

# London Local Authorities and Transport for London (No. 2) Bill

---

## EXPLANATORY MEMORANDUM

### PART 1

#### PRELIMINARY

*Clause 1* deals with citation and commencement. It provides that the majority of the operative provisions of the Bill should come into operation two months after Royal Assent. Other clauses would come into force on a day or on days to be appointed by the London borough council in question or Transport for London (“TfL”). The detailed procedure which must be followed by the councils and TfL when appointing a day for the commencement of the provisions of the Bill are contained in *Clause 3*. *Clause 2* sets out definitions of certain expressions used in the Bill. It defines “London authority” as London borough council or TfL, and that expression will be used in this Explanatory Memorandum.

### PART 2

#### ITEMS DEPOSITED ON THE HIGHWAY

*Part 2* deals with items deposited on the highway, giving highway authorities in London new powers to remove and dispose of such items in certain cases.

*Clause 4* provides that *Part 2* shall apply in relation to a highway in London as from a day appointed under *Clause 3* and *Clauses 5* and *6* deal with interpretation of common terms used in the Part. *Clause 5* provides a definition of authorised officer.

*Clause 6* defines “specified items” which are the type of items that are subject to the removal and disposal powers in *Part 2*. Any item deposited on the highway is a “specified item” unless it falls within one of a number of exceptions, set out in paragraphs (a) to (d) of *Clause 6*. These include items that are deposited on the highway in pursuance of any statutory right, including in pursuance of any licence, consent or permission (so, for example, will include items that have the benefit of express or deemed planning permission or advertisement regulations consent) and items deposited on the highway by statutory undertakers.

*Clause 7* enables an authorised officer of the highway authority to require the person who he believes to have deposited a specified item on the highway to remove it forthwith. He may only make such a requirement if he considers that the item should be removed for the good or safe management of the highway or for the purposes of performing any of the functions of the highway authority. If the person in question fails to remove the item, or the officer cannot, after reasonable inquiry, identify who deposited it, then the officer may remove it himself.

*Clause 8* requires the service of a notice by the authorised officer or the highway authority when an item is removed under *Clause 7*. If the person who was required to remove the item failed to do so, then the notice must be served on the person who it is believed deposited the item on the highway. If the authorised officer was unable to identify that person, then the notice must be affixed to a conspicuous place in the vicinity of the place from where the item was removed.

The notice under *Clause 8* must explain that unless it is completed and returned in accordance with subsections (4) and (5) of the clause, the highway authority may dispose of the item in accordance with *Clause 9* and recover their costs. The notice is completed by writing the name and full address of the recipient (or if different the person who deposited the item) together with confirmation that that person requires the highway authority to seek a disposal order in relation to the item under *Clause 11*. It is returned by sending it to the return address that must be printed on the notice by the highway authority within the time limit stated on the notice (which must not be less than 14 days after the notice was served or affixed). If the notice is completed and returned correctly then the highway authority must make a complaint to a magistrates' court for a disposal order under *Clause 11* or return the item to the person whose name appears on the returned notice.

*Clause 9* entitles the highway authority to dispose of any item removed under *Clause 7* if a notice was served or affixed under *Clause 8* but the notice was not completed and returned in accordance with that clause. It also entitles the highway authority to recover their costs of disposing of the item.

*Clause 10* makes provision about compensation in cases where the removal of the item under *Clause 7* was unlawful. A claim for compensation can be made to the county court if an item is removed from the highway and the highway authority failed to issue or affix a notice under *Clause 8* or if the notice did not contain all the necessary information required by that clause.

*Clause 11* makes provision about disposal orders in relation to items removed under *Clause 7*. A highway authority must make a complaint to a magistrates' court for a disposal order if required to do so by a notice returned under *Clause 8*. If such a complaint is made, the magistrates' court can order that the highway authority may dispose of the item and keep any proceeds, the balance of which may be applied to the maintenance of highways. The court must not make a disposal order if a person claiming to be the owner or otherwise interested in the item applies to be heard by the court unless an opportunity has been given to him to show why the order should not be made. If a person does take that opportunity but the court makes the disposal order, the court may order that the person pay the balance of any expenses incurred by the highway authority in removing and storing the item.

*Clause 12* makes provision about offences under *Part 2*. It is an offence (punishable on summary conviction by a level 5 fine) to furnish false information when completing a notice under *Clause 8* or (punishable on summary conviction by a level 3 fine) to remove, damage or interfere with a notice that has been affixed to a place under that clause.

*Clause 13* makes detailed provision about the method of service of notices under *Clause 8*.

*Clause 14* has the effect of repealing provisions in the London Local Authorities and Transport for London Act 2003 that enable the London Authorities to deal with items persistently and unlawfully placed on the highway in the course of a business.

### PART 3

#### HIGHWAYS: MISCELLANEOUS

*Clause 15* deals with the attachment of street lamps and traffic signs to buildings. Section 45 of the Public Health Act 1961 enables street lighting authorities (who include London borough councils, but not TfL) to attach street lamps and associated equipment to buildings. Under subsections (2) to (4) and (8) of section 45, provisions are made about the requirement to obtain the consent of the owner of the building in question.

Similar provision is made in relation to traffic signs under section 74 of the Road Traffic Regulation Act 1984, and in that case the power to affix is also enjoyed by TfL. Under both provisions, the owner of the building is entitled, under certain circumstances, to claim compensation from the authority in question if the powers are exercised.

Different provisions apply in the City of London under section 53 of the City of London (Various Powers) Act 1900 and section 75 of the Road Traffic Regulation Act 1984. The consent of the owner of the building is not required in either case (except in the case of railway undertakers).

The main effect of *Clause 15* is to bring London authorities' powers under sections 45 and 74 more into line with those enjoyed by the City Corporation. This is done by disapplying the consent provisions in sections 45 and 74 as they apply in London, except in the City. Unlike in the legislation applying to the City, *Clause 15* would require the London authority to give 56 days written notice on the owner of the building before exercising their powers under sections 45 and 74, and the requirement to obtain consent is retained not just for railway undertakers but other statutory undertakers as well.

*Clause 16* makes provision about the service of notices under *Clause 15*.

*Clause 17* makes provision about damage to highways caused as a result of the carrying out of works on land adjacent to the highway.

Subsections (1) and (2) provide that where works are to be carried out on land that is adjacent to a highway, the highway authority may require payment, before the works are commenced, of a sum representing the costs which the highway authority reasonably consider will be incurred by them in rectifying any damage caused by the carrying out of the works or activities associated with the works.

Subsection (3) provides that payment of the sum may be secured by agreement, by the imposition of a planning condition, or as a condition of building regulations consent. Subsection (4) provides that any sum not required by the authority shall be returned by the authority and subsection (5) provides that if the sum is insufficient to cover any remedial highway works, the additional costs are recoverable by the authority as a civil debt.

Section 133 of the Highways Act 1980 provides for the recovery of expenses incurred by a highway authority incurred in remedying damage to a footway caused by or as a consequence of the carrying out of works on land adjoining it. Subsection (6) of *Clause 17* would replace section 133 with provisions for London that would enable the highway authority to recover their expenses of remedying such damage to any part of the highway, not just the footway.

## PART 4

### BUILDERS' SKIPS

*Part 4* makes provision about the depositing of builders' skips on the highway in London. The depositing of builders' skips is already controlled under sections 139 to 140A of the Highways Act 1980. Those sections provide that the permission of the highway authority is required before any builder's skip is placed on the highway. The highway authority can place conditions on the permission including conditions relating to the lighting and guarding of the skip. There are also provisions in the 1980 Act requiring the owner of a builder's skip to secure that the skip is properly lit during the hours of darkness, and that any regulations made by the Secretary of State about the marking of the skip are properly complied with. Responsibility for ensuring compliance with the provisions of section 139 of the Highways Act lies with the "owner" of the builder's skip and that term is defined in section 139(11). It provides that the owner, in relation to a builder's skip which is the subject of a hiring agreement of not less than one month, or a hire purchase agreement, means the person in possession of the skip under the agreement.

Failure to comply with the provisions of section 139 (including failure to comply with conditions of a permission, and failing to obtain permission at all) is a criminal offence for which the owner is liable.

*Clause 18* makes provision for the interpretation of terms in *Part 4*. *Clause 18* enables a highway authority to require the "relevant person" to provide them with information about who the "owner" of the skip is, in order to determine who penalty charge notices should be served on in respect of decriminalised contraventions of the Highways Act 1980. The "relevant person" is defined as the person to whom permission was given under section 139 of the Highways Act, or the person from whom the skip was hired, or the bailor in a hire purchase agreement. It would be an offence to fail to comply with the authority's request for information within the specified compliance period, or to give false information.

*Clause 20* makes provision for the decriminalisation of offences under section 139 of the Highways Act 1980 as it applies in London. Under *Part 4* of the London Local Authorities Act 2007, a regime for the administration of decriminalised offences is set out in some detail. *Clause 20* would have the effect of applying those detailed provisions to decriminalised offences under section 139. *Clause 20* provides that the owner of the builder's skip (see above in relation to *Clause 19*) would be liable to pay any penalty charge arising from a contravention of a decriminalised offence. If the skip is hired out to another person, then the owner would be able to recover penalty charges from the hirer.

The provisions of the Act of 2007 will allow representations to be made against the imposition of penalty charge, and appeals to be made to an adjudicator. The grounds for making such representations and appeals are set out in subsection (6) of *Clause 20*.

*Clause 21* alters the powers of the highway authority to place conditions on the giving of a permission for placing a skip on the highway. It will enable the authority to include a condition that the skip has lights or a guard or system of guarding that is an integral part of the skip.

*Clause 22* provides highway authorities with powers to light and cover skips in cases where requirements as to lighting and covering have not been complied with. The clause enables the highway authority to recover any expenses reasonably incurred in lighting or covering the skip.

*Clause 23* would enable a highway authority to fix an immobilisation device to a skip in cases where they have also served a penalty charge notice (see *Clause 20*). The clause also makes requirements of the authority to affix a notice to the skip providing information about how to secure its removal and there are offences for unlawfully removing the skip or the notice.

*Clause 24* sets out the circumstances under which a skip will be released from an immobilisation device. It will be removed when the penalty charge and a release fee are paid.

*Clause 25* makes additional provision about appeals against penalty charges in cases where a skip has been immobilised under *Clause 23*. It provides that where representations or an appeal have been made successfully, the highway authority must refund any charges made for the release of the skip as well as the penalty charge for the contravention.

## PART 5

### ROAD TRAFFIC

*Part 5* contains various provisions relating to road traffic.

*Clause 26* deals with the recovery of traffic management and street cleansing costs incurred by the traffic authority or borough council as a result of the holding of certain events and the carrying out of filming on the street. Subsection (1) defines the types of event to which the clause applies as any sporting event or entertainment that is put on for commercial gain in Greater London (including an event that is one of a number of similar events put on at the same location at different times) and also the making of a film. Subsection (3) lists certain types of event that are exempt from the effect of the clause, including performances of plays at theatres and the showing of films at cinemas (unless a special showing, which is defined in subsection (4)).

Under *Clause 26*, a traffic authority may reclaim expenditure incurred in implementing traffic management measures and a borough council can recover expenditure incurred in complying with their duty to keep land and highways clear of litter. Only expenditure that is reasonably incurred as a result of the particular event in question may be recovered and it is recovered from the occupier of the premises at which the event takes place (or the owner if there is no occupier).

*Clause 27* enables a person on whom a demand for costs recoverable under *Clause 26* to appeal to the magistrates' court on a number of grounds, including that the demand should have been made on another person, that no expenditure was recoverable under *Clause 26* or that the demand is unfair or unduly onerous.

*Clauses 28 to 30* deal with advanced stopping areas for cyclists and the cycle lanes that feed into them. These areas are marked on the road at many traffic lights in London. Their purpose is to provide a safe area in which cyclists can wait when traffic lights are red. It is an offence for a motorist to cross into one when the traffic light is red. The offence is technically a failure to stop the vehicle at the stop line at the traffic lights.

*Clause 28* deals with two general issues relating to advanced stopping areas for cyclists. The first is that technically it is an offence for a cyclist to enter the stopping area if there is no cycle lane marked on the highway that feeds into the stopping area. The clause would have the effect of clarifying that where there is an advanced stopping area but no feeder lane, then no offence is committed by cyclists who enter the stopping area at a red light signal.

The second issue dealt with by *Clause 28* is related. It provides that in cases where there is a feeder lane, a cyclist would not commit an offence if he had to enter the stopping area by crossing the first stop line, if the feeder lane is obstructed.

*Clause 28* also sets out some definitions of terms used in *Clauses 28 to 30*.

*Clause 29* and *Clause 30* make provision for the partial decriminalisation of offences relating to advanced stopping areas for cyclists at traffic lights. It is a criminal offence to disobey a red light signal by advancing over the relevant stop line at the traffic lights. In London there are a great deal of cases where there are two stop lines, the first of which is to be obeyed by all vehicles (including cyclists) and the second of which is to be obeyed by cyclists who have entered the area between the two stop lines by using a cycle lane.

The London Local Authorities and Transport for London Act 2003 (by virtue of Part 2) decriminalised fully a number of moving traffic offences and the use of those provisions has become widespread in London. *Clause 29* would add to the list of decriminalised offences under the 2003 Act, the offence of failing to obey a stop line at a traffic light in cases where there is an advanced stopping area for cyclists. The partial decriminalisation would only apply in relation to motor vehicles, and it would remain an offence to disobey the relevant stop lines (subject to what is mentioned below in relation to certain cases).

Unlike all except for one of the offences which were decriminalised under the 2003 Act, failure to stop at a red traffic light is an endorseable offence and therefore the Bill provides that it should remain an offence, as well as becoming a contravention in respect of which a penalty charge notice can be served under the Act of 2003. Provision is included in *Clause 29* to ensure that if criminal proceedings are taken out in respect of an offence, then the owner of the motor vehicle in question should not also face the prospect of paying a penalty charge in respect of the same offence.

*Clause 30* deals with the same subject matter as *Clause 29* but in the context of the Traffic Management Act 2004. Schedule 7 to that Act sets out a national regime for the decriminalisation of certain moving traffic offences and will, once implemented, have the effect of repealing *Part 2* of the London Local Authorities and Transport for London Act 2003. Under Schedule 7, the Secretary of State is able, by making regulations, to add further offences to be decriminalised to the list which is already contained in that schedule. However, he is prohibited from making such regulations in respect of endorseable offences. Given that failure to stop at a red traffic light is an endorseable offence, and that the situation can only be changed by primary legislation, in order to enable the partial decriminalisation of the offence in relation to advanced stopping areas, it is necessary for *Clause 30* to add the offence to the list of offences in respect of which the Secretary of State can partially decriminalise. That is what *Clause 30* does.

*Clause 31* deals with cases where the local traffic authority has made a road traffic regulation order under the Road Traffic Regulation Act 1984 so as to prevent the passage of vehicles or any class of vehicles into out of or along a highway, and has also placed a gate or other barrier on the highway to ensure that the order is complied with. Sometimes the barriers are authorised to be opened, for example, by the emergency services. Whilst it is an offence to drive along the road in breach of the road traffic regulation order, it is not an offence to interfere with the barrier unless criminal damage is caused. *Clause 31* makes it an offence to open, close or otherwise interfere with a barrier without lawful excuse.

*Clause 32* makes provision about fixed penalties which may be payable by a cyclist who cycles on the footway. It is an offence under section 72 of the Highway Act 1835 to ride a bicycle on the footway. Under Part 3 of the Road Traffic Offenders Act 1988, the offence of riding a cycle on a footway is a fixed penalty offence, and that in turn entitles the offender to discharge any criminal liability by the payment of a fixed penalty. Fixed penalties can be issued by a police constable, a police community support officer and, where a community safety accreditation scheme is in place under section 41 of the Police Reform Act 2002, fixed penalties for cycling on the footway could also be issued by employees of the person with whom the Chief Officer of Police has made arrangements for the implementation of the scheme. Such a person could include a London authority.

Where a community safety accreditation scheme is in place with the participation of a London authority, and the scheme enables employees of the authority to serve fixed penalty notices in relation to offences of cycling on the footway, *Clause 32* will operate so as to enable the London authority to set the levels of fixed penalty in its area. It will specifically enable the authority to set different levels of fixed penalty for different cases or classes of case and for different areas. There is provision in the clause relating to publicity for the setting of fixed penalties and the provisions of *Clause 33* will apply in relation to the coming into force of new levels of fixed penalties.

*Clause 33* provides the Secretary of State with some control over the levels of fixed penalties that may be set under *Clause 32*. The London authority must notify the Secretary of State of the levels of any fixed penalties set under *Clause 32* and those levels shall not come into force until one month after the notification or such shorter period as may be allowed by the Secretary of State. If before the end of that period the Secretary of State notifies the London authority that he objects to the levels of fixed penalties set because he thinks they are too high, then the levels shall not come into force until his objection has been withdrawn. In default, the Secretary of State can make regulations himself setting the levels of fixed penalties.

*Clause 34* deals with pedicabs. Pedicabs are defined in subsection (8) as cycles constructed or adapted to seat one or more passengers and for the purpose of being made available with a driver in the course of a business for the purpose of carrying passengers. Pedicabs are now frequently seen in the streets of central London and have risen in popularity since the current London Local Authorities and Transport for London Bill was deposited in November 2004. That Bill originally contained provisions relating to the regulation of pedicabs. Amongst other things, it would have required the registration of pedicabs with TfL and it also contained other provisions enabling the effective enforcement of road traffic regulation against pedicab owners. *Clause 34* does not contain the registration requirements in the previous Bill, but does contain the enforcement provisions. The reason for this is that the question of whether a pedicab should be classed as a Hackney carriage is the subject of ongoing proceedings in the Administrative Court. TfL, who have brought the proceedings, have sought a declaration that pedicabs are indeed to be treated as Hackney carriages. If the court finds favour with TfL's argument, then pedicabs will have to be licensed, and the difficulties which are faced by the London authorities in identifying who the owner of a pedicab is for the purposes of road traffic enforcement would be alleviated and there would be no requirement for registration.

There would remain a requirement to extend some existing primary road traffic legislation so that it covers the activities of pedicab drivers.

The first thing that *Clause 34* does is to set out a presumption, for the purposes of a number of pieces of road traffic legislation, that the owner of a pedicab at any time, if the pedicab is licensed (for example under a Hackney carriage regime), is the person in whose name the pedicab was licensed at the time. This would enable London authorities to serve penalty charge notices on the licensee where there have been contraventions of road traffic legislation, for example relating to parking, the use of bus lanes and other moving traffic contraventions.

The second thing that *Clause 34* does is to enable the authority responsible for licensing pedicabs to share with London authorities details of the licensee of pedicabs so as to enable enforcement action to be taken by those London authorities.

The third thing that *Clause 34* does is to extend the application of section 15 of the Greater London Council (General Powers) Act 1974 to cover pedicabs. Section 15 makes provision for a prohibition of the parking of motor vehicles on the footway throughout Greater London unless specifically authorised.

Fourthly, the clause also extends the moving traffic contravention provisions of the London Local Authorities and Transport for London Act 2003 so as to cover pedicabs. Those provisions only cover motor vehicles.

## PART 6

### CHARGING POINTS FOR ELECTRIC VEHICLES

*Part 6* enables London authorities to provide and operate charging apparatus for electrically powered motor vehicles on highways.

*Clause 35* provides the principal power for London authorities to provide charging apparatus on highways for which they are responsible as highway authority. Under the clause the London authority may also grant other persons permission to provide or operate charging apparatus. The clause applies section 115D of the Highways Act 1980 which provides restrictions on the exercise of similar powers under that Act. It ensures that in exercising the powers, the London authorities would not be able to exercise them so as to prevent traffic, other than vehicular traffic, entering the highway at any place where it could enter before, or passing along the highway, having normal access to premises adjoining the highway; or to prevent any use of vehicles which is not prohibited by a traffic order; or to prevent statutory undertakers and telecommunications code system operators having access to apparatus. Detailed provision is made in relation to cases where the London authority has given permission for someone else to provide charging points, namely that the permission can be subject to such conditions as the London authority think fit and requiring the payment of reasonable charges. There are also provisions about liability in respect of injury, damage or loss arising from the presence of charging apparatus on the highway.

*Clause 36* sets out a procedure for giving notice before a London authority can exercise its powers under *Clause 35* to provide charging apparatus or grant permission to others to do so. A notice must be posted near to the place where the apparatus is intended to be installed and owners and occupiers of the premises appearing to be affected must also be served.

*Clause 37* places London authorities under a requirement to consult other highway authorities who are the highway authority for the highway in question, and the local planning authority before exercising any powers under *Clause 35*. There are also special provisions relating to highways maintained by railway undertakers.

*Clause 38* makes provision for cases where a person to whom permission is granted to install charging apparatus fails to comply with the conditions of the permission. The London authority can serve a notice on that person requiring him to remedy the breach, and if he does not then the London authority can remedy it themselves and recover their expenses in doing so.

*Clause 39* makes provision about the unlawful use of charging points provided under *Part 6*. It provides that charging points may only be used for charging vehicles unless the London authority specifies otherwise (in the case of charging points provided by them) or if a permission given to another person so specifies. It then provides that the London authority or person to whom the permission was given may provide an indication on the charging point as to whether it is permissible, in accordance with such a specification, to use the charging point for purposes other than charging a vehicle. A person would commit an offence, liable to a level 3 fine, if he used the charging point for purposes other than charging a vehicle, but no offence would be committed if he used it for a specified purpose and there was an indication of the specification on the charging point.

#### EUROPEAN CONVENTION ON HUMAN RIGHTS

In the view of the Westminster City Council and Transport for London the provisions of the London Local Authorities and Transport for London Bill are compatible with the Convention Rights.

# London Local Authorities and Transport for London (No. 2) Bill

---

## CONTENTS

### PART 1

#### PRELIMINARY

- 1 Citation and commencement
- 2 Interpretation
- 3 Appointed day

### PART 2

#### ITEMS DEPOSITED ON THE HIGHWAY

- 4 Application of Part 2
- 5 Meaning of “authorised officer”
- 6 Meaning of “specified item”
- 7 Removal of items deposited on highways
- 8 Notice to be given or displayed
- 9 Disposal of objects removed by highway authority
- 10 Compensation
- 11 Disposal orders
- 12 Offences
- 13 Service of notices
- 14 Amendment of the 2003 Act

### PART 3

#### HIGHWAYS: MISCELLANEOUS

- 15 Attachment of street lamps and signs to buildings
- 16 Service of notices under section 15
- 17 Damage to highways in consequence of adjacent works

## PART 4

## BUILDERS' SKIPS

- 18 Interpretation of Part 4
- 19 Identifying the “owner” of a builder’s skip
- 20 Builders’ skips: penalty charge provisions
- 21 Builders’ skips: requirements as to lighting and covering
- 22 Builders’ skips: provision of lighting and covering by highway authority
- 23 Builders’ skips: immobilisation devices
- 24 Release of immobilised skips
- 25 Appeals in relation to immobilisation

## PART 5

## ROAD TRAFFIC

- 26 Recovery of exceptional traffic management and waste clearance costs
- 27 Recovery of costs: appeals
- 28 Advanced stopping areas for cyclists: general
- 29 Advanced stopping areas for cyclists: 2003 Act
- 30 Advanced stopping areas for cyclists: 2004 Act
- 31 Gated roads
- 32 Cycling on the footway: variation of fixed penalty levels
- 33 Fixed penalties: reserve powers of Secretary of State
- 34 Pedicabs

## PART 6

## CHARGING POINTS FOR ELECTRIC VEHICLES

- 35 Charging points for electric vehicles
- 36 Notices to be given before exercise of powers under section 35
- 37 Duties to consult or obtain consent of other authorities
- 38 Failure to comply with terms of permission
- 39 Offence of unlawful use of charging point

A

# B I L L

To confer further powers upon local authorities in London and upon Transport for London; and for related purposes.

**W**HEREAS—

- (1) It is expedient that London Borough Councils and Transport for London (“the London authorities”) should have further powers to control the placing of items on the highway:
- (2) It is expedient that the law relating to the attachment of street lamps and signs to buildings in London should be altered: 5
- (3) It is expedient that provision should be made about damage caused to highways by persons carrying out development in London:
- (4) It is expedient that the London authorities should have further powers to control builders’ skips placed on the highway: 10
- (5) It is expedient that the London authorities should have greater powers to recover costs incurred as a consequence of certain events taking place in London:
- (6) It is expedient that the London authorities should have powers to take civil enforcement action as regards road traffic contraventions in relation to advanced stopping areas for cyclists: 15
- (7) It is expedient that provision be made in London in relation to gates placed in roads by London authorities:
- (8) It is expedient that London authorities should be enabled to vary levels of fixed penalties for cycling on the footway: 20
- (9) It is expedient that provision be made about pedicabs in London:
- (10) It is expedient that London authorities have power to provide charging points for electric vehicles on the highway:

- (11) It is expedient that the other provisions contained in this Act should be enacted:
- (12) The objects of this Act cannot be attained without the authority of Parliament:
- (13) In relation to the promotion of the Bill for this Act the Westminster City Council have complied with the requirements of section 239 of the Local Government Act 1972 (c. 70) and the other London borough councils to whom it applies have complied with the requirements of section 87 of the Local Government Act 1985 (c. 51): 5
- (14) In relation to the promotion of the Bill for this Act Transport for London have complied with the requirements of section 167 of and Schedule 13 to the Greater London Authority Act 1999 (c. 29): 10
- (15) In relation to the promotion of the Bill the London borough councils have acted through their representation in London Councils, a statutory joint committee whose membership is made up from members of all the London borough councils:
- May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:— 15

## PART 1

### PRELIMINARY 20

#### 1 Citation and commencement

- (1) This Act may be cited as the London Local Authorities and Transport for London (No. 2) Act 2008.
- (2) This Act, except the provisions mentioned in subsections (3) and (4) shall come into operation at the end of the period of two months beginning with the date on which it is passed. 25
- (3) The following provisions shall come into operation on the appointed day—
- (a) **Part 2;**
  - (b) **section 21;**
  - (c) **section 28;** 30
  - (d) **section 29;**
  - (e) **section 30.**
- (4) **Section 20(10), (11) and (12) shall come into operation in accordance with section 20(9).**

## 2 Interpretation

- (1) In this Act—
- “the 1980 Act” means the Highways Act 1980 (c. 66);
  - “the 2003 Act” means the London Local Authorities and Transport for London Act 2003 (c. iii);
  - “the 2004 Act” means the Traffic Management Act 2004 (c. 18);
  - “borough council” means London borough council (except Hounslow London Borough Council) and includes the Common Council of the City of London in its capacity as a local authority and “borough” and “council” shall be construed accordingly;
  - “London authority” means a borough council or Transport for London, as the case may be;
  - “relevant highway authority” means—
    - (a) a borough council, as respects highways for which they are highway authority;
    - (b) Transport for London, as respects highways for which they are the highway authority;
  - “RTA 1988” means the Road Traffic Act 1988 (c. 52);
  - “RTOA 1988” means the Road Traffic Offenders Act 1988 (c. 53).

## 3 Appointed day

- (1) In **section 1(3)** “the appointed day” means such day as may be fixed as regards the provisions mentioned in that section—
- (a) by a decision of Transport for London; or
  - (b) by resolution of a borough council,
- as the case may be, subject to and in accordance with the provisions of this section.
- (2) Different days may be fixed under this section for the purpose of the application of the provisions mentioned in **section 1(3)** to different areas.
- (3) Different days may be fixed under this section for the purpose of the application of the provisions mentioned in **section 1(3)** to an area or any part of an area or different parts of an area.
- (4) The London authority in question shall cause to be published in a local newspaper circulating in their area and in the London Gazette, notice—
- (a) of the passing of any such resolution or taking of any such decision under this section and of a day fixed by the resolution or decision; and
  - (b) of the general effect of the provisions coming into operation on that day, and the day so fixed shall not be earlier than the expiration of one month from the publication of the notice in the London Gazette.
- (5) A document certified by the officer appointed for that purpose by the London authority in question to be a true reproduction of a page or part of a page of any such newspaper or London Gazette—
- (a) bearing the date of its publication; and
  - (b) containing any such notice,
- shall be evidence of the publication of the notice and of the date of publication.

## PART 2

### ITEMS DEPOSITED ON THE HIGHWAY

#### 4 Application of Part 2

This Part shall apply in relation to a highway in Greater London on and after the appointed day. 5

#### 5 Meaning of “authorised officer”

In this Part, “authorised officer”, in relation to a relevant highway authority, means—

- (a) any employee of the authority;
- (b) any person by whom, in pursuance of arrangements made with the authority, any functions under this Part fall to be discharged; or 10
- (c) any employee of any such person, who is authorised in writing by the authority to act in relation to this Part.

#### 6 Meaning of “specified item”

In this Part, “specified item” means any item deposited on the highway except— 15

- (a) an item deposited on the highway in accordance with any statutory right, including in accordance with the terms of any licence, consent or permission granted, given or deemed to be granted or given under any enactment and any conditions or restrictions under which the licence, consent or permission is granted or given; 20
- (b) an item in respect of which, under any enactment, a licence, consent or permission would, but for an exception contained in that enactment, be required for the depositing of the relevant item on the highway;
- (c) an item that is in the course of— 25
  - (i) being delivered to or taken from any premises; or
  - (ii) being unloaded from or loaded onto a vehicle;
- (d) an item deposited on the highway by—
  - (i) a public communications provider within the meaning of section 151(1) of the Communications Act 2003 (c. 21); 30
  - (ii) a public utility undertaker within the meaning of the 1980 Act;
  - (iii) a highway authority;
  - (iv) any other statutory undertaker within the meaning of section 262(1) of the Town and Country Planning Act 1990 (c. 8), in exercising its functions as such. 35

#### 7 Removal of items deposited on highways

- (1) If an authorised officer of a relevant highway authority considers that for the good or safe management of the highway or for the purpose of performing any of the functions of the authority any specified item should be removed from the

highway, he may require the person who he believes to have deposited it there to remove it forthwith.

- (2) The authorised officer may remove the item himself if—
- (a) the person in question fails to comply with the requirement; or
  - (b) the authorised officer in question cannot, after reasonable inquiry, ascertain the identity of the person who deposited the item on the highway. 5

## 8 Notice to be given or displayed

- (1) Where an authorised officer removes a specified item from the highway under **section 7** he or the relevant highway authority shall, as soon as reasonably practicable after the item was removed— 10
- (a) if **section 7(2)(a)** applies, serve a notice under this section on the person who the authorised officer or relevant highway authority believes to have deposited the item in question on the highway; or
  - (b) if **section 7(2)(b)** applies, affix a notice under this section to a conspicuous place in the vicinity of the place from where the item was removed. 15
- (2) The highway authority shall—
- (a) take reasonable steps for the protection of a notice affixed under subsection (1)(b); 20
  - (b) indicate on such a notice where further copies of the notice may be obtained; and
  - (c) make available copies of any such notice in the event of it being removed, obscured or damaged.
- (3) A notice under this section shall be in such form as the relevant highway authority shall prescribe, and shall— 25
- (a) explain that unless the person who deposited the item on the highway completes the notice in accordance with subsection (4) and then returns it to the authority in accordance with subsection (5), the highway authority may, in accordance with **section 9**, dispose of the item in question and recover their costs; and 30
  - (b) set out—
    - (i) the address to which the completed notice should be returned;
    - (ii) the date by which it must be returned (which must be no earlier than the expiry of the period of 14 days beginning with the date on which the notice was served under subsection (1)(a) or affixed under subsection (1)(b)); and 35
  - (c) if it is affixed under subsection (1)(b)—
    - (i) be addressed to “the person responsible for depositing the item or items referred to in this notice”; and 40
    - (ii) describe the item or items removed.

- (4) A notice under this section is completed by writing, in the appropriate place on the notice—
- (a) the name and full postal address of the recipient or, if different, of the person who deposited the item on the highway; and
  - (b) confirmation that that person requires the highway authority to make a complaint for a disposal order under **section 11** in respect of the item in question; and
  - (c) the signature of that person; and
  - (d) the date on which it was signed.
- (5) A notice under this section, once completed, is returned by delivering it or sending it by post to the address set out on the notice as mentioned in subsection (3)(b)(i) on or before the date as mentioned in that subsection.
- (6) If a notice served or affixed in accordance with subsection (1) is completed and returned in accordance with subsections (4) and (5) the highway authority must, no later than the date on which expires the period of 28 days beginning with the date on which the notice was received by them—
- (a) make a complaint to the magistrates' court acting for the petty sessions area concerned for a disposal order under **section 11**; or
  - (b) return the item in question to the person whose name and address are written on the returned notice.

## 9 Disposal of objects removed by highway authority

- (1) A relevant highway authority may, in such manner as they think fit, dispose of any item removed under **section 7** if—
- (a) a notice was served or affixed in accordance with **section 8**(1); and
  - (b) the notice was not completed and returned to the authority in accordance with **section 8**(4) and (5).
- (2) A relevant highway authority may recover their costs of removing an item under **section 7** and disposing of an item under this section (including any costs incurred in storing the item) from the person who deposited the item on the highway.

## 10 Compensation

- (1) This section shall have effect where—
- (a) an item is removed under **section 7**; and
  - (b) either—
    - (i) there has been a failure to comply with **section 8**(1), (2) or (3); or
    - (ii) the item removed was not a “specified item” under **section 6**.
- (2) When this section has effect a person who has or at the time of the removal of the item had a legal interest in the item removed may recover compensation from the relevant highway authority by civil action in the County Court in respect of any loss suffered by him as a result of the removal.

- (3) The court may only make an order for compensation under subsection (2) if satisfied that the removal was not lawful under **section 7**.

## 11 Disposal orders

- (1) This section applies in respect of a complaint made under **section 8(6)(a)** by a relevant highway authority for a disposal order and items that are the subject of the complaint are referred to as “removed items” in this section. 5
- (2) On a complaint to which this section applies, a magistrates’ court if satisfied that the item in question was duly removed for the good management of the highway or for the purpose of performing any of the functions of the highway authority may make an order authorising the complainant authority— 10
- (a) to dispose of the item; and
  - (b) after payment out of any proceeds arising from the disposal of the expenses incurred in the removal, disposal and storage of the item, to apply the balance, if any, of the proceeds to the maintenance of highways maintainable at the public expense by them. 15
- (3) The court shall not make a disposal order under subsection (2) where a person claiming to be the owner of the item or the person who applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.
- (4) Subsection (5) applies where— 20
- (a) a person appears before the court under subsection (3) to show cause why the order should not be made; and
  - (b) the court makes an order under subsection (2) authorising the highway authority to dispose of the removed item; and
  - (c) the item in question is not of sufficient value to defray the expenses of seizing, storing and disposing of it; and 25
  - (d) the court is satisfied that the person mentioned in paragraph (a) was the owner of the item in question or was the person who deposited it on the highway, as the case may be.
- (5) Where this subsection applies, the court may order that the person mentioned in subsection (4)(a) pay the expenses, or the balance of the expenses, reasonably incurred by the highway authority in removing, storing and disposing of the item in question. 30
- (6) In considering whether to make an order under subsection (2) a court shall have regard to— 35
- (a) the value of the item in question;
  - (b) the likely financial and other effects on a person who appears before the court under subsection (3) of the making of the order (taken together with any other order that the court contemplates making); and
  - (c) any other circumstances the court considers to be relevant. 40

## 12 Offences

- (1) A person commits an offence if—
- (a) in completing a notice under **section 8(4)** he furnishes information which is false in a material particular; or
  - (b) without lawful excuse removes, damages or interferes with a notice that has been affixed to any place under **section 8(1)(b)**. 5
- (2) A person who commits an offence under subsection (1) shall be liable on summary conviction—
- (a) in the case of subsection (1)(a) to a fine not exceeding level 5 on the standard scale; 10
  - (b) in the case of subsection (1)(b) to a fine not exceeding level 3 on the standard scale.

## 13 Service of notices

- (1) A notice under **section 8(1)(a)** may be served either—
- (a) by delivering it to the person on whom it is to be served; or 15
  - (b) by leaving it at the usual or last known place of abode or business of that person or, in a case where an address for service has been given by that person, at that address; or
  - (c) by sending it by post to that person at his usual or last known place of abode or business or, in a case where an address for service has been given by that person, at that address; or 20
  - (d) in the case of a company or body incorporated in England or Wales, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it by post.
- (2) This section is without prejudice to section 233 of the Local Government Act 1972 (c. 70) (general provisions as to service of notices by local authorities). 25

## 14 Amendment of the 2003 Act

- (1) Section 17 of the Act of 2003 (removal of things deposited on the highway) is amended as follows—
- (a) omit subsections (2) to (5); 30
  - (b) in subsection (11) omit “(4) or”;
  - (c) in subsection (18) for “subsections (5) and” substitute “subsection”;
  - (d) omit subsection (19).
- (2) Section 18 of the 2003 Act (removal notices: appeals) is repealed.
- (3) Section 19 of the 2003 Act (service of removal notices) is repealed. 35
- (4) If at the time that this section comes into force a subsection (2) removal notice (within the meaning of section 17(2) of the 2003 Act) has been issued, the said sections 17, 18 and 19 shall continue to apply in respect of the notice as if this section had not come into force.

PART 3

HIGHWAYS: MISCELLANEOUS

**15 Attachment of street lamps and signs to buildings**

- (1) In its application to the area of any borough council except the Common Council, section 45 of the Public Health Act 1961 (c. 64) (attachment of street lamps to buildings) shall be modified by the omission of subsections (2) to (4) and (8). 5
- (2) In its application to the areas of the London authorities except the Common Council, section 74 of the Road Traffic Regulation Act 1984 (c. 27) (affixing of traffic signs to walls) shall be modified by the omission of subsections (3) to (5). 10
- (3) Under the said section 45 or the said section 74 as modified by this section a London authority shall not affix anything to a building unless they have served notice in writing on the relevant owner of the building no less than 56 days before the date on which they commence the works.
- (4) Under the said section 45 or the said section 74 as modified by this section a London authority shall not affix anything to a building that forms part of the operational land of a statutory undertaker without the written consent of the statutory undertaker in question. 15
- (5) Consent may be given subject to reasonable conditions (including the payment of reasonable expenses in dealing with the request for the consent, but no other payment) and shall not be unreasonably withheld. 20
- (6) Where—
  - (a) a London authority serves on a statutory undertaker a notice requesting that undertaker's consent under subsection (4) to the affixing of anything to a building; and 25
  - (b) the statutory undertaker does not within the period of 56 days beginning with the date upon which the notice is served give their consent unconditionally or give it subject to conditions or refuse it, the consent shall be deemed to have been withheld.
- (7) Where, in the opinion of a London authority, a consent required under subsection (4) for the affixing of anything to a building is unreasonably withheld or given subject to unreasonable conditions, the London authority may apply to the magistrates' court, who may either— 30
  - (a) allow the thing in question to be affixed subject to such conditions, if any, as it thinks fit; or 35
  - (b) disallow the application.
- (8) In this section—
  - “building” includes any structure and a bridge or aqueduct;
  - “operational land” has the same meaning as in the Town and Country Planning Act 1990 (c. 8); 40

“relevant owner”—

- (a) in relation to a building occupied by a person under a lease or tenancy having an unexpired term exceeding 5 years, means that person; or
- (b) in relation to any other building, means the person for the time being receiving the rack rent of the building whether on his own account or as agent or trustee for any other person, or who would so receive it if the building were let at a rack rent;

“statutory undertaker” has the same meaning as in section 262(1) of the Town and Country Planning Act 1990 (c. 8).

5  
10

## 16 Service of notices under section 15

- (1) A notice under **section 15**(3) or (6)(a) may be served by post.
- (2) Where the person on whom a notice to be served is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.
- (3) For the purposes of section 7 of the Interpretation Act 1978 (c. 30) as it applies for the purposes of this section, the proper address of any person in relation to the service on him of a notice under subsection (1) is, if he has given an address for service, that address, and otherwise—
  - (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
  - (b) in any other case, his last known address at the time of service.
- (4) If, for the purposes of serving a notice under **section 15**(3) the name or address of the relevant owner cannot be ascertained after reasonable enquiry, the notice may be served by—
  - (a) addressing it to him by name or by the description of “owner” of the land (describing it); and
  - (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.
- (5) This section shall not be taken to exclude the employment of any method of service not expressly provided for by it.

15  
20  
25  
30

## 17 Damage to highways in consequence of adjacent works

- (1) Where any works (the “relevant works”) are to be carried out in Greater London on land adjacent to a relevant highway, the “relevant highway authority” may require payment of a sum from the owner of the land or the person intending to carry out the relevant works prior to their commencement if they reasonably consider that damage to that highway or any part of that highway may be caused by—
  - (a) the relevant works; or
  - (b) any activity associated with or arising as a result of the relevant works.
- (2) The sum payable under subsection (1) shall represent the costs which the relevant highway authority reasonably consider will be incurred by them in rectifying any damage caused by the carrying out of the relevant works or any activities associated with or arising as a result of the relevant works.

35  
40

- (3) Payment of the sum specified in subsection (2) may be secured by one of the following methods—
- (a) by agreement between the relevant highway authority and the person carrying out or intending to carry out the relevant works;
  - (b) by the imposition by the local planning authority for the land upon which the relevant works are to be carried out of a condition on any planning permission required for the relevant works that the sum specified in subsection (2) shall be paid to the relevant highway authority prior to the implementation of the planning permission; or
  - (c) by the imposition by the borough council in whose area the relevant works are to be executed of a requirement upon the issue of any building control consent in respect of the relevant works that the applicant for the consent pay the sum specified in subsection (2) to the relevant highway authority prior to the commencement of the relevant works.
- (4) Where relevant works are carried out and as a consequence damage is caused to any part of the relevant highway in question, the relevant highway authority may use the sum paid to them under this section in remedying the damage and shall return any amount of that sum not so used to the person from whom it was received once the damage has been repaired to the satisfaction of the relevant highway authority.
- (5) Should the cost of any remedial works carried out by the relevant highway authority exceed the sum paid to them under this section the additional cost shall be recoverable as a debt from—
- (a) the person who carried out the works; or
  - (b) the owner of the land on which the works were carried out; or
  - (c) the person on whose behalf the works were carried out.
- (6) The 1980 Act shall apply in Greater London as though for section 133 (damage to footways of streets by excavations) and its heading there were substituted—
- “133 Damage to highway by carrying out of works
- If a highway maintainable at the public expense is damaged by or in consequence of any works on land adjacent to the highway, the highway authority for the highway may make good the damage and recover the expenses reasonably incurred by them in doing so from—
- (a) the owner of the land in question; or
  - (b) the person carrying out the works; or
  - (c) the person on whose behalf the works were carried out.”.

(7) In this section, “relevant highway” means a highway in Greater London that is maintainable at the public expense.

PART 4

BUILDERS’ SKIPS

**18 Interpretation of Part 4**

In this Part—

- “the 2007 Act” means the London Local Authorities Act 2007 (c. ii); 5
- “builder’s skip” has the same meaning as in section 139(11) of the 1980 Act;
- “immobilisation device” means any device or appliance designed or adapted to be fixed to a builder’s skip for the purpose of preventing it from being moved;
- “owner” in relation to a builder’s skip, has the same meaning as in section 139(11) of the 1980 Act. 10

**19 Identifying the “owner” of a builder’s skip**

- (1) A relevant highway authority may, for the purposes of identifying who is responsible for paying a penalty charge for the purposes of section 61 of the 2007 Act as applied by virtue of **section 20**, require the relevant person to provide them with the name and address of the owner of the builder’s skip. 15
- (2) In subsection (1), the “relevant person” is—
  - (a) if a permission was given to a person in respect of the skip in question under section 139(1) of the 1980 Act and the penalty charge became payable during the period of the permission, that person; 20
  - (b) if different from the person mentioned in paragraph (a) (if there is such a person), the person who the relevant highway authority have reason to believe—
    - (i) in the case of a builder’s skip that is the subject of a hiring agreement for a hire of not less than one month, the person from whom the skip was hired; and 25
    - (ii) in the case of a builder’s skip that is the subject of a hire purchase agreement, the bailor under that agreement.
- (3) The person identified by the relevant person shall be an individual, a body corporate, an unincorporated association or other body that is capable of being sued. 30
- (4) A requirement under this section shall specify the period within which it must be complied with, which must be a period no shorter than 3 working days beginning with the date on which the request was made.
- (5) A person of whom a request under this section is made commits an offence if— 35
  - (a) without reasonable excuse he fails to comply within the period specified in accordance with subsection (4);
  - (b) in responding to the request he gives information that is false in a material particular.

- (6) A person convicted of an offence under subsection (5) is liable on summary conviction—
  - (a) in the case of an offence under paragraph (a) to a fine not exceeding level 3 on the standard scale;
  - (b) in the case of an offence under paragraph (b) to a fine not exceeding level 5 on the standard scale. 5

## 20 Builders’ skips: penalty charge provisions

- (1) This section is a penalty charge provision for the purposes of section 61 of the 2007 Act (penalty charges).
- (2) Part 4 of the 2007 Act shall have effect so far as that Part applies by virtue of this section being designated as a penalty charge provision as mentioned in subsection (1) as if for references to a borough council there were substituted references to a relevant highway authority within the meaning of this Act. 10
- (3) A penalty charge is payable to a relevant highway authority for the purposes of the said section 61 if— 15
  - (a) a builder’s skip is deposited on a highway without a permission granted under section 139 of the 1980 Act (control of builders’ skips);
  - (b) a builder’s skip has been deposited on a highway in accordance with a permission granted under the said section 139 but the owner of the skip does not secure that— 20
    - (i) the skip is properly lighted during the hours of darkness;
    - (ii) the skip is marked and lighted in accordance with regulations made under the said section 139 requiring builders’ skips to be so marked and lighted;
    - (iii) the skip is clearly and indelibly marked with the owner’s name and with his telephone number or address; 25
    - (iv) the skip is removed as soon as practicable after it has been filled;
    - (v) each of the conditions subject to which the permission was granted is complied with;
  - (c) the owner of a builder’s skip who, under subsection (2) of section 140 of the 1980 Act (removal of builders’ skips), is required to remove or reposition the skip or cause it to be removed or repositioned has failed to comply with the requirement as soon as is practicable. 30
- (4) For the purposes of the said section 61 of the 2007 Act as it applies in respect of penalty charges payable under that section by virtue of subsection (3), a penalty charge is payable to a relevant highway authority by the owner of the builder’s skip in respect of which the contravention of the relevant provision in question is alleged to have occurred. 35
- (5) The owner of the builder’s skip is the appropriate recipient for the purposes of the said section 61. 40

- (6) For the purposes of section 62(1) of the 2007 Act (representations and appeals) the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this section are—
- (a) that the recipient—
    - (i) never was the owner of the builder’s skip in question; 5
    - (ii) had ceased to be the owner before the date on which the penalty charge was alleged to have become payable;
    - (iii) became the owner after that date;
  - (b) that there was no contravention of the relevant provision in question and in respect of which the penalty charge notice was issued; 10
  - (c) that the penalty charge exceeded the amount applicable in the circumstances of the case;
  - (d) that the contravention of the relevant provision in question was due to the act or default of another person and that he took all precautions and exercised all due diligence to avoid the contravention by himself or another person under his control. 15
- (7) Where any of the grounds mentioned in subsection (6)(a) is relied on in any representations made under the said section 62(1), those representations must include a statement of the name and address of the owner (if that information is in the recipient’s possession). 20
- (8) Where the ground mentioned in subsection (6)(d) is relied on in any representations made under the said section 62(1), the relevant highway authority may disregard the representations unless, before the representations are considered, the person making the representations has served on the relevant highway authority a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession. 25
- (9) Subsections (10) to (12) shall come into effect on the date that the level of penalty charge in relation to contraventions of the relevant provisions is fixed in accordance with section 66 of the 2007 Act (levels of penalty charges). 30
- (10) Subsections (3) to (7) of section 139 of the 1980 Act (offences related to builders’ skips) cease to have effect in Greater London.
- (11) Section 140(9) of the 1980 Act in its application to Greater London, is amended by the substitution for “guilty of an offence under section 139(4) above of failing” of the words “liable to pay a penalty charge under section 20 of the London Local Authorities and Transport for London (No. 2) Act 2008 in relation to the failure”. 35
- (12) The entries numbered 4 to 9 in the table contained in Schedule 4 to the 2003 Act are repealed.
- (13) In subsection (9) “the relevant provisions” means paragraphs (a) to (c) of subsection (3). 40

## 21 Builders’ skips: requirements as to lighting and covering

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

5

## 22 Builders’ skips: provision of lighting and covering by highway authority

(1) Subsection (2) applies if a builder’s skip is found by a relevant highway authority to be deposited on a highway in Greater London and the skip—

(a) is not lighted or covered in accordance with the conditions of a permission under section 139 of the 1980 Act;

10

(b) was deposited without a permission under that section having been obtained; or

(c) is not properly lighted during the hours of darkness (or is not marked in accordance with regulations made under section 139(4)(a) of the 1980 Act).

15

(2) Where this section applies, the relevant highway authority in question may themselves light, cover or mark the skip or cause it to be lighted, covered or marked.

(3) Any expenses reasonably incurred by a relevant highway authority in the lighting, covering or marking of a skip under subsection (2) may be recovered from the owner of the skip in any court of competent jurisdiction or summarily as a civil debt.

20

(4) The owner of a skip is not liable to pay a penalty charge under **section 20** in relation to a failure to secure that a condition or requirement relating to the lighting, covering or marking of the skip was complied with if the failure resulted from the lighting, covering or marking of the skip under subsection (2).

25

## 23 Builders’ skips: immobilisation devices

(1) Where a penalty charge notice has been served in accordance with section 61 of the 2007 Act in relation to a penalty charge payable under **section 20**(3), an authorised officer of the relevant highway authority or a person acting under his direction may fix an immobilisation device to the builder’s skip concerned while it remains in the place where it was found.

30

- (2) On any occasion when an immobilisation device is fixed to a skip in accordance with this section, the person fixing the device shall also fix to the skip a notice—
- (a) indicating that such a device has been fixed to the skip and warning that no attempt should be made to move it until it has been released from that device; 5
  - (b) specifying the steps to be taken in order to secure its release; and
  - (c) warning that unlawful removal of an immobilisation device is an offence.
- (3) A notice fixed to a vehicle in accordance with this regulation shall not be removed or interfered with except by or under the authority of— 10
- (a) the owner of the skip; or
  - (b) the relevant highway authority.
- (4) A person contravening subsection (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) Any person who, without being authorised to do so in accordance with this section, removes or attempts to remove an immobilisation device fixed to a skip in accordance with this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale. 15

#### 24 Release of immobilised skips

- (1) A skip to which an immobilisation device has been fixed in accordance with **section 23** may only be released from that device by or under the direction of a person authorised by the relevant highway authority to give such a direction. 20
- (2) Subject to subsection (1), such a skip shall be released from the device on payment in any manner specified in the notice fixed to the vehicle under **section 23(2)** of— 25
- (a) the penalty charge payable in respect of the contravention in question; and
  - (b) such charge in respect of the release as may be required by the relevant highway authority.

#### 25 Appeals in relation to immobilisation 30

- (1) If the owner of a skip makes representations under section 62(1) of the 2007 Act to a relevant highway authority in an immobilisation case, and the relevant highway authority accepts that a ground specified in **section 20(6)** applies, it shall, when it serves notice that it accepts that ground, refund (in addition to a sum representing the penalty charge paid) a sum representing the amount of any charge paid under **section 24(2)(b)**. 35
- (2) If the owner of a skip appeals to an adjudicator under section 62 of the 2007 Act to a relevant highway authority (or regulations made under that section) in an immobilisation case, and the adjudicator accepts that a ground specified in **section 20(6)** applies the adjudicator shall direct the relevant highway authority to refund (in addition to a sum representing the penalty charge paid) a sum representing the amount of any charge paid under **section 24(2)(b)**. 40

- (3) It shall be the duty of a relevant highway authority to which a direction is given under subsection (2) to comply with it forthwith.
- (4) In this section an “immobilisation case” means a case where a penalty charge notice has been served in accordance with section 61 of the 2007 Act in relation to a penalty charge payable under **section 20(3)** and an immobilisation device has been fixed to the skip under **section 23**. 5

## PART 5

### ROAD TRAFFIC

#### 26 Recovery of exceptional traffic management and waste clearance costs

- (1) This section applies in respect of— 10
  - (a) any sporting event or any entertainment that, in either case, is put on for commercial gain in Greater London (including an event that is one of a number of similar events put on at the same location at different times);
  - (b) the making of a film in circumstances where the traffic authority has temporarily prohibited or restricted the use of a road under section 16A of the Road Traffic Regulation Act 1984 (c. 27) as modified by section 12 of the London Local Authorities and Transport for London Act 2008. 15
- (2) A traffic authority or a borough council may recover from the relevant person any specified expenditure reasonably incurred by them as a result of the particular sporting event, entertainment or film making in question, if the expenditure is not otherwise recovered from that person. 20
- (3) This section does not apply in respect of—
  - (a) the London Olympics, within the meaning of the London Olympic Games and Paralympic Games Act 2006 (c. 12) (see section 1(1) and (2) of that Act) and including any other event connected with or ancillary to the London Olympics and organised by the Olympic Delivery Authority or the London Organising Committee; 25
  - (b) the performance of a play at any theatre other than an exceptional performance; 30
  - (c) the showing of a film at any cinema other than an exceptional showing.
- (4) In subsection (3)(b) and (c), “exceptional performance” and “exceptional showing” mean a performance or showing such as a premiere or opening performance which attracts or is expected to attract a crowd outside the theatre or cinema. 35

- (5) In this section—
- “the relevant person” means—
- (a) as regards subsection (1)(a), the occupier of the premises or other land at which an event or entertainment to which this section applies takes place or, if the premises or land are not occupied, the owner of the premises; 5
  - (b) as regards subsection (1)(b) the person carrying out the filming;
- “specified expenditure” means—
- (a) in the case of a traffic authority, expenditure incurred in taking steps to ensure the safety of and minimise disruption to users of the highway; 10
  - (b) in the case of a borough council, expenditure incurred in complying with their duties under sections 89(1) and (2) of the Environmental Protection Act 1990 (c. 43) (duty to keep land and highways clear of litter and duty to keep highways and roads clean) within a reasonable distance of the event, entertainment or film making in question. 15

## 27 Recovery of costs: appeals

- (1) A person on whom a demand is made by a traffic authority or a borough council for expenditure recoverable under this section may appeal against it to a magistrates’ court in accordance with the provisions of this section. 20
- (2) An appeal under this section must be made within a period of 21 days beginning with the day on which the demand is made.
- (3) The grounds on which an appeal under this section may be made are that—
- (a) there is a material defect or error in, or in connection with, the demand; 25
  - (b) the demand should have been made on another person;
  - (c) no expenditure recoverable under this section was reasonably incurred by the traffic authority or the borough council in respect of the event, entertainment or film making in question;
  - (d) the demand is unfair or unduly onerous. 30
- (4) A demand against which an appeal under this section is made is of no effect pending the final determination or withdrawal of the appeal.
- (5) On the determination of an appeal under this section, the magistrates’ court must—
- (a) quash the demand; 35
  - (b) modify the demand (including modifying it by reducing the amount demanded or extending any period specified in it for repayment); or
  - (c) dismiss the appeal.

## 28 Advanced stopping areas for cyclists: general

- (1) This section and **sections 29 and 30** shall have effect on and after the appointed day. 40

- (2) Where the road marking described in subsection (3) has been placed in conjunction with light signals, for the purposes of the regulations “stop line” in relation to those light signals means—
- (a) the first stop line, in the case of a vehicle (other than a pedal cycle) which has not proceeded beyond that line; or 5
  - (b) the second stop line, in the case of—
    - (i) a pedal cycle; or
    - (ii) any other vehicle which has proceeded beyond the first stop line.
- (3) The road marking mentioned in subsection (2) is the same as shown in diagram 1001.2 but without the cycle lane and with the first stop line extending from the left hand edge of the carriageway to the right hand longitudinal line. 10
- (4) Where road marking 1001.2 has been placed in conjunction with light signals and the cycle lane (or where there is more than one cycle lane any one of those lanes) is obstructed, for the purposes of the regulations, “stop line” in relation to those light signals means, in relation to pedal cycles, the second stop line. 15
- (5) In this section and **sections 29** and **30**—
- “the cycle lane”, “the first stop line” and “the second stop line” when used in relation to the road marking described in subsection (3) have the same meanings as in regulation 43(2) of the regulations when used in relation to road marking 1001.2; 20
  - “the red light signal” means the red light signal when displayed by the light signals prescribed by regulation 33 (including as varied by regulation 34) or regulation 35 of the regulations;
  - “the regulations” means the Traffic Signs Regulations and General Directions 2002 (S. I. 2002 No. 3113) as may be varied or replaced, and a reference in this section to an individual regulation includes any equivalent regulation replacing it; 25
  - “road marking 1001.2” means the road marking shown in diagram 1001.2 in the regulations or any equivalent diagram in regulations varying or replacing them. 30

## 29 Advanced stopping areas for cyclists: 2003 Act

- (1) A penalty charge is payable with respect to a motor vehicle under section 4 of the 2003 Act (penalty charges for road traffic contraventions) if—
- (a) the person driving or propelling the vehicle— 35
    - (i) fails to comply with the red light signal; or
    - (ii) drives or propels the vehicle in the cycle lane; and
  - (b) road marking 1001.2 or the road marking described in **section 28**(2) has been placed in conjunction with the light signals in question.
- (2) The modifications set out in subsections (2) to (4) of section 7 of the 2003 Act (disapplication of offences) shall not apply in respect of a failure to comply with the red light signal, in the circumstances mentioned in subsection (1). 40
- (3) A penalty charge shall not be payable under the said section 4 in relation to a failure or contravention of the type described in subsection (1)(a) where—

- (a) the conduct constituting the failure or contravention is the subject of criminal proceedings; or
  - (b) a fixed penalty notice, as defined by section 52 of RTOA 1988, has been given in respect of that conduct.
- (4) Where, despite the provisions of subsection (3)— 5
- (a) a penalty charge has been paid in respect of a failure or contravention; and
  - (b) the circumstances are as mentioned in subsection (3)(a) or (b), the London authority in question shall, as soon as reasonably practicable after those circumstances come to their notice, refund the amount of the penalty charge. 10

### 30 Advanced stopping areas for cyclists: 2004 Act

- (1) An offence committed in Greater London of the type described in subsection (2) shall be regarded as a moving traffic contravention for the purposes of Part 4 of Schedule 7 to the 2004 Act. 15
- (2) The type of offence referred to in subsection (1) is an offence under section 36 of RTA 1988 of failing to comply with the red light signal in circumstances where road marking 1001.2 or the road marking described in **section 28(2)** has been placed in conjunction with the light signals in question.

### 31 Gated roads 20

- (1) Any person who opens, closes or otherwise operates or interferes with a relevant barrier without lawful excuse shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (2) In subsection (1) a “relevant barrier” means any barrier lawfully placed in on or over a highway by or on behalf of a traffic authority in London for the purpose of preventing or restricting the passage of vehicles or any class of vehicles into out of or along a highway. 25

### 32 Cycling on the footway: variation of fixed penalty levels

- (1) This section applies in an area in which a community safety accreditation scheme is established and maintained; and— 30
- (a) for the purposes of that scheme the Police Commissioner has entered into arrangements under section 41 of the 2002 Act (accreditation under community safety accreditation schemes) with at least one London authority; and
  - (b) those arrangements enable the accreditation of employees of the London authority or authorities to specify that paragraph 1 of Schedule 5 to the 2002 Act applies to those employees and that the powers mentioned in sub-paragraph 1(2)(a) of that Schedule (giving of fixed penalties in respect of offences under the section 72 of the Highway Act 1835 (c. 50)(riding on a footway) committed by cycling) are exercisable by those employees. 35 40

- (2) In any area where this section applies, the relevant London authority or the relevant London authorities jointly may prescribe the level of fixed penalty under Part III of RTOA 1988 for a relevant offence.
- (3) Different levels of fixed penalty may be prescribed for different cases or different classes of case and for different areas. 5
- (4) Where levels of fixed penalty have been fixed in accordance with this section in respect of any area, section 53 of RTOA 1988 (amount of fixed penalty) shall cease to apply in respect of relevant offences.
- (5) Levels of fixed penalties set by London authorities in accordance with this section may only come into force in accordance with **section 33**. 10
- (6) London authorities shall publish the levels of fixed penalties which have been set by them in accordance with this section—
- (a) in the London Gazette; and
  - (b) in such other manner as the Secretary of State may determine.
- (7) In this section— 15
- “the 2002 Act” means the Police Reform Act 2002 (c. 30);
  - “community safety accreditation scheme” means a community safety accreditation scheme established under section 40 of the 2002 Act;
  - “the Police Commissioner” means the Commissioner of Police of the Metropolis or the Commissioner of the City Police, as the case may be; 20
  - “relevant London authority” means a London authority with whom arrangements have been entered into by the Police Commissioner for the purposes of a community safety accreditation scheme, as mentioned in subsection (1);
  - “relevant offence” means an offence under the section 72 of the Highway Act 1835 (c. 50)(riding on a footway) committed by cycling. 25

### **33 Fixed penalties: reserve powers of Secretary of State**

- (1) Where a London authority or London authorities set any levels of fixed penalties in accordance with **section 32**, they shall notify the Secretary of State of the levels of fixed penalties so set. 30
- (2) Where notification of any levels of fixed penalties is required to be given under subsection (1), 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 35
  - (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 London authority or London authorities in question 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. 40

- (4) If, at any time before the levels of fixed penalties required to be notified under subsection (1) 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) must be no higher than those notified under subsection (1). 5
- (6) Where the Secretary of State makes any such regulations the London authority or London authorities in question must not set any further fixed penalties under **section 32** until after the expiration of the period of 12 months beginning with the day on which the regulations are made. 10
- (7) The power to make regulations under this section shall be exercisable by statutory instrument.
- (8) Any statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **34 Pedicabs** 15

- (1) Subsections (2) to (5) shall have effect in Greater London.
- (2) In determining, for the purposes of the enactments mentioned in subsection (3), who was the owner of a pedicab at any time, it shall be presumed, if the pedicab was licensed, that the owner was the person in whose name the pedicab was licensed at that time. 20
- (3) Those enactments are—
  - (a) Part II of the Road Traffic Act 1991 (c.40) (traffic in London);
  - (b) Part II of and Schedule 1 to the London Local Authorities Act 1996 (c. ix) (bus lanes);
  - (c) regulations made under section 144 of the Transport Act 2000 (c. 38) (civil penalties for bus lane contraventions); 25
  - (d) sections 4 to 7 of the 2003 Act (road traffic and highways);
  - (e) regulations under section 72 of the 2004 Act (civil penalties for road traffic contraventions);
  - (f) any other enactment whether passed before or after this Act which provides for the service of penalty charge notices or notices to owner on the owner of a vehicle. 30
- (4) For the purposes of the enactments mentioned in subsection (3), a pedicab business is not to be treated as a vehicle-hire firm.
- (5) An authority responsible for the licensing of pedicabs shall, on request, make available to a London authority which is a traffic authority the name and address of the person in whose name a particular pedicab is licensed. 35
- (6) In section 15(12) of the Greater London Council (General Powers) Act 1974 (c. xxiv) (parking on footways, grass verges, etc.), in the definition of “vehicles”, after “means” insert “a pedicab (within the meaning given by section 34 of the London Local Authorities and Transport for London (No. 2) Act 2008), or”. 40

- (7) The 2003 Act is amended as follows—
- (a) in section 4(5) (penalty charges for road traffic contraventions), for the words “motor vehicle” there is substituted “vehicle”;
  - (b) in section 4(16), the definition of “motor vehicle” is omitted and the following definition is inserted at the end— 5  
““vehicle” means a mechanically propelled vehicle intended or adapted for use on roads and a pedicab within the meaning given by section 34 of the London Local Authorities Act 2008.”.
- (8) In this section—
- “licensed” means licensed under section 6 of the Metropolitan Public Carriage Act 1869 (c.115) or any other enactment specified by the Secretary of State in regulations; 10
  - “pedicab” means a cycle constructed or adapted—
    - (a) to seat one or more passengers; and
    - (b) for the purpose of being made available with a driver in the course of a business for the purpose of carrying passengers; 15
  - “pedicab business” means a business which consists, in whole or in part, of—
    - (a) the ownership of pedicabs;
    - (b) the letting out of pedicabs to riders for use as a pedicab; or 20
    - (c) taking bookings for the use of pedicabs by passengers.
- (9) The power to make regulations under subsection (8) shall be exercisable by statutory instrument.

## PART 6

### CHARGING POINTS FOR ELECTRIC VEHICLES 25

#### 35 Charging points for electric vehicles

- (1) A London authority may provide and operate charging apparatus for electrically powered motor vehicles—
- (a) in any public off-street car park under the management and control of the authority; 30
  - (b) on any highway for which they are responsible as highway authority.
- (2) A London authority may grant a person permission to provide or operate charging apparatus for electrically powered motor vehicles—
- (a) in any public off-street car park under the management and control of the authority; 35
  - (b) on any highway for which they are responsible as highway authority.
- (3) Section 115D of the 1980 Act (limit on powers to provide amenities on the highway) shall apply in relation to the exercise of the powers under this section as it applies in relation to the exercise of powers under sections 115B and 115C of that Act. 40

- (4) The powers under this section may not be exercised in relation to a local Act walkway unless walkway consent has been obtained first.
- (5) Subject to subsection (6), a London authority may grant a permission under subsection (2) upon such conditions as they think fit, including conditions requiring the payment to the authority of such reasonable charges as they may determine. 5
- (6) Nothing in this section—
- (a) is to be taken as authorising the creation of a nuisance or of a danger to users of a highway or a public off-street car park; or
  - (b) (in relation to permissions granted under subsection (2)) is to be taken as imposing on a London authority by whom a permission has been granted any liability for injury, damage or loss resulting from the presence on a highway or public off-street car park of the charging apparatus to which the permission relates; or 10
  - (c) is to be taken as imposing on a London authority any liability for injury, damage or loss resulting from the presence on a highway or public off-street car park of a connecting cable; or 15
  - (d) shall prejudice the right of a London authority to require an indemnity against any claim in respect of injury, damage or loss arising out of the grant of the permission; 20
- but paragraph (d) is not to be taken as requiring any person to indemnify a London authority against any claim in respect of injury, damage or loss which is attributable to the negligence of the London authority.
- (7) For the purposes of determining who is liable for injury, damage or loss resulting from the presence at on a highway or public off-street car park of a connecting cable at or near charging apparatus provided under this section, it shall be presumed that the person in charge of the relevant vehicle at the relevant time had responsibility for and control of the cable. 25
- (8) In subsection (7)—
- “the relevant vehicle” means the vehicle in respect of which the connecting cable was about to be, was being or had been used for charging; 30
  - “the relevant time” means the time when the liability arose.
- (9) This section is without prejudice to section 162 of the 1980 Act (penalty for placing rope, etc. across highway).
- (10) In this section— 35
- “charging apparatus” includes any fixed equipment but excludes any connecting cable;
  - “connecting cable” means any cable or wire, whether provided by the authority or otherwise, used to connect the charging apparatus to a vehicle and that is not permanently attached to the charging apparatus; 40
  - “local Act walkway” and “walkway consent” have the same meanings as in section 115A of the 1980 Act.

### 36 Notices to be given before exercise of powers under section 35

- (1) Subject to subsection (4), a London authority shall not—
  - (a) exercise any power conferred by **section 35(1)**; or
  - (b) grant any permission under **section 35(2)**,unless they have first published a notice under this section. 5
- (2) A London authority shall publish a notice under this section—
  - (a) by affixing it in a conspicuous position at or near the place to which the proposal relates; and
  - (b) by serving a copy of the notice on the owner and occupier of any premises appearing to the London authority to be likely to be materially affected. 10
- (3) A notice under this section—
  - (a) shall give details of the proposal; and
  - (b) shall specify a period (being not less than 28 days after the publication of the notice) during which representations regarding the proposal may be made to the London authority. 15
- (4) Where a London authority have published a notice under this section, they shall not exercise the power or grant the permission to which the notice relates until they have taken into consideration all representations made to them in connection with the proposal within the period specified in the notice. 20

### 37 Duties to consult or obtain consent of other authorities

- (1) A London authority shall not—
  - (a) exercise any power conferred by **section 35(1)**; or
  - (b) grant any permission under **section 35(2)**, in relation to a highway unless they have— 25
    - (i) obtained the consent of any authority other than themselves who are the highway authority for the highway; and
    - (ii) consulted any authority other than themselves who are a local planning authority, as defined in the Town and Country Planning Act 1990 (c. 8) for the area in which, as the case may be, they propose to exercise the power or to which the proposed permission would relate. 30
- (2) Where a highway to which this Part of this Act applies is maintained by a relevant railway undertaker, a London authority shall not exercise any power conferred by **section 35(1)** or grant a permission in relation to it under **section 35(2)** except with the consent of the relevant railway undertaker. 35
- (3) In this section, “relevant railway undertaker” means—
  - (a) Network Rail Infrastructure Limited;
  - (b) London Underground Limited; or
  - (c) any of their subsidiaries (within the meaning given by section 1159 of the Companies Act 2006 (c. 46). 40

### 38 Failure to comply with terms of permission

- (1) If it appears to a London authority that a person to whom they have granted a permission under **section 35(2)** has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified. 5
- (2) If a person on whom a notice is served under subsection (1) fails to comply with the notice, the London authority may take the steps themselves.
- (3) Where a London authority have incurred expenses in the exercise of the power conferred on them by subsection (2), those expenses, together with interest at such reasonable rate as the authority may determine from the date of service of a notice of demand for the expenses, may be recovered by the London authority from the person on whom the notice under subsection (1) was served. 10

### 39 Offence of unlawful use of charging point

- (1) A charging point provided under **section 35(1)** or (2) may be used only for charging vehicles unless— 15
  - (a) in the case of a charging point provided under **section 35(1)** the London authority specifies otherwise; or
  - (b) in the case of a charging point provided under **section 35(2)** the permission specifies otherwise. 20
- (2) If a council specifies that a charging point provided under **section 35(1)** may be used for some purpose other than the charging of vehicles, then they may indicate on the charging point what those purposes are (which may be by reference to purposes that are not so specified).
- (3) If a permission under **section 35(2)** specifies that the charging point may be used for some purpose other than the charging of vehicles, then the person to whom the permission is given may indicate on the charging point what those purposes are (which may be by reference to purposes that are not so specified). 25
- (4) If a person uses a charging point for a purpose other than charging a vehicle he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. 30
- (5) A person is not guilty of an offence under subsection (4) if he used the charging point for a purpose that was specified in accordance with subsection (1)(a) or (b) and an indication was at the time when he used the charging point provided on the charging point in accordance with subsection (2) or (3). 35

# London Local Authorities and Transport for London (No. 2) Bill

---

---

A

## B I L L

To confer further powers upon local authorities in London and upon  
Transport for London; and for related purposes.

---

SESSION 2007–08

---

C. T. WILSON  
Westminster City Council  
Westminster City Hall  
Victoria Street  
London SW1E 6QP  
*Director of Legal and Administrative Services*

PETER HENDY  
Transport for London  
Windsor House  
42-50 Victoria Street  
London SW1H 0TL  
*Managing Director, Surface Transport*

SHARPE PRITCHARD  
Elizabeth House  
Fulwood Place  
London WC1V 6HG  
*Parliamentary Agents*

LONDON: THE STATIONERY OFFICE  
Printed in the United Kingdom by  
The Stationery Office Limited  
22.11.07.

(384208)