service, and

(b) shall in any other case be the last known address of the person to be served.

(7) References in this section to the person who was or is the registered keeper of a vehicle at any time are references to the person in whose name the vehicle was or is at that time registered under **[**[F66]the Vehicle Excise and Registration Act 1994**]**; and, in relation to any such person, the reference in subsection (6)(a) above to that person's registered address is a reference to the address recorded in the record kept under the Act with respect to that vehicle as being that person's address.

(8) For the purposes of sections 1(2) and 2(1) of the [M11]Magistrates' Courts Act 1980 (power to issue summons or warrant and jurisdiction to try offences), any offence under subsection (2) of section 108 of this Act shall be treated as committed at any address which at the time of service of the notice under that section to which the offence relates was the accused's proper address (in accordance with subsection (6) above) for the service of any such notice as well as at the address to which any statutory statement furnished in response to that notice is required to be returned in accordance with the notice.

Textual Amendments

F66 Words in s. 111(7) substituted (1.9.1994) by 1994 c. 22, ss. 63, 66(1), **Sch. 3 para. 18(1)** (with s. 57(4))

Marginal Citations

M10 1978 c. 30**(115:1).**

M11 1980 c. 43**(82).**

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There are currently no known outstanding effects for the Road Traffic Regulation Act 1984, Part VIII.