
*Status: This is the original version (as it was originally enacted). This
item of legislation is currently only available in its original format.*

SCHEDULES

SCHEDULE 1

Section 4

PENALTY CHARGE NOTICES ETC. UNDER SECTION 4 (PENALTY CHARGES FOR ROAD TRAFFIC CONTRAVENTIONS) OF THIS ACT

Representations against penalty charge notice

- 1 (1) Where it appears to a person on whom a penalty charge notice has been served under section 4 (Penalty charges for road traffic contraventions) of this Act (in this Schedule referred to as “the recipient”) that one or other of the grounds mentioned in sub-paragraph (4) below is satisfied, he may make representations to that effect to the enforcing authority.
- (2) Any representations under this paragraph must be made in such form as may be specified by the enforcing authority, acting through the Joint Committee (within the meaning of subsection (16) of the said section 4).
- (3) The enforcing authority may disregard any such representations which are received by them after the end of the period of 28 days beginning with the date on which the penalty charge notice in question was served.
- (4) The grounds referred to in sub-paragraph (1) above are—
- (a) that the recipient—
 - (i) never was the owner of the vehicle in question;
 - (ii) had ceased to be its owner before the date on which the penalty charge was alleged to have become payable; or
 - (iii) became its owner after that date;
 - (b) that there was no—
 - (i) contravention of a prescribed order; or
 - (ii) failure to comply with an indication; or
 - (iii) contravention of the lorry ban order,under subsection (5) or (7) of the said section 4 as the case may be;
 - (c) that at the time the alleged contravention or failure took place the person who was in control of the vehicle was in control of the vehicle without the consent of the owner;
 - (d) that the recipient is a vehicle-hire firm and—
 - (i) the vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and
 - (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice issued in respect of the vehicle during the currency of the hiring agreement; or
 - (e) that the penalty charge exceeded the amount applicable in the circumstances of the case.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (5) Where the ground mentioned in sub-paragraph (4)(a)(ii) above is relied on in any representations made under this paragraph, those representations must include a statement of the name and address of the person to whom the vehicle was disposed of by the person making the representations (if that information is in his possession).
- (6) Where the ground mentioned in sub-paragraph (4)(a)(iii) above is relied on in any representations made under this paragraph, those representations must include a statement of the name and address of the person from whom the vehicle was acquired by the person making the representations (if that information is in his possession).
- (7) It shall be the duty of the enforcing authority to whom representations are duly made under this paragraph—
 - (a) to consider them and any supporting evidence which the person making them provides; and
 - (b) to serve on that person notice of their decision as to whether they accept that the ground in question has been established.
- (8) Where the ground that is accepted is that mentioned in sub-paragraph (4)(d) above, the person hiring the vehicle shall be deemed to be its owner for the purposes of this Act.
- (9) In this paragraph, “vehicle hiring agreement” and “vehicle-hire firm” have the same meanings as in section 66 of the Road Traffic Offenders Act 1988 (c. 53) (Hired vehicles).

Cancellation of penalty charge notice

- 2 (1) Where representations are made under paragraph 1 above and the enforcing authority accept that the ground in question has been established they shall—
 - (a) cancel the penalty charge notice; and
 - (b) state in the notice served under sub-paragraph (7) of paragraph 1 above that the penalty charge notice has been cancelled.
- (2) The cancellation of a penalty charge notice under this paragraph shall not be taken to prevent the enforcing authority serving a fresh penalty charge notice on another person.

Rejection of representations against penalty charge notice

- 3 Where any representations are made under paragraph 1 above but the enforcing authority do not accept that a ground has been established, the notice served under sub-paragraph (7) of the said paragraph 1 (in this Schedule referred to as “the notice of rejection”) must—
 - (a) state that a charge certificate may be served under paragraph 5 below unless before the end of the period of 28 days beginning with the date of service of the notice of rejection—
 - (i) the penalty charge is paid; or
 - (ii) the person on whom the notice is served appeals to a traffic adjudicator against the penalty charge; and
 - (b) describe in general terms the form and manner in which such an appeal must be made,

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

and may contain such other information as the enforcing authority consider appropriate.

Adjudication by traffic adjudicator

- 4 (1) Where an enforcing authority serve a notice of rejection, the person who made the representations under paragraph 1 above in respect of which that notice was served may, before—
- (a) the end of the period of 28 days beginning with the date of service of that notice; or
 - (b) such longer period as a traffic adjudicator may allow,
- appeal to a traffic adjudicator against the decision of the enforcing authority.
- (2) On an appeal under this paragraph, the traffic adjudicator shall consider the representations in question and any additional representations which are made by the appellant on any of the grounds mentioned in paragraph 1(4) above and may give the enforcing authority such directions as he considers appropriate.
- (3) It shall be the duty of the enforcing authority to whom a direction is given under subparagraph (2) above to comply with it forthwith.

Charge certificates

- 5 (1) Where a penalty charge notice is served on any person and the penalty charge to which it relates is not paid before the end of the relevant period, the enforcing authority may serve on that person a statement (in this paragraph referred to as a “charge certificate”) to the effect that the penalty charge in question is increased by 50 per cent.
- (2) The relevant period, in relation to a penalty charge notice is the period of 28 days beginning—
- (a) where no representations are made under paragraph 1 above, with the date on which the penalty charge notice is served;
 - (b) where such representations are made and a notice of rejection is served by the enforcing authority and no appeal against the notice of rejection is made with the date on which the period within which an appeal could have been made expires; or
 - (c) where there has been an unsuccessful appeal against a notice of rejection, with the date on which notice of the adjudicator’s decision is served on the appellant.
- (3) Where an appeal against a notice of rejection is made but is withdrawn before the decision of the adjudicator is made the relevant period in relation to a penalty charge notice is the period of 14 days beginning with the date on which the appeal is withdrawn.

Enforcement of charge certificate

- 6 (1) Where a charge certificate has been served on any person and the increased penalty charge provided for in the certificate is not paid before the end of the period of 14 days beginning with the date on which the certificate is served, the enforcing authority may, if a county court so orders, recover the increased charge as if it were payable under a county court order.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) Any notice of any county court order made under this paragraph and being served on any person shall be accompanied by a copy of the penalty charge notice to which the penalty charge relates.
- (3) Section 78 of the Road Traffic Act 1991 (c. 40) (which makes provision for the recovery of sums that are payable under or by virtue of any provision of Part II of that Act and are recoverable as if they were payable under a county court order) shall have effect as though an increased penalty charge recoverable under sub-paragraph (1) above were a Part II debt for the purposes of that section.

Invalid notices

- 7 (1) This paragraph applies where—
- (a) a county court makes an order under paragraph 6 above;
 - (b) the person against whom it is made makes a statutory declaration complying with sub-paragraph (2) below; and
 - (c) that declaration is, before the end of the period of 21 days beginning with the date on which notice of the county court's order is served on him, served on the county court which made the order.
- (2) The statutory declaration must state that the person making it—
- (a) did not receive the penalty charge notice in question;
 - (b) made representations to the enforcing authority under paragraph 1 above but did not receive a notice of rejection from that authority; or
 - (c) appealed to a traffic adjudicator under paragraph 4 above against the rejection by that authority of representations made by him under paragraph 1 above but had no response to the appeal.
- (3) A statutory declaration under this paragraph is invalid and sub-paragraph (8) below shall not apply in relation to the declaration if one or more of the following grounds is met—
- (a) the person who made the declaration claims that more than one of the grounds mentioned in sub-paragraph (2) above is met;
 - (b) the declaration is not signed by any person purporting to make it;
 - (c) the declaration is not signed by or does not contain an address for a person purporting to be a witness to the signature of the person making it.
- (4) The Secretary of State may by regulations amend sub-paragraph (3) above by the addition of further grounds for a statutory declaration to be invalid.
- (5) Sub-paragraph (7) below applies where it appears to a district judge, on the application of a person on whom a charge certificate has been served, that it would be unreasonable in the circumstances of his case to insist on him serving his statutory declaration within the period of 21 days allowed for by sub-paragraph (1) above.
- (6) In considering an application under sub-paragraph (5) above the district judge must take into consideration any representations made by the enforcing authority before the expiry of the period of 14 days beginning on the date on which copies of the application and the statutory declaration are served by the court on the enforcing authority.
- (7) Where this sub-paragraph applies, the district judge may allow such longer period for service of the statutory declaration as he considers appropriate.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (8) Subject to sub-paragraphs (3) above and (10) below, where a statutory declaration is served under sub-paragraph (1)(c) above—
- (a) the order of the court shall be deemed to have been revoked;
 - (b) the charge certificate shall be deemed to have been cancelled;
 - (c) in the case of a statutory declaration under sub-paragraph (2)(a) above, the penalty charge notice to which the charge certificate relates shall be deemed to have been cancelled; and
 - (d) the district judge shall serve written notice of the effect of service of the statutory declaration on the person making it and on the enforcing authority.
- (9) Service of a declaration under sub-paragraph (2)(a) above shall not prevent the enforcing authority serving a fresh penalty charge notice but if, when it was served, the relevant order under paragraph 6 was accompanied by a copy of the penalty charge notice to which the charge certificate relates, a fresh penalty charge notice in the same terms shall be deemed to have been served on the person making the declaration on the same day as the declaration was served.
- (10) Where—
- (a) sub-paragraph (7) above applies; and
 - (b) the order of the court is deemed to have been revoked under sub-paragraph (8) above,
- the enforcing authority concerned shall not be liable to pay the person making the declaration any sums other than the increased charge which was payable under the county court order.
- (11) Where a declaration has been served under sub-paragraph (2)(b) or (c) above, the enforcing authority shall refer the case to the traffic adjudicator who may give such direction as he considers appropriate.

Offence of giving false information

- 8 (1) A person who, in response to a penalty charge notice served under section 4 (Penalty charges for road traffic contraventions) of this Act makes any representation under paragraph 1 or 4 above which is false in a material particular and does so recklessly or knowing it to be false in that particular is guilty of an offence.
- (2) Any person guilty of such an offence shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Service by post

- 9 Any charge certificate, or notice under section 4 (Penalty charges for road traffic contraventions) of this Act or this Schedule—
- (a) may be served by post; and
 - (b) where the person on whom it is to be served is a body corporate, is duly served if it is sent by post to the secretary or clerk of that body.

Traffic Adjudicators

- 10 (1) Functions of traffic adjudicators under this Schedule shall be discharged by the persons who are appointed as parking adjudicators under section 73 of the Road Traffic Act 1991 (c. 40).

Status: *This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

- (2) Regulations under section 73(11) of the said Act of 1991 (provision as to procedure to be followed in relation to proceedings before parking adjudicators) may make provision with respect to proceedings before parking adjudicators when exercising the functions of traffic adjudicators under this Schedule; and any regulations under that subsection in force at the coming into operation of section 4 (Penalty charges for road traffic contraventions) of this Act shall, with any necessary modifications, apply in relation to such proceedings.
- (3) The references to a parking adjudicator or parking adjudicators in section 73(13) to (15) and (17) and (18) of the said Act of 1991 shall include references to a parking adjudicator or parking adjudicators exercising the functions of traffic adjudicators under this Schedule but section 73(15) of that Act shall not apply to a penalty charge under the said section 4 which remains payable following an adjudication under this Schedule.

Interpretation

- 11 In this Schedule “the enforcing authority”, in relation to any penalty charge notice or charge certificate, means—
- (a) where the notice was served by a borough council, or the certificate relates to a notice so served, that council;
 - (b) where the notice was served by Transport for London, or the certificate relates to a notice so served, Transport for London.