



London Local Authorities Act 2007

2007 CHAPTER ii

PART 4

PENALTY CHARGES AND FIXED PENALTIES

Introductory

60 Joint committees

- (1) In this Part of this Act, a “joint committee” means any joint committee established under section 101(5) of the Local Government Act 1972 (c. 70) and comprising at least one member from each borough council.
- (2) The functions conferred on the borough councils by subsections (1) and (5) of section 66 (levels of penalty charges) of this Act shall be discharged by a joint committee.

Penalty Charges

61 Penalty charges

- (1) This section applies where a borough council have reason to believe that a penalty charge is payable to them by virtue of a penalty charge provision.
- (2) The borough council may serve a penalty charge notice on the person appearing to them to be the appropriate recipient.
- (3) A penalty charge notice under this section must—
 - (a) state—
 - (i) the grounds on which the council believe that the penalty charge is payable;
 - (ii) the amount of the penalty charge which is payable;

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- (iii) that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice;
 - (iv) that if the penalty charge is paid before the end of the period of 14 days beginning with the date of the notice, the amount of the penalty charge will be reduced by the specified proportion;
 - (v) that, if the penalty charge is not paid before the end of the 28 day period, an increased charge may be payable;
 - (vi) the amount of the increased charge;
 - (vii) the address to which payment of the penalty charge must be sent; and
 - (viii) that the person on whom the notice is served may be entitled to make representations under subsection (1) of section 62 (representations and appeals) of this Act; and
- (b) specify the form in which any such representations are to be made.
- (4) The Secretary of State may by regulations prescribe—
- (a) additional matters which must be dealt with in any penalty charge notice; and
 - (b) the time within which a penalty charge notice must be served.
- (5) In subsection (3)(a)(iv) above, “specified proportion” means such proportion, applicable in all cases, as may be determined for the purposes of this section by the borough councils acting through a joint committee.
- (6) Schedule 4 to this Act shall have effect with respect to financial provisions relating to the provisions of this section.
- (7) In this section—
- “appropriate recipient” means the appropriate recipient for the purposes of this section designated as such by the relevant penalty charge provision;
 - “penalty charge provision” means any enactment which is by the enactment itself or by another enactment designated as a penalty charge provision for the purposes of this section.
- (8) In determining, for the purposes of any provision of this Part of this Act, whether a penalty charge has been paid before the end of a particular period, it shall be taken to be paid when it is received by the council.

62 Representations and appeals

- (1) Where it appears to a person on whom a penalty charge notice has been served under section 61 (penalty charges) of this Act that one or other of the grounds mentioned in the penalty charge provision is satisfied, he may make representations to that effect to the borough council.
- (2) The Lord Chancellor may make provision by regulations relating to such representations to the borough council and to an appeal to an adjudicator if his representations are not accepted.
- (3) The regulations may make such provision in connection with the rights to make representations or to appeal as appears to the Lord Chancellor to be appropriate, and may in particular make provision—
- (a) requiring the council to give a person notice of the rights;
 - (b) as to the time within which representations may be made;
 - (c) requiring supporting evidence in such circumstances as may be specified;

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- (d) as to the duties of the council 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, appeals; and
 - (g) enabling an adjudicator to review any decision made on, or in the course of, an appeal.
- (4) The regulations may provide that, as respects a ground on which representations may be made, the adjudicator's function on an appeal is to decide whether to direct the council to consider or re-consider (as the case may be) any representations relating to that ground.
- (5) The regulations may include provision—
- (a) authorising an adjudicator to require a person—
 - (i) to attend to give evidence at the hearing of an appeal; and
 - (ii) to produce any documents in his custody or under his control relating to any matter relevant for the purposes of the appeal; and
 - (b) 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.
- (6) The regulations may provide that a person who makes a representation that is false in a material particular, and does so recklessly or knowing it to be false, commits an offence triable summarily and punishable with a fine not exceeding level 5 on the standard scale.
- (7) 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.
- (8) Subject to subsection (9) below, until such time as regulations are in force under subsection (2) above—
- (a) paragraphs 1(2), (3) and (7), 2, 3, and 4 of Schedule 1 to the [London Local Authorities and Transport for London Act 2003 \(c. iii\)](#) shall, with any necessary modifications, apply in relation to representations and appeals under this section; and
 - (b) any regulations under section 73(11) of the Road Traffic Act 1991 (c. 40) (provision as to procedure to be followed in relation to proceedings before parking adjudicators) in force at the coming into operation of this Part shall, with any necessary modifications, apply in relation to such proceedings before parking adjudicators when exercising the functions of adjudicators under this section.
- (9) If the paragraphs and regulations mentioned in paragraphs (a) and (b) of subsection (8) above are repealed or revoked by the Traffic Management Act 2004 (c. 18) or regulations made under it, then until such time as regulations are in force under subsection (2) above, any regulations under section 80 of the Traffic Management Act 2004 shall, with any necessary modifications, apply in relation to representations, appeals and adjudicators as if made under the corresponding provisions of this section and section 63 (adjudicators) of this Act.

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63 Adjudicators

- (1) The Lord Chancellor may make provision by regulations for and in connection with the appointment of adjudicators for the purposes of this Part.
- (2) The following provisions apply in relation to the office of adjudicator—
 - (a) to be qualified for appointment as an adjudicator, a person must have a 5-year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41));
 - (b) an adjudicator is appointed for a term, not exceeding five years, specified in his instrument of appointment;
 - (c) on the expiry of a term of appointment an adjudicator is eligible for re-appointment;
 - (d) an adjudicator may be removed from office only for misconduct or on the ground that he is unable or unfit to discharge his functions, but otherwise holds and vacates office in accordance with the terms of his appointment.
- (3) The regulations shall provide—
 - (a) for adjudicators to be appointed by the borough councils on such terms as those councils may decide; and
 - (b) for the consent of the Lord Chancellor to be required for any decision by those authorities—
 - (i) to appoint a person as an adjudicator;
 - (ii) not to re-appoint a person as an adjudicator; or
 - (iii) to remove a person from his office as adjudicator.
- (4) The borough councils shall—
 - (a) provide, or make arrangements for the provision of, accommodation and administrative staff and facilities for adjudicators; and
 - (b) determine the places where adjudicators are to sit,and shall defray all the expenses of the adjudication process and, in particular, expenses in relation to the remuneration of adjudicators.
- (5) The regulations shall provide—
 - (a) for each adjudicator to make an annual report to the councils in accordance with such requirements as may be imposed by the councils; and
 - (b) for the councils to make and publish an annual report to the Secretary of State on the discharge by the adjudicators of their functions.
- (6) The regulations shall provide for the functions of the borough councils under this section to be discharged by a joint committee.
- (7) The expenses of the councils under this section shall be defrayed by them in such proportions—
 - (a) as they may decide; or
 - (b) in default of a decision by them, as may be determined in accordance with regulations made by the Secretary of State.
- (8) Regulations under subsection (7)(b) above may, in particular, provide—
 - (a) for the matter to be determined by an arbitrator appointed by a body specified in the regulations; and

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- (b) for the giving of directions by the Secretary of State in order to secure that the matter is referred to arbitration.
- (9) Until regulations are made under this section for and in connection with the appointment of adjudicators for the purposes of this Part, functions of adjudicators under this Part shall be discharged by—
- (a) the persons who are appointed as parking adjudicators under section 73 of the Road Traffic Act 1991 (c. 40) (until that section is repealed by section 98 of the Traffic Management Act 2004) (c. 18); or
 - (b) the persons appointed under regulations made under section 81 of the said Act (adjudicators) as adjudicators for the purposes of Part 6 of that Act (after the said section 73 is repealed).

64 Enforcement of penalty charges

- (1) The Lord Chancellor may make regulations for or in connection with the enforcement of penalty charges.
- (2) The regulations may include provision—
 - (a) creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be specified;
 - (b) for amounts payable under or by virtue of any provision of this Part to be recoverable, if a county court so orders, as if they were payable under a county court order.
- (3) An amount to which subsection (2)(b) above applies that is so recoverable is referred to below as a “penalty charge debt”.
- (4) The Lord Chancellor may by order make provision—
 - (a) for warrants of execution in respect of penalty charge debts, or such class or classes of penalty charge debts as may be specified in the order, to be executed by certificated bailiffs;
 - (b) as to the requirements that must be satisfied before a person takes any other step of a kind specified in the order, with a view to enforcing the payment of—
 - (i) a penalty charge debt; or
 - (ii) such class or classes of penalty charge debts as may be so specified.
- (5) Any such order may make such incidental and supplementary provision (including modifications of any enactment other than this Act) as the Lord Chancellor considers appropriate in consequence of the provision made by the order.
- (6) Any order in force immediately before the commencement of this Part of this Act under—
 - (a) section 78(2) of the Road Traffic Act 1991 (c. 40); or
 - (b) section 82(3) of the Traffic Management Act 2004 (c. 18),shall, with any necessary modifications, have effect after that commencement as if made under the corresponding provisions of this section and shall apply in relation to the enforcement of any penalty charge debt.

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65 Certified bailiffs

- (1) For the purposes of section 64 (enforcement of penalty charges) of this Act a person is a certificated bailiff if he is authorised to act as such by a certificate signed—
 - (a) by a judge assigned to a county court district; or
 - (b) in such circumstances as may be specified in regulations made by the Lord Chancellor, by a district judge.
- (2) The Lord Chancellor may by regulations make provision in connection with the certification of bailiffs under this section and the execution of warrants of execution by such bailiffs.
- (3) The regulations may, in particular, make provision—
 - (a) as to the security (if any) to be required from certificated bailiffs;
 - (b) as to the fees and expenses payable with respect to execution by certificated bailiffs; and
 - (c) for the suspension or cancellation of certificates issued under this section and with respect to the effect of any such suspension or cancellation.
- (4) Any regulations in force immediately before the commencement of this Part under—
 - (a) section 78(4) to (6) of the Road Traffic Act 1991; or
 - (b) section 83 of the Traffic Management Act 2004,shall, with any necessary modifications, have effect after that commencement as if made under the corresponding provisions of this section.
- (5) A person who is not a certificated bailiff but who purports to levy a distress as such a bailiff, and any person authorising him to levy it, shall be deemed to have committed a trespass.

66 Levels of penalty charges

- (1) It shall be the duty of the borough councils to set the levels of penalty charges payable to them under section 61 (penalty charges) of this Act.
- (2) Different levels may be set for different areas in Greater London and for different cases or classes of case.
- (3) In setting the level of penalty charges under subsection (1) above the councils may take account of—
 - (a) any reasonable costs or expected costs incurred or to be incurred in connection with the administration of the provisions of the enactment under which the particular contravention giving rise to the penalty charge notice is created; and
 - (b) the cost or expected cost of enforcing the provisions of the relevant enactment.
- (4) Levels of penalty charges set by the councils in accordance with this section may only come into force in accordance with section 67 (penalty charges: reserve powers of Secretary of State) of this Act.
- (5) The councils shall publish, in such manner as the Secretary of State may determine, the levels of penalty charges which have been set by the councils in accordance with this section.

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67 Penalty charges: reserve powers of Secretary of State

- (1) Where the borough councils set any levels of penalty charges under subsection (1) of section 66 (levels of penalty charges) of this Act, they shall notify the Secretary of State of the levels of fixed penalties so set.
- (2) Where notification of any levels of fixed penalties is required to be given under subsection (1) above, the levels of fixed penalties shall not come into force until after the expiration of—
 - (a) the period of one month beginning with the day on which the notification is given; or
 - (b) such shorter period as the Secretary of State may allow.
- (3) If, before the expiration of that period, the Secretary of State gives notice to the joint committee that he objects to the levels of fixed penalties on the grounds that some or all of them are or may be excessive, those levels of fixed penalties shall not come into force unless and until the objection has been withdrawn.
- (4) If, at any time before the levels of fixed penalties required to be notified under subsection (1) above to the Secretary of State have come into force, the Secretary of State considers that some or all of them are excessive, he may make regulations setting the levels of fixed penalties.
- (5) Levels of fixed penalties set under subsection (4) above must be no higher than those notified under subsection (1) above.
- (6) Regulations under subsection (4) above are without prejudice to the duty imposed on borough councils by subsection (1) of the said section 66 but where the Secretary of State makes any such regulations the councils must not set any further fixed penalties under the said subsection (1) until after the expiration of the period of 12 months beginning with the day on which the regulations are made.

Fixed Penalties

68 Fixed penalties under the London Local Authorities Act 2004

- (1) Part 4 (fixed penalties) of the [London Local Authorities Act 2004 \(c. i\)](#) is amended as follows.
- (2) In section 16 (fixed penalty notices)—
 - (a) in subsection (2)(a), for “14 days” there is substituted “28 days”.
 - (b) in subsection (3), the following paragraph is inserted after paragraph (b)—
 - “(ba) that if the fixed penalty is paid before the end of the period of 14 days beginning with the date of the notice, the amount of the fixed penalty will be reduced by the specified proportion;”;
 - (c) in subsection (9), before ““chief finance officer”” there is inserted “—(a)” and at the end the following paragraph is inserted—
 - “(b) “specified proportion” means such proportion, applicable in all cases, as may be determined for the purposes of this section by the borough councils acting through the joint committee.”.

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- (3) In section 17 (levels of fixed penalties), in subsection (7), for “the said section 18” there is substituted “the said sections 16 and 18”.

69 Fixed penalty offences

Schedule 2 to the London Local Authorities Act 2004 is amended by the insertion, in the appropriate place, of the following entry into the table of offences in respect of which a fixed penalty notice can be given under section 15 (fixed penalty offences) of that Act—

“14	London Local Authorities Act 2007 (c. ii)	26(5)	Failure to comply with requirement at civic amenity site”
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