



Road Traffic Regulation Act 1984

1984 CHAPTER 27

PART VIII

CONTROL AND ENFORCEMENT

Enforcement of excess parking charges

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

- (1) This section applies where—
- (a) an excess charge has been incurred in pursuance of an order under sections 45 and 46 of this Act;
 - (b) notice of the incurring of the excess charge has been given or affixed as provided in the order; and
 - (c) the excess charge has not been duly paid in accordance with the order;
- and in the following provisions of this Part of this Act “the excess charge offence” means the offence under section 47 of this Act of failing duly to pay the excess charge.
- (2) Subject to the following provisions of this section—
- (a) for the purposes of the institution of proceedings in respect of the excess charge offence against any person as being the owner of the vehicle at the relevant time, and
 - (b) in any proceedings in respect of the excess charge offence brought against any person as being the owner of the vehicle at the relevant time,
- it shall be conclusively presumed (notwithstanding that that person may not be an individual) that he was the driver of the vehicle at that time and, accordingly, that acts or omissions of the driver of the vehicle at that time were his acts or omissions.
- (3) Subsection (2) above shall not apply in relation to any person unless, within the period of 6 months beginning on the day on which the notice of the incurring of the excess charge was given or affixed as mentioned in subsection (1)(b) above, a notice under section 108 of this Act has been served on him—

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- (a) by or on behalf of the authority which is the local authority for the purposes of sections 45 and 46 of this Act in relation to the parking place concerned, or
 - (b) by or on behalf of the chief officer of police.
- (4) If the person on whom a notice under section 108 of this Act is served in accordance with subsection (3) above was not the owner of the vehicle at the relevant time, subsection (2) above shall not apply in relation to him if he furnishes a statutory statement of ownership to that effect in compliance with the notice.
- (5) The presumption in subsection (2) above shall not apply in any proceedings brought against any person as being the owner of the vehicle at the relevant time if, in those proceedings, it is proved—
- (a) that at the relevant time the vehicle was in the possession of some other person without the consent of the accused, or
 - (b) that the accused was not the owner of the vehicle at the relevant time and that he has a reasonable excuse for failing to comply with the notice under section 108 of this Act served on him in accordance with subsection (3) above.

108 Notice in respect of excess parking charge.

- (1) A notice under this section shall be in the prescribed form, shall give particulars of the excess charge and shall provide that, unless the excess charge is paid before the expiry of the appropriate period, the person on whom the notice is served—
- (a) is required, before the expiry of that period, to furnish to the authority or chief officer of police by or on behalf of whom the notice was served a statutory statement of ownership (as defined in Part I of Schedule 8 to this Act), and
 - (b) is invited, before the expiry of that period, to furnish to that authority or chief officer of police a statutory statement of facts (as defined in Part II of that Schedule).
- (2) If, in any case where—
- (a) a notice under this section has been served on any person, and
 - (b) the excess charge specified in the notice is not paid within the appropriate period,
- the person so served fails without reasonable excuse to comply with the notice by furnishing a statutory statement of ownership he shall be guilty of an offence.
- (3) If, in compliance with or in response to a notice under this section any person furnishes a statement which is false in a material particular, and does so recklessly or knowing it to be false in that particular, he shall be guilty of an offence.
- (4) Where a notice under this section has been served on any person in respect of any excess charge—
- (a) payment of the charge by any person before the date on which proceedings are begun for the excess charge offence, or, as the case may be, for an offence under subsection (2) above in respect of a failure to comply with the notice, shall discharge the liability of that or any other person (under this or any other enactment) for the excess charge offence or, as the case may be, for the offence under subsection (2) above;
 - (b) conviction of any person of the excess charge offence shall discharge the liability of any other person (under this or any other enactment) for that

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

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

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

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

- (1) This section shall apply where—
- (a) a notice under section 108 of this Act has been served on a vehicle-hire firm, and
 - (b) at the relevant time the vehicle in respect of which the notice was served was let to another person by the vehicle-hire firm under a hiring agreement to which this section applies.
- (2) Where this section applies, it shall be a sufficient compliance with the notice served on the vehicle-hire firm if the firm furnishes to the chief officer of police or local authority by or on behalf of whom the notice was served a statement in the prescribed form, signed by or on behalf of the vehicle-hire firm, stating that at the relevant time the vehicle concerned was hired under a hiring agreement to which this section applies, together with—
- (a) a copy of that hiring agreement, and
 - (b) a copy of a statement of liability in the prescribed form, signed by the hirer under that hiring agreement;
- and accordingly, in relation to the vehicle-hire firm on whom the notice was served, the reference in section 108(2) of this Act to a statutory statement of ownership shall be construed as a reference to a statement under this subsection together with the documents specified in paragraphs (a) and (b) above.
- (3) If, in a case where this section applies, the vehicle-hire firm has complied with the notice served on the firm by furnishing the statement and copies of the documents specified in subsection (2) above, then sections 107 and 108 of this Act shall have effect as if in those provisions—
- (a) any reference to the owner of the vehicle were a reference to the hirer under the hiring agreement, and
 - (b) any reference to a statutory statement of ownership were a reference to a statutory statement of hiring.
- (4) Where, in compliance with a notice under section 108 of this Act, a vehicle-hire firm has furnished copies of a hiring agreement and statement of liability as mentioned in subsection (2) above, a person authorised in that behalf by the chief officer of police or local authority to whom the documents are furnished may, at any reasonable time within 6 months after service of that notice, and on production of his authority, require the production by the firm of the originals of those documents; and if, without reasonable excuse, a vehicle-hire firm fails to produce the original of a document when required to do so under this subsection, the firm shall be treated as not having complied with the notice under section 108 of this Act.
- (5) This section applies to a hiring agreement, under the terms of which the vehicle concerned is let to the hirer for a fixed period of less than 6 months (whether or not

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

- (6) In this section “statement of liability” means a statement made by the hirer under a hiring agreement to which this section applies to the effect that the hirer acknowledges that he will be liable, as the owner of the vehicle, in respect of any excess charge which, during the currency of the hiring agreement, may be incurred with respect to the vehicle in pursuance of an order under sections 45 and 46 of this Act.
- (7) In this section—
- “hiring agreement” refers only to an agreement which contains such particulars as may be prescribed and does not include a hire-purchase agreement within the meaning of the ^{M1}Consumer Credit Act 1974, and
- “vehicle-hire firm” means any person engaged in hiring vehicles in the course of a business.

Marginal Citations

M1 1974 c. 39(60).

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

- (1) Proceedings in England or Wales for an offence under section 108(3) of this Act may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than 3 years after the commission of the offence.
- (2) Proceedings in Scotland for an offence to which subsection (1) above applies shall not be commenced after the expiry of the period of 3 years from the commission of the offence; but, subject to the foregoing limitation, and notwithstanding anything in [^{F1}section 136 of the Criminal Procedure (Scotland) Act 1995], any such proceedings may be commenced at any time within 6 months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings came to his knowledge or, where such evidence was reported to him by a local authority, within 6 months after the date on which it came to their knowledge; and subsection (3) of the said [^{F2}section 136] shall apply for the purposes of this subsection as it applies for the purpose of that section.
- (3) For the purposes of subsections (1) and (2) above a certificate signed by or on behalf of the prosecutor or, as the case may be, the Lord Advocate or the local authority, and stating the date on which evidence such as is mentioned in the subsection in question came to his or their knowledge, shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.
- (4) Where any person is charged with the offence of failing to pay an excess charge, and the prosecutor produces to the court any of the statutory statements in Schedule 8 to this Act or a copy of a statement of liability (within the meaning of section 109 of this Act) purporting—

Status: Point in time view as at 30/01/2014.

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- (a) to have been furnished in compliance with or in response to a notice under section 108 of this Act, and
- (b) to have been signed by the accused,

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

Textual Amendments

- F1** Words in s. 110(2) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 49(a)
- F2** Words in s. 110(2) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 49(b)

111 Supplementary provisions as to excess charges.

- (1) The provisions of Schedule 8 to this Act shall have effect for the purposes of sections 107 to 109 of this Act (in this section referred to as “the specified sections”).
- (2) In the specified sections—
 - “appropriate period”, in relation to a notice under section 108 of this Act, means the period of 14 days from the date on which the notice is served, or such longer period as may be specified in the notice or as may be allowed by the chief officer of police or authority by or on behalf of whom the notice is served;
 - “driver”, in relation to an excess charge and in relation to an offence of failing duly to pay such a charge, means the person driving the vehicle at the time when it is alleged to have been left in the parking place concerned;
 - “relevant time”, in relation to an excess charge, means the time when the vehicle was left in the parking place concerned, notwithstanding that the period in respect of which the excess charge was incurred did not begin at that time.
- (3) For the purposes of the specified sections the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and for the purpose of determining, in the course of any proceedings brought by virtue of the specified sections, who was the owner of the vehicle at any time, it shall be presumed that the owner was the person who was the registered keeper of the vehicle at that time.
- (4) Notwithstanding the presumption in subsection (3) above, it shall be open to the defence in any proceedings to prove that the person who was the registered keeper of a vehicle at a particular time was not the person by whom the vehicle was kept at that time, and it shall be open to the prosecution to prove that the vehicle was kept by some other person at that time.
- (5) A notice under section 108 of this Act may be served on any person—
 - (a) by delivering it to him or by leaving it at his proper address, or
 - (b) by sending it to him by post;and, where the person on whom such a notice is to be served is a body corporate, it shall be duly served if it is served on the secretary or clerk of that body.

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- (6) For the purposes of subsection (5) above and of section 7 of the ^{M2}Interpretation Act 1978 (references to service by post) in its application to that subsection, the proper address of any person on whom such a notice is to be served—
- (a) shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of that body or the registered address of the person who is the registered keeper of the vehicle concerned at the time of service, and
 - (b) shall in any other case be the last known address of the person to be served.
- (7) References in this section to the person who was or is the registered keeper of a vehicle at any time are references to the person in whose name the vehicle was or is at that time registered under [^{F3}the Vehicle Excise and Registration Act 1994]; and, in relation to any such person, the reference in subsection (6)(a) above to that person's registered address is a reference to the address recorded in the record kept under the Act with respect to that vehicle as being that person's address.
- (8) For the purposes of sections 1(2) and 2(1) of the ^{M3}Magistrates' Courts Act 1980 (power to issue summons or warrant and jurisdiction to try offences), any offence under subsection (2) of section 108 of this Act shall be treated as committed at any address which at the time of service of the notice under that section to which the offence relates was the accused's proper address (in accordance with subsection (6) above) for the service of any such notice as well as at the address to which any statutory statement furnished in response to that notice is required to be returned in accordance with the notice.

Textual Amendments

F3 Words in s. 111(7) substituted (1.9.1994) by 1994 c. 22, ss. 63, 66(1), **Sch. 3 para. 18(1)** (with s. 57(4))

Marginal Citations

M2 1978 c. 30(115:1).

M3 1980 c. 43(82).

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