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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 442**

**The Bus Lane Contraventions (Charges, Adjudication  
and Enforcement) (Scotland) Regulations 2011**

**PART III**

**NOTIFICATION OF, AND REPRESENTATIONS ABOUT, CHARGES**

**Charge notices**

**8.—**(1) Where an approved local authority has reason to believe that a charge is payable under Part II with respect to a vehicle, it may, in accordance with paragraphs (2) and (5), serve a notice (“charge notice”) on the registered keeper or on the person appearing to it to be the person liable to pay the charge.

(2) Subject to paragraph (3), a charge notice is to be served before the end of the period of 28 days beginning with the detection date.

(3) Where—

- (a) within 14 days of the detection date an approved local authority has made a request to the Secretary of State for the supply of relevant particulars; and
- (b) those particulars have not been supplied before the date after which the authority would not be entitled to serve a charge notice by virtue of paragraph (2),

the authority will continue to be entitled to serve a charge notice for a further period of 6 months beginning with the date mentioned in sub-paragraph (b).

(4) In paragraph (3) “relevant particulars” means particulars relating to the identity of the keeper of the vehicle contained in the register of mechanically propelled vehicles maintained by the Secretary of State under the 1994 Act.

(5) A charge notice must include the following information—

- (a) the registration mark of the vehicle involved in the alleged contravention;
- (b) the detection date and the time at which the alleged contravention occurred;
- (c) the reasons why the authority believe that a charge is payable;
- (d) the amount of the charge;
- (e) that the charge must be paid before the end of the 28 day period;
- (f) that if the charge is paid before the end of the period of 14 days beginning with the date of service of the notice, the charge will be reduced by 50 per cent;
- (g) that representations may be made, on any of the statutory grounds of appeal, to the authority against the imposition of the charge but that representations made outside the 28 day period may be disregarded;
- (h) the statutory grounds of appeal;
- (i) the postal address to which representations are to be sent;

- (j) any email address or fax number to which representations may be sent as an alternative to the postal address;
  - (k) that if at the end of the 28 day period—
    - (i) no representations have been made; and
    - (ii) the charge has not been paid,
 the authority may increase the charge by 50 per cent and take steps to enforce payment of the charge as so increased;
  - (l) the manner in which the charge may be paid;
  - (m) that if the representations are rejected an appeal may be made on any of the statutory grounds of appeal to an adjudicator in respect of a charge; and
  - (n) that the recipient may, by notice in writing to the authority, request it to provide the recipient, free of charge, with a copy of the record of contravention produced by the approved device pursuant to which the charge was imposed or with such still images from that record as, in the authority's opinion, establish the contravention.
- (6) Where the recipient makes a request under paragraph (5)(n), the authority must comply with the request within a reasonable time.

### **Representations in respect of charges**

**9.—**(1) The recipient may make written representations on any of the statutory grounds of appeal to the approved local authority against the imposition of the charge; but the authority may disregard any such representations which are received by them after the end of the 28 day period.

- (2) The grounds are—
  - (a) that the alleged contravention did not occur;
  - (b) that regulation 7(1) (other proceedings pursued) applies;
  - (c) in a case where the charge notice has been served on the recipient on the basis that the recipient was the registered keeper of the vehicle, that the recipient was not the registered keeper on the detection date;
  - (d) that the recipient was the registered keeper of the relevant vehicle on the detection date, but—
    - (i) on that date the circumstances were as mentioned in regulation 6(1)(b);
    - (ii) on that date the circumstances were as mentioned in regulation 6(1)(c);
    - (iii) the circumstances were as mentioned in regulation 6(1)(d); or
    - (iv) on that date the vehicle was in the control of a person who had assumed control of it without the recipient's consent;
  - (e) in a case where the charge notice has been served on the recipient on the basis that the recipient was the person by whom the relevant vehicle was kept on the detection date, that the recipient was not the keeper of the relevant vehicle on that date;
  - (f) in a case where the charge notice has been served on the recipient on the basis that the recipient was the hirer of the relevant vehicle, that the recipient was not liable to pay the charge under regulation 6(b);
  - (g) in a case where the charge notice has been served on the recipient on the basis that the recipient was a vehicle trader, that the recipient was either not a vehicle trader or was a vehicle trader but not the vehicle trader keeping the vehicle; and
  - (h) that the charge exceeded the amount applicable in the circumstances of the case.

(3) Where the ground mentioned in paragraph (2)(d)(i) is relied on in any representations made under paragraph (1), those representations must include a statement of the name and address of the person who hired the vehicle.

(4) Where the ground mentioned in paragraph (2)(d)(iii) is relied on in any representations made under paragraph (1), those representations must include a statement of the name and address of the person to whom the vehicle was disposed of by the recipient (if that information is in the recipient's possession).

### **Response to representations**

**10.**—(1) Where representations are made to an authority under regulation 9 within the 28 day period, it is the duty of the authority—

- (a) to consider them and any supporting evidence provided; and
- (b) in relation to each ground on which representations are made, to serve on the person by whom the representations are made notice of its decision as to whether or not it accepts that the ground has been established.

(2) Where an authority accepts that at least one ground on which representations are made is established, the authority must—

- (a) cancel the charge notice; and
- (b) serve notice on the recipient stating that the charge notice has been cancelled.

(3) Where an authority is not satisfied that any of the statutory grounds of appeal is established, the notice served in accordance with paragraph (1)(b) must be a notice stating that they do not accept that the ground has been established (“a notice of rejection”).

(4) A notice of rejection must—

- (a) state the reasons for the authority's decision;
- (b) state that an appeal against the imposition of the charge may be made to an adjudicator within the appeal period;
- (c) specify the statutory grounds of appeal;
- (d) describe in general terms the procedure for making an appeal;
- (e) state that an adjudicator has power to make an award of expenses;
- (f) indicate the circumstances in which the power may be exercised; and
- (g) state that unless, before the end of the appeal period—
  - (i) the charge is paid; or
  - (ii) an appeal is made to an adjudicator against the imposition of the charge, the authority may increase the charge by 50 per cent and take steps to enforce payment.

(5) Where a charge notice is cancelled under paragraph (2), the authority may serve on any person other than the person on whom the original charge notice was served a fresh charge notice in relation to the alleged contravention that was the subject of the cancelled notice.

(6) Regulation 8 applies in relation to a fresh notice served under paragraph (5) as if—

- (a) in paragraph (2), for “the detection date”, there were substituted “the date on which the charge notice is cancelled”; and
- (b) in paragraph (3)—
  - (i) in sub-paragraph (a), for “the detection date”, there were substituted “the date on which the charge notice is cancelled”; and

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

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(ii) in sub-paragraph (b), the reference to paragraph (2) were a reference to that paragraph as modified by sub-paragraph (a) of this paragraph.