
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2021 No.

The Low Emission Zones (Emission Standards,
Exemptions and Enforcement) (Scotland) Regulations 2021

PART 3

Penalty charges and enforcement

Response to representations

9.—(1) Where representations are made to a local authority under regulation 8(1) within the payment period, or taken account of by the local authority under regulation 8(3), it must—

- (a) consider those representations and any supporting evidence provided,
- (b) serve on the person by whom the representations were made a notice under paragraph (2) or, as the case may be, paragraph (3).

(2) Where a local authority accepts that at least one of the grounds specified in regulation 8(4) is established, it must—

- (a) cancel the penalty charge notice,
- (b) serve a notice on the person by whom representations were made—
 - (i) stating that the penalty charge notice has been cancelled,
 - (ii) explaining the local authority's decision, and its reasons for that decision, on each of the grounds on which representations were made
- (c) refund any penalty charge paid in relation to the cancelled penalty charge notice.

(3) Where a local authority is satisfied that none of the grounds on which representations are made is established, it must serve on the person by whom those representations were made a notice to that effect (“a notice of rejection”).

(4) A notice of rejection must—

- (a) state the reasons for the local authority's decision on each ground on which representations were made,
- (b) state that an appeal against the imposition of the penalty charge may be made to the First-tier Tribunal within the appeal period, or such longer period as the First-tier Tribunal may allow,
- (c) state the grounds upon which an appeal may be made (being the same grounds as are specified in regulation 8(4)),
- (d) describe in general terms the manner and form for making an appeal,
- (e) state that the First-tier Tribunal has power to make an award of expenses,
- (f) state that if the penalty charge is paid before the end of the period of 14 days beginning with the date of service of the notice of rejection, the penalty charge will be reduced by 50 per cent, and

(g) state that unless, before the end of the appeal period—

(i) the penalty charge is paid, or

(ii) an appeal is made to the First-tier Tribunal against the imposition of the charge,

the local authority may issue a charge certificate under regulation 7 (and describe the effect of that regulation were it to do so).

(5) Where a penalty charge notice is cancelled under paragraph (2), the local authority may serve another penalty charge notice in relation to the alleged contravention that was the subject of the cancelled penalty charge notice on any person (other than the person on whom the original penalty charge notice was served) appearing to it to be liable to pay the charge in respect of that contravention.

(6) Regulation 6(2) to (6) applies in relation to a notice served under paragraph (5) as if—

(a) for paragraph (2) there were substituted—

“(2) A penalty charge notice must be served before the end of the period of 28 days beginning with the date on which notification of cancellation is made under regulation 9(2)”;

(b) for sub-paragraph (a) of paragraph (3) there were substituted—

“(a) within 14 days of the date on which the penalty charge notice is cancelled a local authority has made a request to the Secretary of State for the supply of relevant particulars”, and

(c) in paragraph (3)(b), the reference to paragraph (2) were a reference to that paragraph as modified by sub-paragraph (b) of this paragraph.