

APPENDIX C

SCHEDULE 4 OF THE PROTECTION OF FREEDOMS ACT 2012 RECOVERY OF UNPAID PARKING CHARGES

NOT COVERED BY THE PLAIN ENGLISH APPROVED LOGO

Introductory

1 (1) This Schedule applies where:

- (a) the driver of a vehicle is required by virtue of a relevant obligation to pay parking charges in respect of the parking of the vehicle on relevant land; and
- (b) those charges have not been paid in full.

(2) It is immaterial for the purposes of this Schedule whether or not the vehicle was permitted to be parked (or to remain parked) on the land.

2 (1) In this Schedule:

“the appropriate national authority” means:

- (a) in relation to relevant land in England, the Secretary of State;

and

- (b) in relation to relevant land in Wales, the Welsh Ministers;

“the creditor” means a person who is for the time being entitled to recover unpaid parking charges from the driver of the vehicle;

“current address for service” means:

- (a) in the case of the keeper, an address which is either:
 - (i) an address at which documents relating to civil proceedings could properly be served on the person concerned under Civil Procedure Rules; or
 - (ii) the keeper’s registered address (if there is one); or
- (b) in the case of the driver, an address at which the driver for the time being resides or can conveniently be contacted;

“driver” includes, where more than one person is engaged in the driving of the vehicle, any person so engaged;

“keeper” means the person by whom the vehicle is kept at the time the vehicle was parked, which in the case of a registered vehicle is to be presumed, unless the contrary is proved, to be the registered keeper;

“notice to driver” means a notice given in accordance with paragraph 7;

“notice to keeper” means a notice given in accordance with paragraph 8 or 9 (as the case may be);

“parking charge”:

- (a) in the case of a relevant obligation arising under the terms of a relevant contract, means a sum in the nature of a fee or charge, and
- (b) in the case of a relevant obligation arising as a result of a trespass or other tort, means a sum in the nature of damages, however the sum in question is described;

“registered address” means, in relation to the keeper of a registered vehicle, the address described in paragraph 11(3)(b) (as provided by the Secretary of State in response to the application for the keeper’s details required by paragraph 11);

“registered keeper”, in relation to a registered vehicle, means the person in whose name the vehicle is registered;

“registered vehicle” means a vehicle which is for the time being registered under the Vehicle Excise and Registration Act 1994;

“relevant contract” means a contract (including a contract arising only when the vehicle was parked on the relevant land) between the driver and a person who is:

- (a) the owner or occupier of the land; or
- (b) authorised, under or by virtue of arrangements made by the owner or occupier of the land, to enter into a contract with the driver requiring the payment of parking charges in respect of the parking of the vehicle on the land;

“relevant land” has the meaning given by paragraph 3;
“relevant obligation” means:

- (a) an obligation arising under the terms of a relevant contract;
- or

- (b) an obligation arising, in any circumstances where there is no relevant contract, as a result of a trespass or other tort committed by parking the vehicle on the relevant land;

“vehicle” means a mechanically-propelled vehicle or a vehicle designed or adapted for towing by a mechanically-propelled vehicle.

(2) The reference in the definition of “parking charge” to a sum in the nature of damages is to a sum of which adequate notice was given to drivers of vehicles (when the vehicle was parked on the relevant land).

(3) For the purposes of sub-paragraph (2) “adequate notice” means notice given by:

- (a) the display of one or more notices in accordance with any applicable requirements prescribed in regulations under paragraph 12 for, or for purposes including, the purposes of sub-paragraph (2); or
- (b) where no such requirements apply, the display of one or more notices which:
 - (i) specify the sum as the charge for unauthorised parking; and
 - (ii) are adequate to bring the charge to the notice of drivers who park vehicles on the relevant land.

3 (1) In this Schedule “relevant land” means any land (including land above or below ground level) other than:

- (a) a highway maintainable at the public expense (within the meaning of section 329(1) of the Highways Act 1980);
- (b) a parking place which is provided or controlled by a traffic authority;
- (c) any land (not falling within paragraph (a) or (b)) on which the parking of a vehicle is subject to statutory control.

(2) In sub-paragraph (1)(b):

“parking place” has the meaning given by section 32(4)(b) of the Road Traffic Regulation Act 1984;

“traffic authority” means each of the following:

- (a) the Secretary of State;
- (b) the Welsh Ministers;
- (c) Transport for London;
- (d) the Common Council of the City of London;
- (e) the council of a county, county borough, London borough or district;

- (f) a parish or community council;
- (g) the Council of the Isles of Scilly.

(3) For the purposes of sub-paragraph (1)(c) the parking of a vehicle on land is “subject to statutory control” if any statutory provision imposes a liability (whether criminal or civil, and whether in the form of a fee or charge or a penalty of any kind) in respect of the parking on that land of vehicles generally or of vehicles of a description that includes the vehicle in question.

(4) In sub-paragraph (3) “statutory provision” means any provision (apart from this Schedule) contained in:

- (a) any Act (including a local or private Act), whenever passed; or
- (b) any subordinate legislation, whenever made, and for this purpose “subordinate legislation” means an Order in Council or any order, regulations, byelaws or other legislative instrument.

Right to claim unpaid parking charges from keeper of vehicle

4 (1) The creditor has the right to recover any unpaid parking charges from the keeper of the vehicle.

(2) The right under this paragraph applies only if:

- (a) the conditions specified in paragraphs 5, 6, 11 and 12 (so far as applicable) are met; and
- (b) the vehicle was not a stolen vehicle at the beginning of the period of parking to which the unpaid parking charges relate.

(3) For the purposes of the condition in sub-paragraph (2)(b), the vehicle is to be presumed not to be a stolen vehicle at the material time, unless the contrary is proved.

(4) The right under this paragraph may only be exercised after the end of the period of 28 days beginning with the day on which the notice to keeper is given.

(5) The maximum sum which may be recovered from the keeper by virtue of the right conferred by this paragraph is the amount specified in the notice to keeper under paragraph 8(2)(c) or (d) or, as the case may be, 9(2)(d) (less any payments towards the unpaid parking charges which are received after the time so specified).

(6) Nothing in this paragraph affects any other remedy the creditor may have against the keeper of the vehicle or any other person in respect of any unpaid parking charges (but this is not to be read as permitting double recovery).

(7) The right under this paragraph is subject to paragraph 13 (which provides for the right not to apply in certain circumstances in the case of a hire vehicle).

Conditions that must be met for purposes of paragraph 4

- 5 (1) The first condition is that the creditor:
- (a) has the right to enforce against the driver of the vehicle the requirement to pay the unpaid parking charges; but
 - (b) is unable to take steps to enforce that requirement against the driver because the creditor does not know both the name of the driver and a current address for service for the driver.
- (2) Sub-paragraph (1)(b) ceases to apply if (at any time after the end of the period of 28 days beginning with the day on which the notice to keeper is given) the creditor begins proceedings to recover the unpaid parking charges from the keeper.
- 6 (1) The second condition is that the creditor (or a person acting for or on behalf of the creditor):
- (a) has given a notice to driver in accordance with paragraph 7, followed by a notice to keeper in accordance with paragraph 8; or
 - (b) has given a notice to keeper in accordance with paragraph 9.
- (2) If a notice to driver has been given, any subsequent notice to keeper must be given in accordance with paragraph 8.
- 7 (1) A notice which is to be relied on as a notice to driver for the purposes of paragraph 6(1)(a) is given in accordance with this paragraph if the following requirements are met.
- (2) The notice must:
- (a) specify the vehicle, the relevant land on which it was parked and the period of parking to which the notice relates;
 - (b) inform the driver of the requirement to pay parking charges in respect of the specified period of parking and describe those charges, the circumstances in which the requirement arose (including the means by which it was brought to the attention of drivers) and the other facts that made those charges payable;
 - (c) inform the driver that the parking charges relating to the specified period of parking have not been paid in full and specify the total amount of the unpaid parking charges relating to that period, as at a time which is:
 - (i) specified in the notice; and
 - (ii) no later than the time specified under paragraph (f);
 - (d) inform the driver of any discount offered for prompt payment and the arrangements for the resolution of disputes or complaints that are available;
- (e) identify the creditor and specify how and to whom payment may be made;
 - (f) specify the time when the notice is given and the date.
- (3) The notice must relate only to a single period of parking specified under subparagraph (2)(a) (but this does not prevent the giving of separate notices each specifying different parts of a single period of parking).
- (4) The notice must be given:
- (a) before the vehicle is removed from the relevant land after the end of the period of parking to which the notice relates, and
 - (b) while the vehicle is stationary, by affixing it to the vehicle or by handing it to a person appearing to be in charge of the vehicle.
- (5) In sub-paragraph (2)(d) the reference to arrangements for the resolution of disputes or complaints includes:
- (a) any procedures offered by the creditor for dealing informally with representations by the driver about the notice or any matter contained in it; and
 - (b) any arrangements under which disputes or complaints (however described) may be referred by the driver to independent adjudication or arbitration.
- 8 (1) A notice which is to be relied on as a notice to keeper for the purposes of paragraph 6(1)(a) is given in accordance with this paragraph if the following requirements are met.
- (2) The notice must:
- (a) specify the vehicle, the relevant land on which it was parked and the period of parking to which the notice relates;
 - (b) inform the keeper that the driver is required to pay parking charges in respect of the specified period of parking and that the parking charges have not been paid in full;
 - (c) state that a notice to driver relating to the specified period of parking has been given and repeat the information in that notice as required by paragraph 7(2)(b), (c) and (f);
 - (d) if the unpaid parking charges specified in that notice to driver as required by paragraph 7(2)(c) have been paid in part, specify the amount that remains unpaid, as at a time which is:
 - (i) specified in the notice to keeper; and
 - (ii) no later than the end of the day before the day on which the notice is either sent by post or, as the case may be, handed to or left at a current address for service for the keeper (see subparagraph (4));

- (e) state that the creditor does not know both the name of the driver and a current address for service for the driver and invite the keeper:
 - (i) to pay the unpaid parking charges; or
 - (ii) if the keeper was not the driver of the vehicle, to notify the creditor of the name of the driver and a current address for service for the driver and to pass the notice on to the driver;
 - (f) warn the keeper that if, at the end of the period of 28 days beginning with the day after that on which the notice to keeper is given:
 - (i) the amount of the unpaid parking charges (as specified under paragraph (c) or (d)) has not been paid in full, and
 - (ii) the creditor does not know both the name of the driver and a current address for service for the driver; the creditor will (if all the applicable conditions under this Schedule are met) have the right to recover from the keeper so much of that amount as remains unpaid;
 - (g) inform the keeper of any discount offered for prompt payment and the arrangements for the resolution of disputes or complaints that are available;
 - (h) identify the creditor and specify how and to whom payment or notification to the creditor may be made;
 - (i) specify the date on which the notice is sent (if it is sent by post) or given (in any other case).
- (3) The notice must relate only to a single period of parking specified under subparagraph (2)(a) (but this does not prevent the giving of separate notices which each specify different parts of a single period of parking).
- (4) The notice must be given by:
- (a) handing it to the keeper; or leaving it at a current address for service for the keeper; within the relevant period; or
 - (b) sending it by post to a current address for service for the keeper so that it is delivered to that address within the relevant period.
- (5) The relevant period for the purposes of sub-paragraph (4) is the period of 28 days following the period of 28 days beginning with the day after that on which the notice to driver was given.
- (6) A notice sent by post is to be presumed, unless the contrary is proved, to have been delivered (and so “given” for the purposes of sub-paragraph (4)) on the second working day after the day on which it is posted; and for this purpose “working day” means any day other than a Saturday, Sunday or a public holiday in England and Wales
- (7) When the notice is given it must be accompanied by any evidence prescribed under paragraph 10.
- (8) In sub-paragraph (2)(g) the reference to arrangements for the resolution of disputes or complaints includes:
- (a) any procedures offered by the creditor for dealing informally with representations by the keeper about the notice or any matter contained in it; and
 - (b) any arrangements under which disputes or complaints (however described) may be referred by the keeper to independent adjudication or arbitration.
- 9 (1) A notice which is to be relied on as a notice to keeper for the purposes of paragraph 6(1)(b) is given in accordance with this paragraph if the following requirements are met.
- (2) The notice must:
- (a) specify the vehicle, the relevant land on which it was parked and the period of parking to which the notice relates;
 - (b) inform the keeper that the driver is required to pay parking charges in respect of the specified period of parking and that the parking charges have not been paid in full;
 - (c) describe the parking charges due from the driver as at the end of that period, the circumstances in which the requirement to pay them arose (including the means by which the requirement was brought to the attention of drivers) and the other facts that made them payable;
 - (d) specify the total amount of those parking charges that are unpaid, as at a time which is:
 - (i) specified in the notice; and
 - (ii) no later than the end of the day before the day on which the notice is either sent by post or, as the case may be, handed to or left at a current address for service for the keeper (see subparagraph (4));
- (e) state that the creditor does not know both the name of the driver and a current address for service for the driver and invite the keeper:
- (i) to pay the unpaid parking charges; or
 - (ii) if the keeper was not the driver of the vehicle, to notify the creditor of the name of the driver and a current address for service for the driver and to pass the notice on to the driver;
- (f) warn the keeper that if, after the period of 28 days beginning with the day after that on which the notice is given:
- (i) the amount of the unpaid parking charges specified under paragraph (d) has not been

paid in full, and

- (ii) the creditor does not know both the name of the driver and a current address for service for the driver; the creditor will (if all the applicable conditions under this Schedule are met) have the right to recover from the keeper so much of that amount as remains unpaid;

- (g) inform the keeper of any discount offered for prompt payment and the arrangements for the resolution of disputes or complaints that are available;
- (h) identify the creditor and specify how and to whom payment or notification to the creditor may be made;
- (i) specify the date on which the notice is sent (where it is sent by post) or given (in any other case).

(3) The notice must relate only to a single period of parking specified under subparagraph (2)(a) (but this does not prevent the giving of separate notices which each specify different parts of a single period of parking).

(4) The notice must be given by:

- (a) handing it to the keeper, or leaving it at a current address for service for the keeper, within the relevant period; or
- (b) sending it by post to a current address for service for the keeper so that it is delivered to that address within the relevant period.

(5) The relevant period for the purposes of sub-paragraph (4) is the period of 14 days beginning with the day after that on which the specified period of parking ended.

(6) A notice sent by post is to be presumed, unless the contrary is proved, to have been delivered (and so “given” for the purposes of sub-paragraph (4)) on the second working day after the day on which it is posted; and for this purpose “working day” means any day other than a Saturday, Sunday or a public holiday in England and Wales.

(7) When the notice is given it must be accompanied by any evidence prescribed under paragraph 10.

(8) In sub-paragraph (2)(g) the reference to arrangements for the resolution of disputes or complaints includes:

- (a) any procedures offered by the creditor for dealing informally with representations by the keeper about the notice or any matter contained in it; and
- (b) any arrangements under which disputes or complaints (however described) may be referred by the keeper to independent adjudication or arbitration.

must accompany a notice which is to be relied on as a notice to keeper for the purposes of paragraph 6(1)(a) or paragraph 6(1)(b) (as the case may be).

(2) The regulations may in particular make provision as to:

- (a) the means by which any prescribed evidence is to be generated or otherwise produced (which may include a requirement to use equipment of a kind approved for the purpose by a person specified in the regulations); or
- (b) the circumstances in which any evidence is, or is not, required to accompany a notice to keeper.

(3) The regulations may:

- (a) include incidental, supplementary, transitional, transitory or saving provision;
- (b) make different provision for different purposes.

11 (1) The third condition is that:

- (a) the creditor (or a person acting for or on behalf of the creditor) has made an application for the keeper’s details in relation to the period of parking to which the unpaid parking charges relate;
- (b) the application was made during the relevant period for the purposes of paragraph 8(4) (where a notice to driver has been given) or 9(4) (where no notice to driver has been given);
- (c) the information sought by the application is provided by the Secretary of State to the applicant.

(2) The third condition only applies if the vehicle is a registered vehicle.

(3) In this paragraph “application for the keeper’s details” means an application for the following information to be provided to the applicant by virtue of regulations made under section 22(1)(c) of the Vehicle Excise and Registration Act 1994:

- (a) the name of the registered keeper of the vehicle during the period of parking to which the unpaid parking charges relate; and
- (b) the address of that person as it appears on the register (or, if that person has ceased to be the registered keeper, as it last appeared on the register).

12 (1) The fourth condition is that any applicable requirements prescribed under this paragraph were met at the beginning of the period of parking to which the unpaid parking charges relate.

(2) The appropriate national authority may by regulations made by statutory instrument prescribe requirements as to the display of notices on relevant land where parking charges may be incurred in respect of the parking of vehicles on the land.

10 (1) The appropriate national authority may by regulations made by statutory instrument prescribe evidence which

(3) The provision made under sub-paragraph (2) may, in particular, include provision:

- (a) requiring notices of more than one kind to be displayed on any relevant land;
- (b) as to the content or form of any notices required to be displayed; and
- (c) as to the location of any notices required to be displayed.

(4) Regulations under this paragraph may:

- (a) include incidental, supplementary, transitional, transitory or saving provision;
- (b) make different provision for different areas or purposes.

Hire vehicles

13 (1) This paragraph applies in the case of parking charges incurred in respect of the parking of a vehicle on relevant land if:

- (a) the vehicle was at the time of parking hired to any person under a hire agreement with a vehicle-hire firm; and
- (b) the keeper has been given a notice to keeper within the relevant period for the purposes of paragraph 8(4) or 9(4) (as the case may be).

(2) The creditor may not exercise the right under paragraph 4 to recover from the keeper any unpaid parking charges specified in the notice to keeper if, within the period of 28 days beginning with the day after that on which that notice was given, the creditor is given:

- (a) a statement signed by or on behalf of the vehicle-hire firm to the effect that at the material time the vehicle was hired to a named person under a hire agreement;
- (b) a copy of the hire agreement; and
- (c) a copy of a statement of liability signed by the hirer under that hire agreement.

(3) The statement of liability required by sub-paragraph (2)(c) must:

- (a) contain a statement by the hirer to the effect that the hirer acknowledges responsibility for any parking charges that may be incurred with respect to the vehicle while it is hired to the hirer;
- (b) include an address given by the hirer (whether a residential, business or other address) as one at which documents may be given to the hirer; (and it is immaterial whether the statement mentioned in paragraph (a) relates also to other charges or penalties of any kind).

(4) A statement required by sub-paragraph (2)(a) or (c) must be in such form (if any) as may be prescribed by the appropriate national authority by regulations made by statutory instrument.

(5) The documents mentioned in sub-paragraph (2) must be given by:

- (a) handing them to the creditor;
- (b) leaving them at any address which is specified in the notice to keeper as an address at which documents may be given to the creditor or to which payments may be sent; or
- (c) sending them by post to such an address so that they are delivered to that address within the period mentioned in that sub-paragraph.

(6) In this paragraph and paragraph 14:

(a) "hire agreement" means an agreement which:

- (i) provides for a vehicle to be let to a person ("the hirer") for a period of any duration (whether or not the period is capable of extension by agreement between the parties); and
- (ii) is not a hire-purchase agreement within the meaning of the Consumer Credit Act 1974;

(b) any reference to the currency of a hire 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 any period specified in the agreement but otherwise on terms and conditions specified in it; and

(c) "vehicle-hire firm" means any person engaged in the hiring of vehicles in the course of a business.

14 (1) If:

- (a) the creditor is by virtue of paragraph 13(2) unable to exercise the right to recover from the keeper any unpaid parking charges mentioned in the notice to keeper; and
- (b) the conditions mentioned in sub-paragraph (2) below are met, the creditor may recover those charges (so far as they remain unpaid) from the hirer.

(2) The conditions are that:

- (a) the creditor has within the relevant period given the hirer a notice in accordance with sub-paragraph (5) (a "notice to hirer"), together with a copy of the documents mentioned in paragraph 13(2) and the notice to keeper;
- (b) a period of 21 days beginning with the day on which the notice to hirer was given has elapsed; and
- (c) the vehicle was not a stolen vehicle at the

beginning of the period of parking to which the unpaid parking charges relate.

(3) In sub-paragraph (2)(a) "the relevant period" is the period of 21 days beginning with the day after that on which the documents required by paragraph 13(2) are given to the creditor.

(4) For the purposes of sub-paragraph (2)(c) a vehicle is to be presumed not to be a stolen vehicle at the material time, unless the contrary is proved.

(5) The notice to hirer must:

- (a) inform the hirer that by virtue of this paragraph any unpaid parking charges (being parking charges specified in the notice to keeper) may be recovered from the hirer;
- (b) refer the hirer to the information contained in the notice to keeper;
- (c) warn the hirer that if, after the period of 21 days beginning with the day after that on which the notice to hirer is given, the amount of unpaid parking charges referred to in the notice to keeper under paragraph 8(2)(f) or 9(2)(f) (as the case may be) has not been paid in full, the creditor will (if any applicable requirements are met) have the right to recover from the hirer so much of that amount as remains unpaid;
- (d) inform the hirer of any discount offered for prompt payment and the arrangements for the resolution of disputes or complaints that are available;
- (e) identify the creditor and specify how and to whom payment may be made; and
- (f) specify the date on which the notice is sent (if it is sent by post) or given (in any other case).

(6) The documents mentioned in sub-paragraph (2)(a) must be given by:

- (a) handing them to the hirer;
- (b) leaving them at an address which is either:
 - (i) an address specified in the statement of liability mentioned in paragraph 13(2)(c) as an address at which documents may be given to the hirer; or
 - (ii) an address at which documents relating to civil proceedings could properly be served on the hirer under Civil Procedure Rules; or
 - (c) sending them by post to such an address so that they are delivered to that address within the relevant period for the purposes of subparagraph (2)(a).

(7) In sub-paragraph (5)(d) the reference to arrangements for the resolution of disputes or complaints includes:

- (a) any procedures offered by the creditor for dealing informally with representations by the hirer about the notice or any matter contained in it; and
- (b) any arrangements under which disputes or complaints (however described) may be referred by the hirer to independent adjudication or arbitration.

Application to Crown vehicles etc

15 (1) The provisions of this Schedule apply to:

- (a) vehicles in the public service of the Crown that are required to be registered under the Vehicle Excise and Registration Act 1994 (other than a vehicle exempted by sub-paragraph (2)), and
- (b) any person in the public service of the Crown who is the keeper of a vehicle falling within paragraph (a).

(2) But this Schedule does not apply in relation to a vehicle that:

- (a) at the relevant time is used or appropriated for use for naval, military or air force purposes, or
- (b) belongs to any visiting forces (within the meaning of the Visiting Forces Act 1952) or is at the relevant time used or appropriated for use by such forces.

Power to amend Schedule

16 (1) The appropriate national authority may by order made by statutory instrument amend this Schedule for the purpose of:

- (a) amending the definition of "relevant land" in paragraph 3;
- (b) adding to, removing or amending any of the conditions to which the right conferred by paragraph 4 is for the time being subject.

(2) The power to amend this Schedule for the purpose mentioned in subparagraph (1)(b) includes, in particular, power to add to, remove or amend:

- (a) any provisions that are applicable for the purposes of a condition;
- and
- (b) any powers of the appropriate national authority to prescribe anything for the purposes of a condition by regulations made by statutory instrument.

(3) An order under this paragraph may:

- (a) include incidental, supplementary, transitional, transitory or saving provision;
- (b) make different provision for different purposes.

Parliamentary procedure

- 17 (1) A statutory instrument containing regulations under any provision of this Schedule is subject to annulment by:
- (a) a resolution of either House of Parliament (in the case of regulations made by the Secretary of State); or
 - (b) a resolution of the National Assembly for Wales (in the case of regulations made by the Welsh Ministers).
- (2) A statutory instrument containing an order made under paragraph 16:
- (a) in the case of an order of the Secretary of State, is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament;
 - (b) in the case of an order of the Welsh Ministers, is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.