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STATUTORY INSTRUMENTS

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**2013 No. 1783**

**The Road User Charging Schemes (Penalty Charges,  
Adjudication and Enforcement) (England) Regulations 2013**

**PART 3**

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

**Penalty charge notice**

7.—(1) Where a road user charge with respect to a motor vehicle under a charging scheme has not been paid by the time by which it is required by the charging scheme to be paid and, in those circumstances, the charging scheme provides for the payment of a penalty charge, the charging authority may serve a notice (a “penalty charge notice”).

(2) A penalty charge notice must be served on the registered keeper of the motor vehicle unless, in accordance with regulation 6, the penalty charge to which it relates is payable by another person, in which case the penalty charge notice must be served on that other person.

(3) A penalty charge notice must state—

- (a) the date of the notice, which must be the date on which it is posted or sent by electronic transmission;
- (b) the name of the charging authority;
- (c) the registration mark of the motor vehicle to which it relates;
- (d) the date and time at which the charging authority claims that the motor vehicle was used or kept on the designated road in circumstances in which, by virtue of a charging scheme, a road user charge was payable in respect of the motor vehicle;
- (e) the grounds on which the charging authority believes that the penalty charge is payable with respect to the motor vehicle;
- (f) the amount of penalty charge that is payable if the penalty charge is paid in full—
  - (i) within 14 days of the day on which the penalty charge notice is served;
  - (ii) after the expiry of such 14 day period but within 28 days of the day on which the penalty charge notice is served;
  - (iii) after the service of a charge certificate;
- (g) the manner in which the penalty charge must be paid and the address to which payment of the penalty charge must be sent;
- (h) that the recipient of the penalty charge notice is entitled to make representations to the charging authority against the imposition of the penalty charge on any of the grounds specified in regulation 8(3);
- (i) the address (including if appropriate any email address or fax telephone number, as well as the postal address) to which such representations must be sent and the form in which they must be made;

- (j) that the charging authority may disregard any such representations received by it more than 28 days after the penalty charge notice was served; and
- (k) in general terms, the form and manner in which an appeal to an adjudicator may be made.

### **Representations against penalty charge notice**

8.—(1) Where it appears to the person on whom the penalty charge notice is served (“the recipient”) that—

- (a) one or more grounds mentioned in paragraph (3) apply; or
- (b) whether or not any of those grounds apply there are compelling reasons why, in the particular circumstances of the case, the penalty charge notice should be cancelled,

the recipient may make representations in writing to that effect to the charging authority that served the penalty charge notice on the recipient.

(2) The charging authority may disregard any such representations which it receives after the end of the period of 28 days beginning with the date on which the penalty charge notice was served.

(3) The grounds are that—

- (a) in relation to a motor vehicle that is registered under the Vehicle Excise and Registration Act 1994<sup>(1)</sup> the recipient—
  - (i) never was the registered keeper of the motor vehicle in question;
  - (ii) had ceased to be the registered keeper before the time at which the motor vehicle was used or kept on the designated road and incurred the road user charge under the charging scheme; or
  - (iii) became the registered keeper after that time.
- (b) at the time it incurred the road user charge under the charging scheme the motor vehicle was being used or kept on the designated road by a person who was in control of the motor vehicle without the consent of the recipient;
- (c) the recipient is a vehicle-hire firm (as defined in regulation 6(7)(c)) and liability for payment of the penalty charge had been transferred to the hirer of the motor vehicle in accordance with regulation 6(5);
- (d) the road user charge payable for the use or keeping of the vehicle on the occasion in question was paid at the time and in the manner required by the charging scheme;
- (e) no road user charge or penalty charge is payable under the charging scheme;
- (f) the penalty charge exceeded the amount applicable in the circumstances of the case; or
- (g) there has been a procedural impropriety on the part of the charging authority.

(4) In these Regulations “procedural impropriety” means a failure by the charging authority to observe any requirement imposed on it by the Transport Act 2000<sup>(2)</sup> or by these Regulations in relation to the imposition or recovery of a penalty charge or other sum and includes in particular—

- (a) the taking of any step, whether or not involving the service of any notice or document, otherwise than—
  - (i) in accordance with the conditions subject to which; or
  - (ii) at the time or during the period when, it is authorised or required by these Regulations to be taken; and

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(1) 1994 c.22.  
(2) 2000 c.38.

- (b) in a case where a charging authority is seeking to recover an unpaid penalty charge, the purported service of a charge certificate under regulation 17(1) of these Regulations before the charging authority is authorised to serve it.
- (5) Where the ground mentioned in paragraph (3)(a)(ii) is relied on in any representations made under this regulation, those representations must include a statement of the name and address of the person to whom the motor vehicle was disposed of by the person making the representations (if that information is known).
- (6) Where the ground mentioned in paragraph (3)(a)(iii) is relied on in any representations made under this regulation, those representations must include a statement of the name and address of the person from whom the motor vehicle was acquired by the person making the representations (if that information is known).
- (7) Where the ground mentioned in paragraph (3)(b) is relied on in any representations made under this regulation, those representations must include a statement of—
  - (a) the crime reference number, police unique reference number, insurance claim reference or other evidence of the motor vehicle having been stolen from that person or taken without that person’s authority, and
  - (b) the name and address of the person who used or kept the motor vehicle on the designated road without the consent of the recipient (if that information is known).
- (8) Where the ground mentioned in paragraph (3)(c) is relied on in any representations made under this regulation, those representations must include a statement of the name and address of the person to whom the motor vehicle was hired.
- (9) It is the duty of a charging authority to whom representations are duly made under this regulation—
  - (a) to consider them and any supporting evidence which the person making them provides; and
  - (b) within the period of 56 days beginning with the date on which the representations were served on it, to serve on that person notice of its decision as to whether or not it accepts—
    - (i) that one or more of the grounds in paragraph (3) has been established; or
    - (ii) that there are compelling reasons why, in the particular circumstances of the case, the penalty charge notice should be cancelled.
- (10) Where a charging authority fails to comply with paragraph (9) within the period of 56 days mentioned there—
  - (a) it is deemed to have accepted the representations made under paragraph (1) and to have served notice to that effect under regulation 9(1); and
  - (b) it must as soon as reasonably practicable refund any sum paid in respect of the penalty charge notice and (if applicable) the road user charge.

**Cancellation of penalty charge notice**

- 9.—(1)** Where a charging authority accepts that a ground in regulation 8(3) has been established, or that there are compelling reasons why, in the particular circumstances of the case, the penalty charge notice should be cancelled, it must—
- (a) cancel the penalty charge notice;
  - (b) state in the notice served under regulation 8(9)(b) that the penalty charge notice has been cancelled; and
  - (c) refund any sum paid in respect of the penalty charge notice.

(2) The cancellation of a penalty charge notice under paragraph (1) is not to be taken to prevent the charging authority from serving a fresh penalty charge notice on the same or another person.

### **Rejection of representations against penalty charge notice**

**10.**—(1) Where a charging authority does not accept that a ground in regulation 8(3) has been established, nor that there are compelling reasons why the penalty charge notice should be cancelled, the notice served in accordance with regulation 8(9)(b) (a “notice of rejection”) must—

- (a) state that a charge certificate may be served under regulation 17(1) unless within 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 of rejection is served appeals to an adjudicator against the penalty charge;
- (b) indicate the nature of an adjudicator’s power to award costs against any person appealing; and
- (c) describe in general terms the form and manner in which an appeal to an adjudicator must be made.

(2) A notice of rejection may contain such other information as the charging authority considers appropriate.

### **Appeals to an adjudicator in relation to decisions under regulation 10**

**11.**—(1) Where a charging authority serves a notice of rejection under regulation 10(1) in relation to representations made under regulation 8, the person making those representations may appeal to an adjudicator against the charging authority’s decision—

- (a) within the period of 28 days beginning with the date of service of the notice of rejection; or
- (b) within such longer period as an adjudicator may allow.

(2) An adjudicator may allow a longer period for an appeal under paragraph (1)(b) whether or not the period specified in paragraph (1)(a) has expired.

(3) An appeal pursuant to this regulation must be made by delivering a notice of appeal to the proper officer in accordance with paragraph 2 of the Schedule.

(4) An appeal pursuant to this regulation must be determined by an adjudicator in accordance with the procedure set out in the Schedule.

(5) On an appeal under this regulation the adjudicator must consider the representations in question and any additional representations which are made by the appellant together with any representations made to the adjudicator by the charging authority.

(6) If the adjudicator concludes that a ground specified in regulation 8(3) applies, the adjudicator must allow the appeal and the proper officer must notify the appellant and the charging authority of the outcome in accordance with paragraph 11(3) of the Schedule.

(7) Where an appeal is allowed the adjudicator may give such directions to the charging authority as the adjudicator may consider appropriate for the purpose of giving effect to the adjudicator’s decision, and such directions may in particular include directions requiring—

- (a) the cancellation of the penalty charge notice; and
- (b) the refund of such sum (if any) as may have been paid to the charging authority in respect of the penalty charge or the road user charge it relates to.

(8) A charging authority to which a direction under paragraph (7) is given must comply with it as soon as reasonably practicable.

(9) If the adjudicator does not allow the appeal but is satisfied that there are compelling reasons why, in the particular circumstances of the case, the penalty charge notice should be cancelled the adjudicator may recommend to the charging authority in writing that it cancels the penalty charge notice.

(10) It is the duty of a charging authority to which a recommendation is made under paragraph (9) to consider afresh the cancellation of the penalty charge notice taking account of any observations made by the adjudicator and, within the period of 35 days beginning with the date on which the recommendation is received, to notify the appellant and the adjudicator as to whether or not it accepts the adjudicator's recommendation.

(11) If the charging authority notifies the appellant and the adjudicator that it does not accept the adjudicator's recommendation under paragraph (9), it must at the same time inform them of the reasons for its decision.

(12) No appeal to an adjudicator lies against the decision of the charging authority under paragraph (11).

(13) If the charging authority accepts the adjudicator's recommendation under paragraph (9) it must cancel the penalty charge notice and refund to the appellant any sum paid in respect of the penalty charge and (if applicable) the road user charge it relates to as soon as reasonably practicable.

(14) If the charging authority fails to comply with the requirements of paragraph (10) within the 35 day period mentioned in that paragraph, the authority is to be taken to have accepted the adjudicator's recommendation and must cancel the penalty charge notice and refund to the appellant any sum paid in respect of the penalty charge and (if applicable) the road user charge it relates to as soon as reasonably practicable after the end of that period.

(15) If, on an appeal under this regulation, the adjudicator, after considering the representations made by the appellant or the charging authority, concludes that none of the grounds specified in regulation 8(3) applies, nor that there are compelling reasons why the penalty charge notice should be cancelled, the adjudicator must dismiss the appeal and the proper officer must notify the appellant and the charging authority of the outcome in accordance with paragraph 11(3) of the Schedule.