

Local Transport Bill:

Extracts from the Greater London
Authority Act 1999 (as proposed
to be amended)

INTRODUCTION

This document shows amendments to Schedule 23 to the Greater London Authority Act 1999 that would be made by the Local Transport Bill [HL], if the Bill as introduced to the House of Lords were to be enacted without amendment. Amendments to the Bill during its passage through the Lords would not affect provisions in this Act.

The document has been prepared by the Department for Transport to assist the reader of the Bill; it has not been endorsed by Parliament, and it carries no legal force. While the Department has sought to ensure its accuracy, no liability can be accepted for any errors that remain.

**SCHEDULE 23 TO THE GREATER LONDON AUTHORITY ACT 1999
(SHOWING HOW IT WOULD BE AMENDED BY THE LOCAL TRANSPORT BILL [HL])**

SCHEDULE 23

ROAD USER CHARGING

Interpretation

1

(1) In this Schedule--

"borough scheme" means any charging scheme other than a TfL scheme;

"charging area" means an area to which a charging scheme applies;

"charging authority" means an authority which is the maker of a charging scheme;

"charging scheme" means a scheme for imposing charges in respect of the keeping or use of motor vehicles on roads in an area designated in the scheme;

"GLA road" includes a reference to a GLA side road;

"highway authority" has the same meaning as in the Highways Act 1980 (see in particular sections 1 to 9 of that Act);

"immobilisation device" has the same meaning as in section 104(9) of the Road Traffic Regulation Act 1984;

"motor vehicle" shall be construed in accordance with subsection (3) of section 295 of this Act;

"net proceeds", in relation to a charging scheme and a financial year, means the amount (if any) by which--

(a) the amounts received under or in connection with the scheme which are attributable to the financial year, exceed

(b) the expenses incurred for or in connection with the scheme which are so attributable;

"penalty charge" has the same meaning as in paragraph 12 below;

"penalty charge notice" means notice of a penalty charge;

"prescribed" means specified in, or determined in accordance with, regulations;

"registered keeper", in relation to a charge imposed in respect of a motor vehicle, means the person in whose name the vehicle was registered under the Vehicle Excise and Registration Act 1994 at the time of the act, omission, event or circumstances in respect of which the charge is imposed;

"regulations" means (except where otherwise provided) regulations made by the Secretary of State;

"relevant transport purpose" means any purpose which directly or indirectly facilitates the implementation of any policies or proposals set out in the Mayor's transport strategy;

"redistributed portion", in relation to the net proceeds of a charging scheme, shall be construed in accordance with paragraph 21(1) below;

"road" has the same meaning as in the Road Traffic Regulation Act 1984 (see section 142(1) of that Act);

"share of the net proceeds", in relation to a charging authority and a charging scheme, shall be construed in accordance with paragraph 18(2) below;

"TfL scheme" means a charging scheme made by Transport for London;

"traffic authority" has the same meaning as in the Road Traffic Regulation Act 1984 (see sections 121A and 142(1) of that Act);

"traffic sign" has the meaning given by section 64 of the Road Traffic Regulation Act 1984 but also includes signposts and other signs and notices included in that term by section 71(2) of that Act;

"trunk road" has the same meaning as in the Road Traffic Regulation Act 1984 (see section 142(1) of that Act).

(2) For the purposes of this Schedule--

- (a) the amounts received under or in connection with a charging scheme, and
- (b) the expenses incurred for or in connection with such a scheme,

and the extent to which they are attributable to any financial year, shall be determined in accordance with regulations under this sub-paragraph.

(3) Any reference in this Schedule to a class of motor vehicles is a reference to a class defined or described by reference to any characteristics of the motor vehicles or to any other circumstances whatsoever.

(4) For the purposes of this Schedule--

- (a) the City of London shall be treated as if it were a London borough;
- (b) the Common Council shall be treated as if it were the council for a London borough; and
- (c) the Inner Temple and the Middle Temple shall be treated as forming part of the City.

Authority functions exercisable by the Mayor

2

Any functions conferred or imposed on the Authority by or under this Schedule are exercisable by the Mayor acting on behalf of the Authority.

Conditions for making a charging scheme

3

A charging scheme may only be made if it appears desirable or expedient for the purpose of directly or indirectly facilitating the achievement of any policies or proposals set out in the Mayor's transport strategy.

Making a charging scheme

4

(1) Any charging scheme must be contained in an order--

- (a) made under this Schedule by the authority making the scheme; and
- (b) submitted to, and confirmed (with or without modification) by, the Authority.

(2) An order containing a charging scheme shall be in such form as the Authority may determine.

- (3) The Authority may--
- (a) consult, or require an authority making a charging scheme to consult, other persons;
 - (aa) require such an authority to publish its proposals for the scheme and to consider objections to the proposals;
 - (b) hold an inquiry, or cause an inquiry to be held, for the purposes of any order containing a charging scheme;
 - (c) appoint the person or persons by whom any such inquiry is to be held;
 - (d) make modifications to any such order, whether in consequence of any objections or otherwise, before the order takes effect;
 - (da) require the authority by whom any such order is made to publish notice of the order and of its effect;
 - (f) require the authority by whom any such order is made to place and maintain, or cause to be placed and maintained, such traffic signs in connection with that order as the Authority may determine.
- (4) Subsections (2) and (3) of section 250 of the Local Government Act 1972 (witnesses at local inquiries) apply in relation to any inquiry held by virtue of sub-paragraph (3)(b) above.
- (5) Where an inquiry is held by virtue of sub-paragraph (3)(b) above for the purposes of any order containing a charging scheme--
- (a) the costs of the inquiry shall be paid by the charging authority; and
 - (b) the parties at the inquiry shall bear their own costs.
- (6) The charging authority may enter any land, and exercise any other powers which may be necessary, for placing and maintaining, or causing to be placed and maintained, traffic signs in connection with the charging scheme.

Scheme to conform with Mayor's transport strategy

5

A charging scheme must be in conformity with the Mayor's transport strategy.

Approval of Authority required for inclusion of certain provisions

6

The approval of the Authority must be obtained before there is included in a borough scheme any provision of a description specified in a direction under this paragraph given by the Authority to the London borough councils.

Joint charging schemes

7

- (1) The Authority may authorise or require two or more London borough councils acting jointly to make a charging scheme applying to the whole or part of their combined areas (a "joint charging scheme").
- (2) In the application of this Schedule in relation to a joint charging scheme, any reference to the charging authority is a reference to all or any of the London borough councils concerned.

The contents of a charging scheme

8

A charging scheme must--

- (a) designate the area to which it applies;
- (b) specify the classes of motor vehicles in respect of which a charge is imposed;
- (c) designate those roads in the charging area in respect of which charges are imposed; and
- (d) specify the charges imposed.

The charging area and the roads

9 *<amended by clause 106>*

- (1) The designation of--
 - (a) the boundaries of the charging area, and
 - (b) the roads in that area in respect of which charges are imposed,

shall be such as the authority making the charging scheme may determine, subject to any modifications made by the Authority.

- (2) A TfL scheme may apply to an area which consists of the whole or any part of Greater London.
- (3) A borough scheme may apply to an area which consists of the whole or any part of the area of the authority (or, in the case of a joint charging scheme, the combined areas of the authorities) making the scheme.
- (4) A road shall not be subject to charges imposed by more than one charging authority at the same time, **except with the consent of the Authority**.
- (5) In the application of sub-paragraph (4) above in relation to a joint charging scheme, the authorities making the scheme shall be treated as if they together constituted a single charging authority.
- (6) A TfL scheme may impose charges in respect of roads in the charging area, whether or not Transport for London is the traffic authority or the highway authority for those roads.
- (7) A charging scheme must not impose charges in respect of a trunk road except with the consent of the Secretary of State.
- (8) A borough scheme may impose charges in respect of GLA roads.

The charges

10 *<amended by clause 105>*

- (1) A charging scheme shall specify or describe the events by reference to the happening of which a charge is imposed by the charging scheme in respect of a motor vehicle being kept or used on a road in a charging area.
- (2) Any charge imposed by a charging scheme in respect of the keeping of a motor vehicle on a road in a charging area must also have effect in respect of the use of the motor vehicle in that charging area.
- (3) A charging scheme may make provision in relation to the manner in which charges are to be made, collected, recorded or paid.

(4) The charges that may be imposed by a charging scheme include different charges (which may be no charge) for **different cases, including (in particular) --**

- (a) different days;
- (b) different times of day;
- (c) different parts of a charging area;
- (d) different distances travelled;
- (e) different classes of motor vehicles;
- (f) different methods or means of recording, administering, collecting or paying the charge.**

(5) In setting the rates of charge, regard may be had to the purposes for which the charging authority is to apply the net proceeds of the scheme.

Manner of payment of charges <inserted by clause 106>

10A

(1) Regulations may —

- (a) make provision requiring a charging scheme to provide that in specified circumstances—**
 - (i) persons of a specified description may pay, and**
 - (ii) where those persons so choose, the charging authorities must collect, the charges imposed by the scheme in a specified manner;**
- (b) make provision for or in connection with the arrangements to be made by the charging authority with any person for the purpose of enabling charges to be paid, and collected, as mentioned in paragraph (a).**

(2) In sub-paragraph (1) “specified” means specified in the regulations.

Exemptions, reduced rates etc

11

(1) The Secretary of State may by regulations make provision for or in connection with--

- (a) exemptions from charge,
- (b) the application of reduced rates of charge, or
- (c) the imposition of limits on the charges payable,

in the case of any prescribed class of motor vehicles or any prescribed description of disabled or other persons.

(2) Subject to any regulations under sub-paragraph (1) above and to paragraphs 4 and 6 above, a charging scheme may make provision for or in connection with--

- (a) exemptions from charge,
- (b) the application of reduced rates of charge, or
- (c) the imposition of limits on the charges payable,

in the case of any particular class of motor vehicles or description of persons.

Documents and equipment

11A

A charging scheme may require--

- (a) documents to be displayed while a motor vehicle is on a road in respect of which charges are imposed; or
- (b) equipment to be carried in or fitted to a motor vehicle while it is on such a road.

Penalty charges

12

- (1) Regulations may make provision for or in connection with the imposition and payment of penalty charges in respect of acts, omissions, events or circumstances relating to or connected with a charging scheme.
- (2) Regulations under sub-paragraph (1) above may make provision for or in connection with setting the rates of penalty charges (which may include provision for discounts or surcharges).
- (3) The Lord Chancellor may make regulations about the notification, adjudication and enforcement of penalty charges.

Liability for charges

13

Charges imposed in respect of any motor vehicle by a charging scheme (including penalty charges imposed in respect of any motor vehicle) shall be paid--

- (a) by the registered keeper of the motor vehicle; or
- (b) in prescribed circumstances, by such person as is prescribed.

Installation of equipment on roads or elsewhere

14

A charging authority may

- (a) install and maintain, or authorise the installation and maintenance of, any equipment; or
- (b) construct and maintain, or authorise the construction and maintenance of, buildings or other structures,

used or to be used in connection with the operation or enforcement of the charging scheme.

Accounts and funds

15

- (1) A charging authority shall keep an account relating to each of the authority's charging schemes.
- (2) Each of the following bodies, namely--
 - (a) the Authority,
 - (b) Transport for London, and
 - (c) a London borough council,

shall keep an account relating to the sums received by the body which represent net proceeds of charging schemes for which the body is not the charging authority.

(3) Each of the bodies required to keep an account under sub-paragraph (1) or (2) above shall prepare a statement of that account for each financial year.

(4) A statement of account required to be prepared under sub-paragraph (3) above for any financial year shall be published--

- (a) in the case of a statement of account prepared by Transport for London, in the annual report of Transport for London under section 161 of this Act for that year;
- (b) in any other case, in the annual accounts for that year of the body which prepared the statement of account.

(4A) Regulations may make further provision relating to--

- (a) accounts required to be kept under sub-paragraph (1) or (2) above (including provision requiring or allowing the keeping of consolidated accounts relating to more than one charging scheme); and
- (b) the preparation and publication of statements of such accounts.

(5) At the end of each financial year--

- (a) any deficit in an account required to be kept under sub-paragraph (1) or (2) above shall be made good out of the body's general fund; and
- (b) any surplus in any such account (after the application of any of the net proceeds in accordance with the following provisions) shall be dealt with in accordance with sub-paragraphs (6) and (7) below.

(6) Any such surplus shall be applied towards making good to the general fund any amount charged to that fund under sub-paragraph (5)(a) above in respect of the account in question in the ten years immediately preceding the financial year in question.

(7) So much of any surplus as remains after the application of sub-paragraph (6) above shall be carried forward in the account in question to the next financial year.

(8) In the application of this paragraph in relation to Transport for London, any reference to its general fund shall be taken as a reference to its gross income.

Application of the net proceeds

16 <amended by Schedule 6>

(1) In the case of any charging scheme ~~which comes into force during the period of ten years beginning with the inception of the Authority~~, the net proceeds of the scheme shall, ~~during the scheme's initial period~~, be available only for application for relevant transport purposes by any one or more of the following bodies, namely--

- (a) the Authority;
- (b) Transport for London; or
- (c) a London borough council.

(1A) Sub-paragraph (1) above is subject to paragraph 18(1A) and (1B) below.

~~(2) Except as provided by sub-paragraph (1) above, the net proceeds of a charging scheme shall be applied only as may be specified in, or determined in accordance with, regulations under this sub-paragraph.~~

~~(3) Regulations under sub-paragraph (2) above may include provision conferring a discretion on any body or person.~~

~~(4) The provision that may be made by regulations under sub-paragraph (2) above includes provision for sub-paragraph (1) above to continue to apply, but with the substitution for the number of years for the time being there mentioned of a number of years greater than ten.~~

(5) The net proceeds of charging schemes may only be applied for purposes which provide value for money.

(6) Sub-paragraphs ~~(1) to (5)~~ **(1) and (5)** above are without prejudice to paragraph 15(6) above.

~~(7) In this paragraph--~~

~~"the inception of the Authority" means the commencement of the term of office of the Mayor and Assembly members returned at the first ordinary election;~~

~~"the initial period", in the case of any charging scheme, means--~~

- ~~(a) the period of ten years beginning with the coming into force of the scheme; or~~
- ~~(b) such longer period as the Secretary of State may allow in the case of any particular scheme.~~

Provisions supplementary to paragraph 16

17 <amended by Schedule 6>

~~(1) Before making any regulations under paragraph 16(2) above, the Secretary of State shall make an assessment of what he considers to be--~~

- ~~(a) the likely amounts of net proceeds of charging schemes; and~~
- ~~(b) the potential for spending such net proceeds on relevant transport purposes which provide value for money.~~

~~(2) Before making any such regulations, the Secretary of State shall consult the Authority.~~

(3) The Secretary of State may issue guidance to the Authority, Transport for London and the London borough councils with respect to the appraisal of whether any application of net proceeds of a charging scheme for any purpose provides value for money.

(4) In determining how to apply the net proceeds of charging schemes, the Authority, Transport for London and any London borough council shall comply with any guidance issued by the Secretary of State under sub-paragraph (3) above.

(5) The Secretary of State may at any time vary the guidance under sub-paragraph (3) above.

~~(6) In determining for the purposes of paragraph 16 above when the initial period there mentioned begins or expires in the case of any charging scheme, regulations may make provision as to circumstances in which—~~

~~(a) the same charging scheme is to be regarded as continuing in force, notwithstanding the making of amendments or the revocation and replacement (with or without modifications) of a scheme; or~~

~~(b) a different scheme is, or is not, to be regarded as coming into force.~~

Apportionment of net proceeds of charging schemes

18 <amended by Schedule 6>

~~(1) Subject to any provision made by regulations under paragraph 16(2) above,~~ The Authority may require a charging scheme to include provision for such portion of the net proceeds as the Authority may determine to be paid to--

(a) the Authority,

(b) Transport for London, or

(c) such London borough councils as may be specified or described by the Authority,

for application for relevant transport purposes.

(1A) In the case of a charging scheme which imposes charges in respect of a trunk road, the Secretary of State may require the scheme to include provision for the payment to the Secretary of State of such portion of the net proceeds as is—

(a) provided for by the scheme, or

(b) otherwise determined with the consent of the Secretary of State.

(1B) Any portion of the net proceeds paid to the Secretary of State by virtue of sub-paragraph (1A) shall be available only for application for the purpose of directly or indirectly facilitating the achievement of any policies or proposals relating to transport.

(2) In this Schedule, any reference to a charging authority's share of the net proceeds of a charging scheme is a reference to so much of the net proceeds of the scheme as remains after the making of any payments to other bodies or persons required by virtue of sub-paragraph (1) **or (1A)** above ~~or regulations under paragraph 16(2) above.~~

(3) For the purposes of this Schedule, the payment by the Authority of a sum received by the Authority by virtue of sub-paragraph (1) above to any body corporate for the purpose of the application of that sum by that body for relevant transport purposes shall be taken to be the application of that sum by the Authority for relevant transport purposes.

Charging authority's 10 year plan for their share

19 *<amended by clause 113>*

(1) A charging scheme must include a statement of the charging authority's proposed general plan for applying the authority's share of the net proceeds of the scheme during the opening ten year period.

(2) In sub-paragraph (1) above, "the opening ten year period", in relation to any charging scheme, means the period which--

- (a) begins with the date on which the scheme comes into force; and
- (b) ends with the tenth financial year that commences on or after that date.

(3) An order containing a charging scheme shall not come into force unless and until the statement required by sub-paragraph (1) above has been approved--

- ~~(a) by the Secretary of State; and~~
- (b) if the scheme is a borough scheme, by the Authority.

~~(4) In the case of a borough scheme, an application for approval under sub-paragraph (3)(a) above may only be made--~~

- ~~(a) by the Authority acting on behalf of the charging authority; and~~
- ~~(b) after the giving by the Authority of the approval required by sub-paragraph (3)(b) above.~~

Charging authority's 4 year programmes for their share

20 *<amended by clause 113>*

(1) As long as a charging scheme remains in force, the charging authority shall, during every fourth financial year after the financial year in which the scheme comes into force, prepare a written statement of their proposed general programme for applying the authority's share of the net proceeds of the scheme during the next four financial years.

(2) Any statement required to be prepared under sub-paragraph (1) above must be submitted for approval to--

- ~~(a) the Secretary of State; and~~
- (b) in the case of a borough scheme, the Authority.

~~(3) Any statement required to be submitted to the Secretary of State under sub-paragraph (2)(a) above must be so submitted not less than six months before the end of the financial year during which the statement is required to be prepared.~~

~~(4) In the case of a borough scheme, any submission to the Secretary of State under sub-paragraph (2)(a) above may only be made--~~

- ~~(a) by the Authority acting on behalf of the charging authority; and~~
- ~~(b) after the giving by the Authority of the approval required by sub-paragraph (2)(b) above.~~

(5) Any statement prepared and **(where so required)** approved under this paragraph in the case of a charging scheme prevails for all purposes over any conflicting provisions in the statement included in the scheme pursuant to paragraph 19 above.

Authority's 10 year plan for the redistributed portion

21 <amended by clause 113>

- (1) This paragraph applies in relation to a charging scheme which by virtue of paragraph 18(1) above includes provision for a portion of the net proceeds of the scheme (the "redistributed portion") to be paid by the charging authority to another body.
- (2) The Authority shall prepare ~~and submit to the Secretary of State~~ a statement of the Authority's general plan for the application (whether by the Authority or any other body) of the redistributed portion during the opening ten year period.
- (3) In sub-paragraph (2) above, "the opening ten year period", in relation to any charging scheme, means the period which--
 - (a) begins with the date on which the scheme comes into force; and
 - (b) ends with the tenth financial year that commences on or after that date.

~~(4) — An order containing a charging scheme shall not come into force unless and until any statement required by sub-paragraph (2) above in the case of that scheme has been approved by the Secretary of State.~~

Authority's 4 year programmes for the redistributed portion

22 <amended by clause 113>

- (1) As long as a charging scheme to which paragraph 21 above applies remains in force, the Authority shall, during every fourth financial year after the financial year in which the scheme comes into force, prepare the statement described in sub-paragraph (2) below.
- (2) That statement is a written statement of the Authority's proposed general programme for the application (whether by the Authority or any other body) of the redistributed portion of the net proceeds of the scheme during the next four financial years.
- ~~(3) — Any statement required to be prepared under sub-paragraph (1) above must be submitted for approval to the Secretary of State not less than six months before the end of the financial year during which the statement is required to be prepared.~~
- (4) A statement prepared ~~and approved~~ under this paragraph for any scheme prevails for all purposes over any conflicting provisions in the statement prepared ~~and approved~~ under paragraph 21 above for that scheme.

Non-compliance with paragraph 20 or 22 above

23 <amended by clause 113>

- (1) Except with the consent of the Secretary of State in any particular case, none of the charging authority's share of the net proceeds of a charging scheme may be applied in any financial year beginning after the end of the opening four year period unless and until a statement under paragraph 20 above having effect in relation to a period in which that year falls has been prepared and **(where so required)** approved under that paragraph.
- (2) Except with the consent of the Secretary of State in any particular case, none of the redistributed portion of the net proceeds of a charging scheme may be applied in any financial year beginning after the end of the opening four year period unless and until a statement under paragraph 22 above having effect in relation to a period in which that year falls has been prepared ~~and approved~~ under that paragraph in relation to the scheme.

(3) In this paragraph, "the opening four year period", in relation to any charging scheme, means the period which--

- (a) begins with the date on which the scheme comes into force; and
- (b) ends with the fourth financial year that commences on or after that date.

4 year programmes: amendment, replacement and voluntary statements

24 <amended by clause 113>

(1) Where a statement has been prepared and **(where so required)** approved under paragraph 20 or 22 above, the authority which prepared the statement may--

- (a) amend the statement, or
- (b) replace it with another statement (a "replacement statement"),

but subject to the following provisions of this paragraph.

(2) Subject to the following provisions of this paragraph, where a charging scheme is in force--

- (a) the charging authority may prepare a statement such as is described in paragraph 20(1) above, and
- (b) if the charging scheme is one to which paragraph 21 above applies, the Authority may prepare a statement such as is described in paragraph 22(2) above,

at any time before the beginning of the first financial year for which a statement under paragraph 20 or, as the case may be, paragraph 22 above is required to be prepared in respect of the scheme.

(3) For the purposes of this paragraph--

- (a) a "voluntary statement" is a statement prepared under sub-paragraph (2)(a) or (b) above,
- (b) a statement prepared under sub-paragraph (2)(a) above shall be treated as a statement prepared under paragraph 20 above and, if approved in accordance with the provisions of this paragraph, as approved under that paragraph, and
- (c) a statement prepared under sub-paragraph (2)(b) above shall be treated as a statement prepared under paragraph 22 above ~~and, if approved in accordance with the provisions of this paragraph, as approved under that paragraph,~~

and references to statements under paragraph 20 or 22 above shall be construed accordingly.

(4) The power conferred by sub-paragraph (1)(b) or (2) above is exercisable--

- (a) in the case of a statement under paragraph 20 above in respect of a borough scheme, during the period of six months beginning with the day on which a change of control of the London borough council concerned occurs; or
- (b) in any other case, during the period of six months beginning with the term of office of any person returned as the Mayor at an ordinary election or at an election under section 16 of this Act.

- (5) Where, in exercise of the powers conferred by this paragraph, an authority proposes--
- (a) to amend or replace a statement prepared and **(where so required)** approved under paragraph 20 or 22 above, or
 - (b) to prepare a voluntary statement,

sub-paragraph (6) below applies.

(6) Where this sub-paragraph applies, the amendment, replacement statement or voluntary statement must be submitted for approval--

- ~~(a) to the Secretary of State; and~~
- (b) if the statement concerned or affected is one prepared in respect of a borough scheme by the charging authority, to the Authority.

~~(7) Where sub-paragraph (6)(b) above applies, any submission to the Secretary of State under sub-paragraph (6)(a) above may only be made--~~

- ~~(a) by the Authority acting on behalf of the charging authority concerned; and~~
- ~~(b) after the giving by the Authority of the approval required by sub-paragraph (6)(b) above.~~

(8) Where a statement prepared and **(where so required)** approved under paragraph 20 or 22 above is amended in accordance with this paragraph, the statement shall continue to be regarded for the purposes of this Schedule as a statement so prepared and **(where so required)** approved, notwithstanding the amendment.

(9) A replacement statement or a voluntary statement must relate to the four financial years beginning with the financial year in which it takes effect (disregarding so much of that year as has expired before the statement takes effect).

(10) A replacement statement or voluntary statement prepared and **(where so required)** approved under this paragraph shall be taken for the purposes of this Schedule to be a statement ~~prepared and approved--~~

- (a) **prepared and approved** under paragraph 20 above, if it was prepared in respect of a charging scheme by the charging authority; or
- (b) **prepared** under paragraph 22 above, if it was prepared by the Authority.

(11) Where a voluntary statement or replacement statement prepared by an authority takes effect, the time at which any subsequent statement is required to be prepared by that authority by virtue of paragraph 20 or 22 above in respect of the charging scheme in question shall be determined as if the financial year preceding that in which the replacement statement or voluntary statement takes effect had been such a fourth year as is mentioned in sub-paragraph (1) of that paragraph.

Offences

25 <amended by clause 108>

(1) A person who, with intent to avoid payment of a charge imposed by a charging scheme or with intent to avoid being identified as having failed to pay such a charge,--

- (a) interferes with any equipment, **or with the functioning of any equipment**, used for or in connection with charging under a charging scheme, or
- (b) causes or permits the registration plate of a motor vehicle to be obscured,

is guilty of an offence.

(1A) A person who makes or uses any false document with intent to avoid payment of, or being identified as having failed to pay, a charge imposed by a charging scheme or a penalty charge is guilty of an offence.

(2) A person guilty of an offence under sub-paragraph (1) or (1A) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.

(3) A person is guilty of an offence if he removes a penalty charge notice which has been fixed to a motor vehicle in accordance with regulations under paragraph 12 above unless--

- (a) he is the registered keeper of the vehicle or a person using the vehicle with his authority; or
- (b) he does so under the authority of the registered keeper or such a person or of the charging authority.

(4) A person guilty of an offence under sub-paragraph (3) above shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Examination of motor vehicles etc

26 <amended by clause 108>

(1) Regulations may make provision conferring powers on prescribed persons for or in connection with--

- (a) examining a motor vehicle for the purpose of ascertaining whether any document required by a charging scheme to be displayed while a motor vehicle is on a road in a charging area is so displayed; or
- (b) examining a motor vehicle for the purpose of ascertaining whether any equipment required by a charging scheme to be carried in or fitted to a motor vehicle while the vehicle is on a road in a charging area--
 - (i) is so carried or fitted,
 - (ii) is in proper working order, or
 - (iii) has been interfered with with intent to avoid payment of, or **to avoid any person** being identified as having failed to pay, a charge,

or whether any conditions relating to the use of any such equipment are satisfied.

(2) Regulations may make provision conferring power on any person authorised in writing by the charging authority to enter a motor vehicle where he has reasonable grounds for suspecting, in relation to a motor vehicle which is on a road, that--

- (a) any equipment required to be carried in or fitted to the motor vehicle while it is on a road in respect of which charges are imposed has been interfered with with intent to avoid payment of, or **to avoid any person** being identified as having failed to pay, a charge imposed by the charging scheme; or
- (b) there is in the motor vehicle a false document which has been made or used with intent to avoid payment of, or **to avoid any person** being identified as having failed to pay, such a charge.

(2A) The references in sub-paragraphs (1)(b)(iii) and (2)(a) to interfering with equipment include references to interfering with the functioning of it.

(3) A person who intentionally obstructs a person exercising any power conferred on him by virtue of sub-paragraph (2) above is guilty of an offence.

(4) A person guilty of an offence under sub-paragraph (3) above shall be liable on summary conviction to--

- (a) a fine not exceeding level 5 on the standard scale, or
- (b) imprisonment for a term not exceeding six months,

or to both.

(5) Regulations may make provision conferring power on any person authorised in writing by the charging authority to seize anything (if necessary by detaching it from a motor vehicle) and detain it as evidence of the commission of an offence under paragraph 25 above.

Removal or immobilisation of motor vehicles

27

(1) Regulations may make provision for or in connection with--

- (a) the fitting of immobilisation devices to motor vehicles;
- (aa) the fixing of immobilisation notices to motor vehicles to which an immobilisation device has been fitted;
- (b) the removal and storage of motor vehicles;
- (c) the release of motor vehicles from immobilisation devices or from storage;
- (d) requiring the satisfaction of conditions before the release of a motor vehicle; and
- (e) the sale or destruction of motor vehicles not released.

(2) A person who removes or interferes with an immobilisation notice in contravention of provision made by virtue of sub-paragraph (1) above is guilty of an offence.

(3) A person who removes or attempts to remove an immobilisation device fixed to a motor vehicle in accordance with provision made by virtue of sub-paragraph (1) above in contravention of such provision is guilty of an offence.

(4) A person who intentionally obstructs a person exercising any power conferred on him by provision made by virtue of sub-paragraph (1) above is guilty of an offence.

(5) A person guilty of an offence under sub-paragraph (2) above shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

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

Determination of disputes and appeals

28

The Lord Chancellor may by regulations make provision for or in connection with--

- (a) the determination of disputes;
- (b) appeals against determinations or any failure to make a determination;
- (c) the appointment of persons to hear any such appeals.

~~*Approval of equipment*~~ *Approval of equipment and directions for use*

29 ~~*amended by clause 109*~~

(1) No equipment of a description specified in a direction under this paragraph given by the Authority to Transport for London and every London borough council may be used in connection with a charging scheme unless

- (a) the equipment is of a type approved by the Authority, or**
- (b) the equipment is used in accordance with directions given by the Authority.**

(2) Where the Secretary of State considers that--

- (a) equipment of any particular description used in connection with a charging scheme ("the non-standard equipment") is incompatible with a national standard for equipment of that or any other description, and
- (b) the incompatibility is detrimental to the interests of persons resident in England outside Greater London,

he may give notice of that fact to the Authority.

(3) Where the Secretary of State has given notice under sub-paragraph (2) above to the Authority, the non-standard equipment may no longer be used in connection with a charging scheme except with the authorisation of the Secretary of State.

(3A) Where the Secretary of State considers that—

- (a) directions under sub-paragraph (1)(b) above regarding the use of equipment in connection with a charging scheme are incompatible with regulations under section 176(2)(b) of the Transport Act 2000, and**
- (b) the incompatibility is detrimental to the interests of persons resident in England outside Greater London,**

he may give notice of that fact to the Authority.

(3B) Where the Secretary of State has given notice under sub-paragraph (3A) above to the Authority, the equipment in question may no longer be used in connection with a charging scheme except with the authorisation of the Secretary of State.

(4) Any authorisation under sub-paragraph (3) **or (3B)** above may be given subject to conditions.

(5) Any authorisation under sub-paragraph (3) **or (3B)** above, and any conditions under sub-paragraph (4) above, may be varied or revoked.

(6) In this paragraph "national standard" means any standard approved by the Secretary of State by regulations under section 176(2) of the Transport Act 2000.

Evidence

30

The Lord Chancellor may by regulations make provision for or in connection with permitting evidence of a fact relevant to proceedings for an offence under this Schedule, or proceedings in respect of a failure to comply with the provisions of a charging scheme, to be given by the production of--

- (a) a record produced by a prescribed device; and
- (b) a certificate (whether in the same or another document) as to the circumstances in which the record was produced signed by a prescribed person.

Exclusions for motor vehicles not on roads

31

A charging scheme may not authorise or require--

- (a) the imposition of charges in respect of a motor vehicle by reference to its presence in a charging area at a time at which the vehicle is not on a road;
- (b) the examination, for any purpose relating to or connected with this Schedule, regulations or a charging scheme, of a motor vehicle found in a charging area at a time at which the vehicle is not on a road; or
- (c) the fitting of an immobilisation device to, or the removal of, a motor vehicle found in a charging area at a time at which the vehicle is not on a road.

Expenses

32

The Authority, Transport for London or a London borough council may--

- (a) incur expenditure in or in connection with the establishment or operation of a charging scheme; or
- (b) enter into arrangements (including arrangements for forming or participating in companies) with any body or person in respect of the operation of a charging scheme or relating to the installation or operation of any equipment used for or in connection with the operation of a charging scheme.

Directions by the Authority

33

- (1) The Authority may give to any London borough council general or specific directions requiring the council to exercise, in such manner as may be specified in the directions,--
 - (a) any of the council's powers under this Schedule; or
 - (b) for purposes connected with a charging scheme made by that council or any other authority, any of the council's powers under any other enactment relating to the management or control of traffic.
- (2) A London borough council shall comply with any directions given to the council by the Authority.

Guidance by the Authority

34

- (1) The Authority may issue guidance to Transport for London or any London borough council in relation to the discharge of their functions under this Schedule.
- (2) Transport for London or a London borough council in exercising any function under this Schedule shall have regard to any guidance issued by the Authority under this paragraph.
- (3) Guidance issued under this paragraph shall be published in such manner as the Authority consider appropriate; and the Authority may at any time vary or revoke such guidance.

Information

34A *<amended by clause 111>*

- (1) Information obtained by--
 - (a) any Minister of the Crown or government department, or
 - (b) any local authority or other statutory body,

may be disclosed to ~~a charging authority for or in connection with the exercise of any of their functions with respect to a charging scheme~~ **Transport for London or a London borough council for or in connection with the performance or proposed performance of any of their functions under this Schedule or with respect to a charging scheme or proposed charging scheme.**

- (2) ~~Information obtained by a charging authority for or in connection with any of their functions other than their functions with respect to a charging scheme may be used by the authority for or in connection with the exercise of any of their functions with respect to a charging scheme.~~ **Information obtained by Transport for London or a London borough council for or in connection with their functions other than their functions under this Schedule may be used by them for or in connection with the performance or proposed performance of any of their functions under this Schedule or with respect to a charging scheme or proposed charging scheme.**

(3) Any information--

(a) which has been or could be disclosed to a charging authority under sub-paragraph (1) above for or in connection with the exercise of any of their functions with respect to a charging scheme, or

(b) which has been or could be used by an authority by virtue of sub-paragraph (2) above for or in connection with the exercise of any of those functions,

may be disclosed to any person with whom the authority has entered into arrangements under paragraph 32(b) above.

(4) Information disclosed to a person under sub-paragraph (3) above--

(a) may be disclosed to any other person for or in connection with the charging scheme; but

(b) may not be used (by him or any other person to whom it is disclosed under paragraph (a) above) otherwise than for or in connection with the charging scheme.

(5) The Secretary of State may charge a reasonable fee in respect of the cost of supplying information under sub-paragraph (1) or (3).

(6) Where Transport for London or a London borough council asks the Secretary of State to obtain overseas registration information from an overseas registration authority with a view to the Secretary of State disclosing that information under sub-paragraph (1) or (3), the Secretary of State may charge a reasonable fee in respect of the cost of obtaining, or seeking to obtain, the information.

(7) In this paragraph—

“overseas registration authority” means any authority of a country or territory outside the United Kingdom with responsibility under the law of that country or territory for maintaining a register of vehicles;

“overseas registration information” means information derived from particulars contained in a register of vehicles that is maintained by an overseas registration authority.

Power to require information <inserted by clause 110>

34B

(1) The Secretary of State may direct —

(a) Transport for London,

(b) any London borough council, or

(c) the Authority,

to provide the Secretary of State, within a specified period, with specified information connected with any aspect of the performance or proposed performance of their functions under this Schedule.

(2) The information that may be specified in such a direction must be information which the authority have in their possession or can reasonably be expected to acquire.

(3) A direction under this section may be given to two or more of the bodies mentioned in sub-paragraph (1) or to such of those bodies as are specified in the direction.

Crown roads

35

- (1) This Schedule applies in relation to Crown roads as it applies in relation to other roads.
- (2) In sub-paragraph (1) above "Crown road" has the same meaning as in section 131 of the Road Traffic Regulation Act 1984.

Crown application

36

- (1) Subject to the provisions of this paragraph, the provisions of this Schedule and of regulations and charging schemes made under it shall bind the Crown.
- (2) No contravention by the Crown of any provision of this Schedule or of any regulations or charging scheme made under it shall make the Crown criminally liable; but the High Court may, on the application of a charging authority, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Notwithstanding anything in sub-paragraph (2) above, the provisions of this Schedule and of regulations and charging schemes made under it shall apply to motor vehicles or persons in the public service of the Crown as they apply to other motor vehicles or persons.
- (4) No power of entry conferred by this Schedule or regulations made under it shall be exercisable in relation to any motor vehicle in the public service of the Crown.
- (5) Nothing in this paragraph shall be taken as in any way affecting Her Majesty in her private capacity; and this sub-paragraph shall be construed as if section 38(3) of the Crown Proceedings Act 1947 (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act.

Duration of charging schemes

37

A charging scheme shall state whether or not it is to remain in force indefinitely and, if it is not to remain in force indefinitely, shall state the period for which it is to remain in force.

Variation and revocation of charging schemes

38

The power to make a charging scheme includes power to vary or revoke such a scheme; and paragraph 4 above (apart from sub-paragraphs (3)(f) and (6)) applies in relation to the variation or revocation of a charging scheme as to the making of a charging scheme.