

Transport for London (Supplemental Toll Provisions) Bill [HL]

EXPLANATORY MEMORANDUM

This Bill provides Transport for London (“TfL”) with further powers in circumstances where TfL has made (and the Secretary of State has confirmed) a toll order pursuant to the New Roads and Street Works Act 1991 (“TfL toll orders”). These powers will enable TfL to make provision for the enforcement and operation of TfL toll orders similar to the provision which may be made for the enforcement and operation of TfL road user charging schemes under Schedule 23 to the Greater London Authority Act 1999 (“the 1999 Act”).

Preliminary

Clause 1 deals with citation and commencement, and *Clause 2* with definitions of certain expressions used in the Bill.

Clause 3 provides for any functions conferred or imposed on the Greater London Authority (“the Authority”) to be exercisable by the Mayor of London (“the Mayor”) on behalf of the Authority.

Supplemental Toll Provisions Orders

Clause 4 provides that where TfL has made a TfL toll order, TfL may make a further order (to be known as a supplemental toll provisions order) making provision for, or in connection with, the tolls charged under the TfL toll order (“SUTPO”). *Subsection (2)* enables a SUTPO to be made by TfL before, as well as after, the TfL toll order to which it relates has been confirmed by the Secretary of State under the New Roads and Street Works Act 1991 (“the 1991 Act”).

Clause 5 provides how a SUTPO may be made. A SUTPO can be in any form determined by the Authority. A SUTPO must be submitted to the Authority for confirmation who may confirm it with or without modification. The Authority may require TfL to publish proposals for a SUTPO, to consult other persons before making the SUTPO, to modify the SUTPO in consequence of objections made to it and to publish it after it has been made. The Authority may also require TfL to place and maintain traffic signs in connection with the SUTPO. *Subsection (4)* provides that a SUTPO cannot be confirmed by the Authority until the TfL toll order to which it relates has been confirmed by the Secretary of State. However, the Authority may notify the Secretary of State under *clause 8* of its intention to confirm the SUTPO before the TfL toll order has been confirmed by the Secretary of State.

Clause 6 and *the Schedule* provide that the matters for which provision may be made by a SUTPO include those set out in *the Schedule*.

The matters set out in *paragraphs 1, 4 to 9 and 11 to 16 of the Schedule* are similar to the matters which may be included in a TfL road user charging scheme made under Schedule 23 to the 1999 Act by virtue of paragraphs 10, 11A, 12, 26, 27, 28 and 30 of that Schedule to that Act or regulations made under those provisions. The power to make provision for the matters set out in *paragraphs 1 and 2* would replace the powers in section 14 of the 1991 Act.

Paragraph 10 of the Schedule gives power to make summary offences under a SUTPO which would be punishable with a specified maximum fine not exceeding level 2 on the standard scale. A proposed provision in a SUTPO creating an offence under this power is subject to the Secretary of State's powers under *clause 8*.

Clause 6(2) enables a SUTPO to provide that the tolls and penalty charges are to be paid by the registered keeper of a motor vehicle or, in prescribed circumstances, by persons to be prescribed in the SUTPO, rather than the driver of the vehicle as is provided for by the 1991 Act. This is necessary to enable a TfL toll order to be enforced in the same way as a TfL road user charging scheme under the 1999 Act.

Clause 6(3) and (4) provide that a SUTPO may, in addition to or instead of setting out provisions in the SUTPO in full, apply (with or without modification) provisions contained in Schedule 23 to the 1999 Act, regulations made under it or any TfL road user charging scheme, as those provisions may have effect from time to time.

Clause 7 provides that sections 14 and 15 of the 1991 Act (which make provision relating to the collection and enforcement of tolls which provision is to be replaced by that made by a SUTPO) shall cease to have effect in relation to a TfL toll order in respect of which a SUTPO has been made.

Clause 8 contains safeguards to ensure that the provisions of a SUTPO are reasonable. Before confirming a SUTPO, the Authority must send a copy of the SUTPO to the Secretary of State and notify him of its intention to confirm it. The Secretary of State may within 42 days from the time of the notification (or, if later, fourteen days from the time that he confirms the TfL toll order) object to any provision in the SUTPO which confers a power on TfL or which creates an offence. If the Secretary of State objects to such a provision it cannot come into force unless and until the objection is withdrawn. In those circumstances, the Authority has power under *clause 5* to modify the provision in question so as to make it acceptable to the Secretary of State or, alternatively, to confirm the order with the omission of the provision.

However, the Secretary of State may not object to a provision in a SUTPO if it is substantially the same as a provision for the time being having effect for the purposes of a TfL road user charging scheme whether that provision is contained in the 1999 Act, regulations made under it or in any TfL road user charging scheme.

Clause 9 provides that a SUTPO, unless varied or revoked, shall remain in force for as long as tolls are chargeable under the TfL toll order to which it relates or, after the tolls cease to be chargeable, for as long as may be required to collect or enforce them.

Clause 10 provides that a SUTPO may be varied or revoked subject to the same procedures which apply to the making of a SUTPO under *clause 5*.

Clause 11 provides that TfL may install and maintain any equipment or construct and maintain buildings or other structures used or to be used in connection with the operation or enforcement of a TfL toll order or a SUTPO. TfL can also authorise the installation, construction and maintenance of such equipment, buildings or other structures. *Subsection (2)* provides that TfL may enter land and exercise any other necessary powers to place and maintain traffic signs in connection with a TfL toll order or a SUTPO.

However TfL shall not install, construct, place or maintain any equipment, buildings or other structures or traffic signs on a highway without obtaining the previous consent of the highway authority. Such consent cannot be unreasonably withheld but may be given subject to any reasonable conditions.

Clause 12 makes provision for the approval of equipment used in connection with a TfL toll order or a SUTPO which is similar to provision made by paragraph 29 of Schedule 23 to the 1999 Act relating to TfL road user charging schemes. The Authority may direct that specified descriptions of equipment cannot be used unless they are of a type authorised by the Authority. In addition, the Secretary of State may notify the Authority that any particular description of equipment is incompatible with relevant national standards and that the incompatibility is detrimental to the interests of persons resident in England outside Greater London. Where such notice is given by the Secretary of State, the equipment may not be used in connection with the TfL toll order or SUTPO except with the authorisation of the Secretary of State which may be given subject to conditions.

Exclusions

Clause 13 makes provision restricting the vehicles in respect of which the enforcement powers in a SUTPO may be exercised. The provision is similar to that made by paragraph 31 of Schedule 23 to the 1999 Act in relation to TfL road user charging schemes, as proposed to be amended by the Transport for London Bill currently before Parliament.

Subsection (1) provides that a SUTPO may only authorise or require the examination, clamping or removal of a motor vehicle if it is on a road or public off-street parking place (as defined in *subsection (12)*) within Greater London. This would include vehicles which are parked in off-street council or other public car parks but not in private driveways. Under *subsection (2)* TfL cannot enter a public off-street parking place to exercise powers to examine, enter, clamp or remove vehicles without the consent of the operator which cannot be unreasonably withheld but maybe given subject to any reasonable conditions including conditions requiring TfL to indemnify the operator in respect of any loss of revenue, damage or other liability sustained as a result of the exercise of the power. *Subsections (7) to (9)* make provision to prevent additional car parking charges or other penalties being imposed by the operator on the owner, keeper or driver of a vehicle which has been clamped in a car park.

Offences

Clauses 14 and 15 create summary offences relating to tolls under TfL toll orders or penalty charges under SUTPOs which are similar to those created by paragraphs 25, 26 and 27 of Schedule 23 to the 1999 Act in relation to TfL road user charging schemes.

Under *clause 14* interference with any equipment used for a TfL toll order, the obscuring of a registration plate of a motor vehicle or using a false document with intent to avoid payment of, or being identified as having failed to pay, a toll chargeable under a TfL toll order or a penalty charge under a SUTPO is punishable by a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months or both. The removal of a penalty charge notice from a motor vehicle by a person other than the registered keeper without the authority of the registered keeper is punishable with a fine not exceeding level 2 on the standard scale.

Under *Clause 15* the intentional obstruction of a person exercising any powers conferred on him by a provision made by a SUTPO to enter a motor vehicle where he has reasonable grounds for suspecting that any equipment required to be carried in or fitted to the motor vehicle while it is on a road which is subject to the charging of tolls has been interfered with, or there is in the motor vehicle a false document which has been made or used, with intent to avoid payment of, or being identified as having failed to pay, a toll under a TfL toll order is punishable by a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months or both.

Subsection (3) provides that the removal and interference with an immobilisation notice in contravention of a SUTPO is an offence punishable with a fine not exceeding level 2 on the standard scale. *Subsections (5) and (6)* provide that the removal or attempted removal of an immobilisation device fixed to a motor vehicle in accordance with a provision made by a SUTPO or the intentional obstruction of a person exercising any power to clamp, remove or store vehicles, to require the satisfaction of conditions before releasing the motor vehicle or to sell or destroy vehicles not released is punishable by a fine not exceeding level 3 on the standard scale.

Supplementary and Miscellaneous

Clause 16 enables the Authority or TfL to incur expenditure in or in connection with the establishment or operation of a TfL toll order or SUTPO or to enter into arrangements with any body or person in respect of the operation or enforcement of a TfL toll order or SUTPO or relating to the installation or operation of any equipment used for that purpose. This would include arrangements with a concessionaire with whom TfL has entered into a contract to design, construct, finance and operate the tolled road in question. *Subsection (2)* provides that arrangements with such a body or person may provide for any functions of TfL relating to the operation or enforcement of the TfL toll order or SUTPO to be exercisable instead by the body or person with whom the arrangements are made.

Clause 17 enables the Authority to issue guidance to TfL in relation to the discharge of TfL's functions under a SUTPO and requires TfL to have regard to any such guidance. This provision is similar to that made by paragraph 34 of Schedule 23 to the 1999 Act in relation to TfL road user charging schemes.

Clause 18 permits a Minister of the Crown, Government department, local authority or statutory body to disclose information to TfL or to a person with whom arrangements have been made by TfL under *clause 16(1)(b)* for the exercise of any of its functions relating to a TfL toll order or a SUTPO. Such information may only be used by TfL (or the person with whom arrangements have been made under *clause 16(1)(b)*) for the purpose of exercising those functions. This provision is similar to that made by paragraph 34A of Schedule 23 to the 1999 Act in relation to TfL road user charging schemes and would enable TfL or a concessionaire to obtain particulars of the registered keeper of a motor vehicle for the purpose of collecting tolls or penalty charges.

Clause 19 makes provision relating to the application of the provisions of the Bill to the Crown which is similar to that made by paragraphs 35 and 36 of Schedule 23 to the 1999 Act in relation to TfL road user charging schemes.

Clause 20 makes a consequential amendment to Part 5 of the London Local Authorities and Transport for London Bill currently before Parliament. Part 5 of that Bill makes provision for the enforcement of “penalty charges” as defined in the Bill where three or more penalty charges are unpaid. *Clause 20* provides that references to “penalty charges” in Part 5 are to include penalty charges imposed under a SUTPO so that non-payment of such penalty charges may be aggregated with the non-payment of other charges for the purposes of the enforcement powers under the London Local Authorities and Transport for London Bill.

EUROPEAN CONVENTION ON HUMAN RIGHTS

In the view of Transport for London the provisions of the Transport for London (Supplemental Toll Provisions) Bill are compatible with the Convention rights.

Transport for London (Supplemental Toll Provisions) Bill [HL]

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A

B I L L

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

WHEREAS—

- (1) It is expedient that the powers of Transport for London should be extended and amended as provided in this Act:
- (2) It is expedient that further provision be made in relation to the manner in which tolls chargeable under toll orders made by Transport for London under the New Roads and Street Works Act 1991 (c. 22) (“TfL toll orders”) are charged, collected, recorded, refunded and paid: 5
- (3) It is expedient that provision be made enabling the imposition of penalty charges in respect of acts, omissions, events or circumstances relating to or connected with a TfL toll order: 10
- (4) It is expedient that further provision be made in connection with the operation and enforcement of a TfL toll order:
- (5) It is expedient that provision be made for the imposition of offences for acts and omissions in connection with a TfL toll order:
- (6) It is expedient that Transport for London should have powers for the removal, immobilisation or destruction of motor vehicles in relation to the non-payment of penalty charges imposed in connection with a TfL toll order: 15
- (7) It is expedient that the provisions contained in this Act should be enacted:
- (8) The purposes of this Act cannot be effected without the authority of Parliament:
- (9) In relation to the promotion of the Bill for this Act Transport for London has complied with the requirements of section 167 of, and Schedule 13 to, the Greater London Authority Act 1999 (c. 29): 20

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:—

Preliminary

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1 Citation and commencement

This Act may be cited as the Transport for London (Supplemental Toll Provisions) Act 2007 and shall come into operation at the end of the period of two months beginning with the date on which it is passed.

2 Interpretation

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(1) In this Act—

“the 1991 Act” means the New Roads and Street Works Act 1991 (c. 22);

“the 1999 Act” means the Greater London Authority Act 1999 (c. 29);

“the 2007 Act” means the London Local Authorities and Transport for London Bill deposited in Parliament on 27 November 2004;

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“the Authority” means the Greater London Authority;

“immobilisation device” has the same meaning as in section 104(9) of the Road Traffic Regulation Act 1984 (c. 27);

“local authority” means a county council, a district council, a London borough council, a parish council or the Common Council of the City of London;

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“Mayor” means Mayor of London;

“motor vehicle” has the meaning given in section 185(1) of the Road Traffic Act 1988 (c. 52);

“penalty charge” has the same meaning as in paragraph 5 of the Schedule to this Act;

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“prescribed” means prescribed by a supplemental toll provisions order;

“registered keeper”, in relation to a toll or penalty charge imposed in respect of a motor vehicle, means the person in whose name the vehicle was registered under the Vehicle Excise and Registration Act 1994 (c. 22) at the time of the act, omission, event or circumstances in respect of which the toll or penalty charge is imposed;

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“road” has the meaning given by section 142(1) of the Road Traffic Regulation Act 1984;

“supplemental toll provisions order” has the meaning given by section 4(3);

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

“TfL” means Transport for London;

“TfL charging scheme” means a charging scheme within the meaning given by paragraph 1(1) of Schedule 23 to the 1999 Act made by TfL; and

“TfL toll order” means an order made by TfL under section 6 of the 1991 Act.

- (2) In this Act “the TfL toll order” and “tolls”, in relation to a supplemental toll provisions order, means the TfL toll order in respect of which the supplemental toll provisions order makes provision and the tolls chargeable under that TfL toll order. 5
- (3) References in this Act to functions under a supplemental toll provisions order include references to functions under the TfL toll order.

3 Authority functions exercisable by Mayor 10

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

Supplemental Toll Provisions Orders

4 Supplemental toll provisions orders

- (1) Where TfL has made a TfL toll order, TfL may make a further order making provision for, or in connection with, the tolls charged under the TfL toll order. 15
- (2) The power of TfL to make a supplemental toll provisions order may be exercised before, as well as after, the TfL toll order has been confirmed by the Secretary of State under section 6(2) of the 1991 Act.
- (3) An order made under this section is referred to in this Act as a supplemental toll provisions order. 20

5 Making a supplemental toll provisions order

- (1) A supplemental toll provisions order made by TfL must be submitted to, and confirmed (with or without modification) by, the Authority.
- (2) A supplemental toll provisions order shall be in such form as the Authority may determine. 25
- (3) The Authority may—
- (a) consult, or require TfL before making a supplemental toll provisions order to consult, other persons;
 - (b) require TfL to publish its proposals for a supplemental toll provisions order and to consider objections to the proposals; 30
 - (c) make modifications to a supplemental toll provisions order, whether in consequence of any objections or otherwise, before the order takes effect;
 - (d) require TfL to publish notice of a supplemental toll provisions order and of its effect; and 35
 - (e) require TfL to place and maintain, or cause to be placed and maintained, such traffic signs in connection with a supplemental toll provisions order as the Authority may determine.

- (4) The Authority may notify the Secretary of State under section 8 (reserve powers of Secretary of State) of its intention to confirm a supplemental toll provisions order before the TfL toll order is confirmed by the Secretary of State under section 6(2) of the 1991 Act but shall not confirm the supplemental toll provisions order (with or without modification) until the TfL toll order has been confirmed by the Secretary of State under that section. 5

6 Contents of a supplemental toll provisions order

- (1) Without prejudice to the generality of section 4(1) (supplemental toll provisions orders), the provision which may be made by a supplemental toll provisions order includes that set out in the Schedule to this Act (provision which may be made by a supplemental toll provisions order). 10
- (2) Without prejudice to the generality of section 4(1) and notwithstanding any provision in the 1991 Act, a supplemental toll provisions order may make provision requiring tolls charged in respect of any motor vehicle under the TfL toll order (including penalty charges imposed in respect of any motor vehicle) to be paid— 15
- (a) by the registered keeper of the motor vehicle; or
 - (b) in prescribed circumstances, by such person as is prescribed.
- (3) In addition to, or instead of, setting out provisions in the order a supplemental toll provisions order may provide that any specified provisions of— 20
- (a) Schedule 23 to the 1999 Act;
 - (b) the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001 (S.I. 2001/2285), the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001 (S.I. 2001/2313) or any other regulations made under Schedule 23 to the 1999 Act; or 25
 - (c) any TfL charging scheme,
- shall have effect in relation to the TfL toll order and the tolls as they have effect in relation to a TfL charging scheme and the charges imposed under it subject to such modifications as may be prescribed. 30
- (4) Where a supplemental toll provisions order applies any provision mentioned in subsection (3), the order may provide that if the provision is subsequently varied, amended or revoked, the provision shall have effect in relation to the TfL toll order and the tolls as so varied or amended or, as the case may be, shall cease to have effect in relation to the TfL toll order and the tolls. 35

7 Disapplication of provisions of 1991 Act

Where a supplemental toll provisions order is made by TfL and confirmed by the Authority, sections 14 and 15 of the 1991 Act (which make provision relating to the collection and enforcement of tolling under that Act) shall cease to have effect in relation to the TfL toll order. 40

8 Reserve powers of Secretary of State

- (1) Where the Authority proposes to confirm a supplemental toll provisions order, the Authority shall before confirming the order, send a copy of the order to the Secretary of State and notify him of its intention to confirm it.
- (2) Without prejudice to section 5(4) (making a supplemental toll provisions order), the Authority shall not confirm the supplemental toll provisions order until after the expiry of—
- (a) the period of—
 - (i) 42 days beginning with the day on which the notification is given, or
 - (ii) 14 days beginning with the day on which the TfL toll order is confirmed by the Secretary of State,
 whichever is the later; or
 - (b) such shorter period as the Secretary of State may allow.
- (3) Subject to subsection (4), if, before the expiry of that period, the Secretary of State gives notice that he objects to any provision in the order conferring a power on TfL or creating an offence that provision shall not come into force unless and until the objection has been withdrawn.
- (4) The Secretary of State may not object to any provision in a supplemental toll provisions order if it is substantially the same as a provision for the time being having effect for the purposes of a TfL charging scheme whether that provision is contained in the 1999 Act, in any regulations made under it or in a TfL charging scheme.
- (5) Where a provision in a supplemental toll provisions order may not come into force by virtue of subsection (3), the Authority shall confirm the order subject to (in addition to any other modifications made under section 5) the omission of that provision and such other modifications as appear to the Authority to be required in consequence of that omission.

9 Duration of supplemental toll provisions orders

- Subject to section 10 (variation and revocation of supplemental toll provisions orders), a supplemental toll provisions order shall remain in force—
- (a) for as long as tolls are chargeable under the TfL toll order; and
 - (b) after tolls cease to be so chargeable, for as long as may be required to collect and enforce tolls which were properly charged under the TfL toll order.

10 Variation and revocation of supplemental toll provisions orders

- The power to make a supplemental toll provisions order includes power to vary or revoke such an order; and section 5 (making a supplemental toll provisions order) (apart from subsection (3)(e)) applies in relation to the variation or revocation of a supplemental toll provisions order as it applies to the making of such an order.

Equipment

11 Installation of equipment on roads or elsewhere

- (1) TfL may—
- (a) install and maintain, or authorise the installation and maintenance of, any equipment; or 5
 - (b) construct and maintain, or authorise the construction and maintenance of, buildings or other structures,
- used or to be used in connection with the operation or enforcement of a TfL toll order or a supplemental toll provisions order.
- (2) TfL may enter any land, and exercise any other powers which may be necessary for placing and maintaining, or causing to be placed and maintained, traffic signs in connection with a TfL toll order or a supplemental toll provisions order. 10
- (3) Nothing in subsections (1) and (2) shall authorise TfL to install, construct, place or maintain any equipment, buildings or other structures or traffic signs on a highway without obtaining the previous consent of the highway authority. 15
- (4) The consent of a highway authority required under subsection (3) is not to be unreasonably withheld but may be given subject to any reasonable conditions.
- (5) Any question whether consent is unreasonably withheld or is given subject to reasonable conditions shall be referred to and determined by an arbitrator to be appointed, in default of agreement, by the President of the Chartered Institute of Arbitrators. 20

12 Approval of equipment

- (1) No equipment which is used in connection with the operation or enforcement of a TfL toll order or a supplemental toll provisions order and is of a description specified in a direction under this section given by the Authority to TfL may be used in connection with a TfL toll order or a supplemental toll provisions order unless the equipment is of a type approved by the Authority. 25
- (2) Where the Secretary of State considers that—
- (a) equipment of any particular description used in connection with a TfL toll order or a supplemental toll provisions order (“the non-standard equipment”) is incompatible with a national standard for equipment of that or any other description; and 30
 - (b) the incompatibility is detrimental to the interests of persons resident in England outside Greater London,
- he may give notice of that fact to the Authority. 35
- (3) Where the Secretary of State has given notice under subsection (2) to the Authority, the non-standard equipment may no longer be used in connection with a TfL toll order or a supplemental toll provisions order except with the authorisation of the Secretary of State.
- (4) Any authorisation under subsection (3) may be given subject to conditions. 40

- (5) Any authorisation under subsection (3), and any conditions under subsection (4), may be varied or revoked.
- (6) In this section “national standard” means any standard approved by the Secretary of State by regulations made under section 176(2) of the Transport Act 2000 (c. 38).

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Exclusions

13 Exclusions for motor vehicles not on roads or public off-street parking places within Greater London

- (1) A supplemental toll provisions order may not authorise or require—
- (a) the examination, for any purpose relating to or connected with a TfL toll order or the supplemental toll provisions order, of a motor vehicle at a time at which the vehicle is not on a London road or a London public off-street parking place; or
 - (b) the fitting of an immobilisation device to, or the removal of, a motor vehicle at a time at which the vehicle is not on a London road or a London public off-street parking place.
- (2) A supplemental toll provisions order may not authorise TfL to enter a London public off-street parking place for the purpose of exercising any powers conferred on TfL by this Act or by the supplemental toll provisions order to examine, enter, immobilise or remove any motor vehicle without obtaining the prior consent of the operator.
- (3) A supplemental toll provisions order may provide that, for the purposes of subsection (2), an operator’s consent may be given to enter a London public off-street parking place—
- (a) on a specific occasion; or
 - (b) generally.
- (4) A supplemental toll provisions order—
- (a) may provide that an operator’s consent required under subsection (2) is not to be unreasonably withheld; and
 - (b) if it so provides, shall also provide that it may be given subject to any reasonable conditions.
- (5) Without prejudice to the generality of subsection (4)(b), where a supplemental toll provisions order contains the provision mentioned in that subsection, the conditions shall, if so required by the operator, include the conditions mentioned in subsection (6).
- (6) The conditions referred to in subsection (5) are conditions requiring TfL to reimburse the operator in respect of any loss of revenue, damage or other liability sustained as a result of—
- (a) the immobilisation by TfL of any motor vehicle on,
 - (b) the removal by TfL of any motor vehicle from, or
 - (c) the taking by TfL of any other action as respects a motor vehicle on,
- a London public off-street parking place.

- (7) The owner, keeper or driver of a motor vehicle on a London public off-street parking place which is immobilised or removed in accordance with provision included in a supplemental toll provisions order shall not be required by the operator to pay any car parking charges or other penalty additional to those already paid, or due to be paid, to the operator at the time that the vehicle was immobilised or removed. 5
- (8) Any provision made by a supplemental toll provisions order for the giving of notice of the immobilisation of a motor vehicle shall, in the case of a motor vehicle immobilised on a London public off-street parking place, require the notice to summarise the effects of subsection (7). 10
- (9) A supplemental toll provisions order may provide that consent to enter a London public off-street parking place on a specific occasion shall be deemed to have been given for the purposes of subsection (2) if—
- (a) TfL has served a notice on the operator asking for consent to enter on that occasion and summarising the effect of subsection (7); and 15
 - (b) the operator fails within 14 days of the service of the notice to give TfL notice of his consent or his refusal to give it.
- (10) At least 7 days before entering a London public off-street parking place in accordance with a provision included in a supplemental toll provisions order by virtue of subsection (9) TfL shall take reasonable steps to ascertain whether the operator has received the notice served under subsection (9)(a). 20
- (11) Where a supplemental toll provisions order contains the provision mentioned in subsection (4), the order shall provide that any question whether consent is unreasonably withheld or is given subject to reasonable conditions shall be referred to and determined by an arbitrator to be appointed, in default of agreement, by the President of the Chartered Institute of Arbitrators. 25
- (12) In this section—
- (a) “London public off-street parking place” means a place in Greater London, whether above or below ground and whether or not consisting of or including buildings, where off-street parking accommodation is made available by a local authority or any other person to the public (whether or not for payment); 30
 - (b) any reference to the operator of such a parking place is a reference to the local authority or other person making such parking accommodation at the parking place so available; and 35
 - (c) any reference to a London road is a reference to a road in Greater London.

Offences

14 Offences relating to payment of tolls or penalty charges

- (1) A person who, with intent to avoid payment of a toll chargeable under a TfL toll order or a penalty charge under a supplemental toll provisions order or with intent to avoid being identified as having failed to pay such a toll or penalty charge— 40

- (a) interferes with any equipment used for or in connection with tolling under the TfL toll order or penalty charges under the supplemental toll provisions order; or
 - (b) causes or permits the registration plate of a motor vehicle to be obscured,
- is guilty of an offence. 5
- (2) A person who makes or uses any false document with intent to avoid payment of, or being identified as having failed to pay, a toll chargeable by a TfL toll order or a penalty charge under a supplemental toll provisions order is guilty of an offence. 10
- (3) A person guilty of an offence under subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.
- (4) A person is guilty of an offence if he removes a penalty charge notice which has been fixed to a motor vehicle in accordance with provision made by a supplemental toll provisions order unless— 15
- (a) he is the registered keeper of the vehicle or a person using the vehicle with his authority; or
 - (b) he does so under the authority of the registered keeper or such a person or of TfL. 20
- (5) A person guilty of an offence under subsection (4) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

15 Obstruction of exercise of powers

- (1) A person who intentionally obstructs a person exercising any power conferred on him by provision made by a supplemental toll provisions order by virtue of paragraph 12 of the Schedule to this Act (provision which may be made by a supplemental toll provisions order) is guilty of an offence. 25
- (2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both. 30
- (3) A person who removes or interferes with an immobilisation notice in contravention of provision made by a supplemental toll provisions order by virtue of paragraph 14 of the Schedule to this Act is guilty of an offence.
- (4) A person guilty of an offence under subsection (3) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale. 35
- (5) A person who removes or attempts to remove an immobilisation device fixed to a motor vehicle in accordance with provision made by a supplemental toll provisions order by virtue of paragraph 14 of the Schedule to this Act in contravention of such provision is guilty of an offence.
- (6) A person who intentionally obstructs a person exercising any power conferred on him by provision made by a supplemental toll provisions order by virtue of paragraph 14 of the Schedule to this Act is guilty of an offence. 40

- (7) A person guilty of an offence under subsection (5) or (6) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Supplementary and Miscellaneous

16 Expenses and arrangements

- (1) The Authority or TfL may— 5
- (a) incur expenditure in or in connection with the establishment or operation of a TfL toll order or supplemental toll provisions order; or
 - (b) enter into arrangements (including arrangements for forming or participating in companies) with any body or person in respect of the operation or enforcement of a TfL toll order or supplemental toll provisions order or relating to the installation or operation of any equipment used for or in connection with the operation or enforcement of a TfL toll order or supplemental toll provisions order. 10
- (2) Arrangements made under subsection (1)(b) may provide for any functions of TfL under the TfL toll order or supplemental toll provisions order relating to the operation or enforcement of the toll order or supplemental toll provisions order to be exercisable instead by the body or person with whom the arrangements are made. 15

17 Guidance by Authority

- (1) The Authority may issue guidance to TfL in relation to the discharge of its functions under a supplemental toll provisions order. 20
- (2) TfL in exercising any function under a supplemental toll provisions order shall have regard to any guidance issued by the Authority under this section.
- (3) Guidance issued under this section shall be published in such manner as the Authority considers appropriate; and the Authority may at any time vary or revoke such guidance. 25

18 Information

- (1) Information obtained by— 30
- (a) any Minister of the Crown or Government department, or
 - (b) any local authority or statutory body,
- may be disclosed to TfL for or in connection with the exercise of any of its functions with respect to a supplemental toll provisions order.
- (2) Information obtained by TfL for or in connection with any of its functions other than its functions with respect to a supplemental toll provisions order may be used by TfL for or in connection with the exercise of any of its functions with respect to a supplemental toll provisions order. 35
- (3) Any information— 40
- (a) which has been or could be disclosed to TfL under subsection (1) for or in connection with the exercise of any of its functions with respect to a supplemental toll provisions order, or

- (b) which has been or could be used by TfL by virtue of subsection (2) for or in connection with the exercise of any of those functions,

may be disclosed to any person with whom TfL has entered into arrangements under section 16(1)(b) (expenses and arrangements).

- (4) Information disclosed to a person under subsection (3)— 5
- (a) may be disclosed to any other person for or in connection with the supplemental toll provisions order; but
- (b) may not be used by him (or any other person to whom it is disclosed under paragraph (a)) otherwise than for or in connection with the supplemental toll provisions order. 10

19 Crown application

- (1) Subject to the provisions of this section, the provisions of this Act and of supplemental toll provisions orders shall bind the Crown.
- (2) No contravention by the Crown of any provision of this Act or of any supplemental toll provisions order shall make the Crown criminally liable; but the High Court may, on the application of TfL, declare unlawful any act or omission of the Crown which constitutes such a contravention. 15
- (3) Notwithstanding anything in subsection (2), the provisions of this Act and of supplemental toll provisions orders shall apply to motor vehicles or persons in the public service of the Crown as they apply to other motor vehicles or persons. 20
- (4) No power of entry conferred by this Act or supplemental toll provisions orders shall be exercisable in relation to any motor vehicle in the public service of the Crown.
- (5) This Act shall apply in relation to Crown roads within the meaning of section 131 of the Road Traffic Regulation Act 1984 (c. 27) as it applies to other roads. 25
- (6) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity; and this subsection shall be construed as if section 38(3) of the Crown Proceedings Act 1947 (c. 44) (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act. 30

20 Amendment of 2007 Act

References in Part 5 of the 2007 Act (non-payment of penalty charges) to penalty charges shall include references to penalty charges imposed under a supplemental toll provisions order.

SCHEDULE

Section 6(1)

PROVISION WHICH MAY BE MADE BY A SUPPLEMENTAL TOLL PROVISIONS ORDER

Charging, collection, recording, refunding and payment of tolls

- | | | |
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| 1 | Provision in relation to the manner in which tolls are to be charged, collected, recorded, refunded or paid which may include provision giving discretion to any person with whom TfL has entered into arrangements under section 16(1)(b) (expenses and arrangements) to determine the manner in which tolls are to be collected, refunded, recorded or paid. | 5 |
|---|--|---|

Publishing tolling rates, discounts and exemptions

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|---|--|----|
| 2 | Provision imposing requirements with respect to— | 10 |
| | (a) the manner in which the amount of tolls determined by TfL under the TfL toll order to be applicable to each description of traffic, and any discounts and exemptions determined by TfL, are to be published; and | |
| | (b) the manner of implementing and publishing changes in the amount of tolls and those discounts and exemptions. | 15 |
| 3 | Provision prohibiting the demanding of tolls unless any requirements imposed by virtue of paragraph 2 have been complied with. | |

Documents and equipment

- | | | |
|---|--|----|
| 4 | Provision requiring— | 20 |
| | (a) documents to be displayed while a motor vehicle is on a road which is subject to the charging of tolls; or | |
| | (b) equipment to be carried in or fitted to a motor vehicle while it is on such a road. | |

Penalty charges 25

- | | | |
|---|--|----|
| 5 | Provision for or in connection with the imposition and payment of penalty charges in respect of acts, omissions, events or circumstances relating to or connected with the TfL toll order or the supplemental toll provisions order. | |
| 6 | Provision as to the waiver of the payment of penalty charges and for the issue of notices requiring the payment of tolls chargeable together with a reasonable sum to cover administrative expenses. | 30 |
| 7 | Provision giving discretion to any person with whom TfL has entered into arrangements under section 16(1)(b) (expenses and arrangements) to waive the payment of penalty charges in such circumstances as may be prescribed or as that person may determine. | 35 |
| 8 | Provision for or in connection with setting the rates of penalty charges which may include— | |

- (a) provision for discounts or surcharges; and
 - (b) different rates of penalty charges for different classes of penalty charges, different days or times of day, different classes of vehicles or different circumstances in which penalty charges are imposed.
- 9 Provision about the notification, adjudication and enforcement of penalty charges. 5

Offences

- 10 Subject to sections 14 (offences relating to payment of tolls or penalty charges) and 15 (obstruction of exercise of powers), provision that any person contravening, or failing to comply with, any prescribed requirement of the supplemental toll provisions order shall be liable on summary conviction to a fine for each offence not exceeding level 2 on the standard scale or not exceeding a lesser amount. 10

Examination of motor vehicles etc.

- 11 Subject to section 13 (exclusions for motor vehicles not on roads or public off-street parking places within Greater London), provision conferring powers on a prescribed person, where he has reasonable grounds for suspecting in relation to a motor vehicle that it has been, or is to be, used on a road which is subject to the charging of tolls, for or in connection with— 15
- (a) examining the motor vehicle for the purpose of ascertaining whether any document required by the supplemental toll provisions order to be displayed while a motor vehicle is on a road which is subject to the charging of tolls is so displayed; or 20
 - (b) examining the motor vehicle for the purpose of ascertaining whether any equipment required by the supplemental toll provisions order to be carried in or fitted to a motor vehicle while the vehicle is on a road which is subject to the charging of tolls— 25
 - (i) is so carried or fitted,
 - (ii) is in proper working order, or
 - (iii) has been interfered with with intent to avoid payment of, or being identified as having failed to pay, a toll, 30or whether any conditions relating to the use of any such equipment are satisfied.
- 12 Subject to section 13 (exclusions for motor vehicles not on roads or public off-street parking places within Greater London), provision conferring power on any person authorised in writing by TfL to enter a motor vehicle where he has reasonable grounds for suspecting, in relation to a motor vehicle, that— 35
- (a) any equipment required to be carried in or fitted to the motor vehicle while it is on a road which is subject to the charging of tolls has been interfered with with intent to avoid payment of, or being identified as having failed to pay, a toll; or 40

- (b) there is in the motor vehicle a false document which has been made or used with intent to avoid payment of, or being identified as having failed to pay, such a toll.

13 Subject to section 13 (exclusions for motor vehicles not on roads or public off-street parking places within Greater London), provision conferring power on any person authorised in writing by TfL to seize anything (if necessary by detaching it from a motor vehicle) and detain it as evidence of the commission of an offence under section 14 (offences relating to payment of tolls or penalty charges). 5

Removal or immobilisation of motor vehicles 10

14 Subject to section 13 (exclusions for motor vehicles not on roads or public off-street parking places within Greater London), provision for or in connection with—

- (a) the fitting of immobilisation devices to motor vehicles;
- (b) the fixing of immobilisation notices to motor vehicles to which an immobilisation device has been fitted; 15
- (c) the removal and storage of motor vehicles;
- (d) the release of motor vehicles from immobilisation devices or from storage;
- (e) requiring the satisfaction of conditions before the release of a motor vehicle; and 20
- (f) the sale or destruction of motor vehicles not released and their contents.

Determination of disputes and appeals

15 Provision for or in connection with— 25

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

Evidence 30

16 Provision for or in connection with permitting evidence of a fact relevant to proceedings for an offence under this Act or the supplemental toll provisions order, or proceedings in respect of a failure to comply with the provisions of the supplemental toll provisions order, to be given by the production of— 35

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

Incidental, supplementary, consequential or transitional

- 17 Any incidental, supplementary, consequential or transitional provisions or savings for the purposes of, or in connection with, the TfL toll order or for rendering of full effect any other provision of the supplemental toll provisions order.