

D R A F T S T A T U T O R Y I N S T R U M E N T S

2023 No. 000

ROAD TRAFFIC

The Public Charge Point Regulations 2023

Made - - - - 2023

Coming into force in accordance with regulation 1(1)

The Secretary of State, in exercise of the powers conferred by sections 10, 13, 14, 16, 17 and 18 of the Automated and Electric Vehicles Act 2018(a) (“the 2018 Act”), makes the following Regulations.

The Secretary of State has consulted such persons as the Secretary of State considered appropriate in accordance with section 18(3) of the 2018 Act before making these Regulations.

In accordance with section 18(4) of the 2018 Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Public Charge Point Regulations 2023 and come into force on the 22nd day after the day on which they are made.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

“charge point” has the meaning given by section 9 of the Automated and Electric Vehicles Act 2018;

“charge point operator” means the owner of a charge point or any person operating a charge point on behalf of the owner;

“data requirement” means version 2.2.1 of the Open Charge Point Interface protocol(b);

(a) 2018 c. 18.

(b) <https://evroaming.org/app/uploads/2021/11/OCPI-2.2.1.pdf>

“electric vehicle” means a vehicle that is capable of being propelled by electric power derived from a storage battery;

“enforcement authority” means the Secretary of State;

“EVSE” means Electric Vehicle Supply Equipment and is the independently operated and managed part of a charge point that can deliver energy to one electric vehicle at a time;

“EVSE object status” means the data type which represents the operational status of an EVSE as set out in paragraph 8.4.22 of the data requirement;

“network of rapid charge points” means all the rapid charge points owned or operated by a single charge point operator;

“payment card” has the meaning given in article 2 of Regulation (EU) 2015/751(a);

“public charge point” means a charge point which is intended for use primarily by members of the general public, and includes a charge point described in regulation 3(1), but excludes a charge point described in regulation 3(2);

“rapid charge point” means a public charge point with a power of 50 kilowatts or above.

Public charge points

3.—(1) A public charge point includes a charge point that—

- (a) may only be accessed during specific hours; or
- (b) is situated in a public car park, whether or not that car park is available only to persons intending to purchase specific goods or services.

(2) A public charge point does not include—

- (a) a workplace charge point;
- (b) a charge point restricted for the exclusive use by—
 - (i) a vehicle produced by a specific manufacturer;
 - (ii) a person engaged in a specific occupation; or
 - (iii) an occupier of, or visitor to, residential premises.

(3) In this regulation, “workplace charge point” means a charge point which is intended solely for the use of—

- (a) employees and contractors at their workplace, or
- (b) visitors to that workplace, excluding persons intending to purchase goods or services.

Application

4.—(1) Regulations 5 to 10 apply to a charge point operator that is not a micro business.

(2) Regulation 11 applies to all charge point operators.

(3) In this regulation, “micro business” has the meaning given in section 33 of the Small Business, Enterprise and Employment Act 2015(b).

(a) EUR 2015/751, amended by S.I. 2019/284.

(b) 2015 c. 26.

PART 2

Payment requirements

Contactless payment

5.—(1) For a new public charge point with a power of 8 kilowatts or above, a charge point operator must, within one year from the date on which these Regulations come into force, ensure that a person using that charge point is able to pay by contactless payment to charge an electric vehicle.

(2) For a rapid charge point in operation before the date on which these Regulations come into force, a charge point operator must, within one year from the date on which these Regulations come into force, ensure that a person using that charge point is able to pay by contactless payment to charge an electric vehicle.

(3) Where an existing charge point becomes a public charge point after the coming into force of these Regulations, a charge point operator must, within one year from the date on which the charge point becomes a public charge point, ensure that a person using that charge point is able to pay by contactless payment to charge an electric vehicle.

(4) In this regulation—

- (a) “contactless payment” means a payment made at a contactless payment terminal using the contactless payment facility of a payment card that does not require the payer to have entered into a pre-existing contract with the charge point operator;
- (b) “existing charge point” means a charge point with a power of 8 kilowatts or above in operation before these Regulations come into force;
- (c) “new public charge point” means a public charge point installed after the coming into force of these Regulations.

Payment roaming

6.—(1) A charge point operator must, within two years from the date on which these Regulations come into force, ensure that a person using any of its charge points is able to pay to charge an electric vehicle using a payment service provided by a third party roaming provider.

(2) Where, on the date on which these Regulations come into force, a charge point operator permits a person using its charge points to pay to charge an electric vehicle using a payment service provided by a third party roaming provider, the charge point operator must, within 28 days from the date on which these Regulations come into force, submit a report to the Secretary of State which lists each third party roaming provider permitted to provide such a service.

(3) A charge point operator must notify the Secretary of State of—

- (a) any third party roaming provider permitted to provide a payment service for its charge points and such notification must be given within 28 days from the date on which permission to provide that service is granted; and
- (b) any third party roaming provider which is no longer permitted to provide a payment service for its charge points and such notification must be given within 28 days from the date on which permission to provide that service is withdrawn.

(4) In this regulation—

- (a) “application” means a software programme that runs through a web browser or offline on a mobile telephone or other device and enables a person to charge an electric vehicle, and which does not serve solely as a method of payment;
- (b) “network of public charge points” means all the public charge points owned or operated by a single charge point operator;
- (c) “payment service” means a service that enables a person to pay, using an application or an RFID card, for charging an electric vehicle at public charge points operated by different charge point operators;

- (d) “RFID card” means a card with Radio Frequency Identification functionality which allows a person to charge an electric vehicle but which is not a payment card;
- (e) “third party roaming provider” means a person who provides a payment service in respect of different networks of public charge points.

PART 3

Performance requirements

Reliability

7.—(1) A charge point operator must, one year from the date on which these Regulations come into force, ensure that its network of rapid charge points complies with the reliability requirement set out in paragraph (2).

(2) The reliability requirement is that the network of rapid charge points is, on average, reliable for 99% of the time during each calendar year.

(3) A rapid charge point is considered to be reliable for the purposes of calculating compliance with the reliability requirement where it is either—

- (a) working, indicated by an EVSE object status of—
 - (i) available;
 - (ii) charging; or
 - (iii) reserved; or
- (b) ineligible for measurement, indicated by an EVSE object status of—
 - (i) unknown; or
 - (ii) blocked.

(4) A rapid charge point is not considered to be reliable for the purposes of calculating compliance with the reliability requirement where it is not working, indicated by an EVSE object status of—

- (a) inoperative; or
- (b) out of order.

(5) Where a rapid charge point can be accessed only during specific hours, reliability is to be assessed only by reference to those hours.

(6) The charge point operator must publish information on its compliance with the reliability requirement on its website.

Regular reporting

8.—(1) A charge point operator must submit a report to the Secretary of State for its network of rapid charge points for each calendar year.

- (2) The report must state—
- (a) the total number of charge points operated during the calendar year;
 - (b) the reliability of the charge point operator’s network of rapid charge points during the calendar year expressed as a percentage; and
 - (c) the reliability of each charge point during the calendar year, which must include the location and the time spent in each EVSE object status over the year.

(3) The first report for the calendar year 2025 must be submitted by 14th January 2026 and each report thereafter must be submitted by the 14th day in January in the year following the calendar year to which it relates.

(4) For the purposes of this regulation, reliability is measured in accordance with regulation 7(3), (4) and (5) of these Regulations.

Helpline

9.—(1) A charge point operator must provide a staffed telephone helpline available free of charge for 24 hours per day for each day of the year to allow persons using or intending to use one of its charge points to seek assistance regarding the functionality of the charge point.

(2) The telephone number for the helpline must be prominently displayed on or near the charge point.

(3) The charge point operator must keep a record of every call to the telephone helpline and submit a quarterly report containing the information in paragraph (5) to the Secretary of State.

(4) The first report under paragraph (3) must be submitted by the last business day of the thirteenth month after the month in which these Regulations come into force and must cover the last quarter year ending before that thirteenth month.

(5) Each subsequent report must be submitted by the last business day of the month following the end of each quarter year.

(6) The report must contain—

- (a) the total number of calls received during the relevant quarter year;
- (b) a breakdown of the calls under sub-paragraph (a) categorised by type of assistance sought;
- (c) a breakdown of the calls under sub-paragraph (a) categorised by the length of time, expressed in 10 minute intervals, it took to resolve those calls; and
- (d) the percentage of calls under sub-paragraph (a) which are not resolved by the date on which a report must be submitted under paragraph (3), and a list of the reasons those calls are not resolved.

(7) The report must not contain any personal data of the caller.

(8) In this regulation—

- (a) “business day” means any day other than a Saturday, a Sunday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(a).
- (b) “resolved”, in relation to a request for assistance made using a helpline provided in accordance with paragraph (1), means that there remains no outstanding action to be taken by the charge point operator;
- (c) “personal data” has the meaning given in Article 4 of Regulation (EU) 2016/679(b);
- (d) “quarter year” means the first, second, third and fourth three months of the calendar year.

PART 4

Open public charge point data

Data

10.—(1) A charge point operator must, within one year from the date on which these Regulations come into force, hold the data set out in paragraphs 8.3.1, 8.3.2 and 8.3.3 of the data requirement for each of its public charge points.

(2) A charge point operator must ensure that data held in accordance with paragraph (1) is—

- (a) accurate; and

(a) 1971 c. 80.

(b) EUR 2016/679 as amended by S.I. 2019/419.

- (b) provided on request in electronic format to the Secretary of State and to any Distribution Network Operator, Transmission Owner or Electricity Systems Operator that supplies energy to its public charge points.

(3) A charge point operator must ensure that the location data set out in paragraph 8.3.1 of the data requirement is recorded for each public charge point before the date on which the charge point is used by a member of the public for the first time.

(4) A charge point operator must ensure that EVSE object status data held in accordance with paragraph (1) is updated within 30 seconds of a change from one EVSE object status to another EVSE object status.

(5) A charge point operator must ensure that reference data and availability data is made available to the public free of charge and in a machine readable format without any requirement to agree to terms and conditions regarding the use of that data.

(6) In this regulation—

- (a) “availability data” means information about whether a charge point is working and, for these purposes, “working” means that the charge point has an EVSE object status of available, charging or reserved;
- (b) “Distribution Network Operator”—
 - (i) in Great Britain, means the holder of a distribution licence as defined in section 6(1)(c) of the Electricity Act 1989(a); and
 - (ii) in Northern Ireland, means a person who is authorised to distribute electricity under article 10 of the Electricity (Northern Ireland) Order 1992(b);
- (c) “Electricity Systems Operator” means a person that co-ordinates and directs the flow of electricity into and over transmission systems by means of which the transmission of electricity takes place;
- (d) “reference data” means information that does not change frequently about a charge point including but not limited to—
 - (i) the location of the charge point;
 - (ii) the type of connector available to charge an electric vehicle at the charge point;
 - (iii) the methods by which a person is able to pay to charge an electric vehicle at the charge point;
 - (iv) the price in pence per kilowatt hour to charge an electric vehicle at the charge point; and
 - (v) the hours of the day during which the charge point is unavailable to charge an electric vehicle;
- (e) “Transmission Owner” means a person who is authorised to transmit electricity by an electricity transmission licence in accordance with section 6(1)(b) of the Electricity Act 1989(c).

PART 5

Pricing Transparency

Displaying unit of measurement used for pricing

11.—(1) A charge point operator must ensure that the total price for charging an electric vehicle through a public charge point is clearly displayed in pence per kilowatt hour either on the charge

(a) 1989 c. 29.

(b) S.R. & O. (NI) 1992 No. 231.

(c) 1989 c. 29.

point or through a separate device which does not require a person to have entered into a pre-existing contract with the charge point operator.

(2) A charge point operator must ensure that the total price for charging an electric vehicle displayed in accordance with paragraph (1) does not increase once the charging of the electric vehicle has commenced.

PART 6

General

Enforcement

12.—(1) These Regulations must be enforced by the Secretary of State.

(2) The Schedule has effect.

Review

13.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The report, in accordance with section 30(4) of the Small Business, Enterprise and Employment Act 2015(a), must in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved, and
- (c) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(3) The first report must be published before the end of the period of five years beginning with the date on which these Regulations come into force.

(4) Subsequent reports must be published at intervals not exceeding five years.

(5) In this regulation, “regulatory provision” has the same meaning as in section 32(4) of the Small Business, Enterprise and Employment Act 2015.

Signed by authority of the Secretary of State for Transport

Date

Name
Minister of State
Department for Transport

(a) 2015 c. 26.

SCHEDULE

Enforcement

Regulation 12

PART 1

Investigatory powers

Information notice

1.—(1) The enforcement authority may serve a notice (an “information notice”) on a person requesting such information or documents as the enforcement authority considers necessary to enable it to monitor that person’s, or another person’s, compliance with these Regulations.

(2) An information notice must—

- (a) be in writing,
- (b) set out the information or documents required,
- (c) specify the date by which the information or documents must be provided, and
- (d) specify the person, and the address, to which the information or documents must be provided.

(3) A person served with an information notice must comply with its requirements by the date referred to in sub-paragraph (2)(c).

Enforcement of information notice

2.—(1) If a person fails to comply with a notice served under paragraph 1, the enforcement authority may make an application under this paragraph to the court.

(2) If it appears to the court that the person has failed to comply with the notice, it may make an order under this paragraph.

(3) An order under this paragraph is an order requiring the person to do anything that the court thinks it is reasonable for the person to do, for any of the purposes for which the notice was given, to ensure that the notice is complied with.

(4) An order under this paragraph may require the person to meet the costs or expenses of the application.

(5) If the person is a company, partnership or unincorporated association, the court in acting under sub-paragraph (4) may require an official who is responsible for the failure to meet the costs or expenses.

(6) In this paragraph—

(a) “official” means—

- (i) in the case of a company, a director, manager, secretary or other similar officer;
- (ii) in the case of a limited liability partnership, a member;
- (iii) in the case of a partnership other than a limited liability partnership, a partner; and
- (iv) in the case of an unincorporated association, a person who is concerned in the management or control of its affairs.

(b) “the court” means—

- (i) in relation to England and Wales, the High Court or the County Court;
- (ii) in relation to Scotland, the Court of Session or the sheriff;
- (iii) in relation to Northern Ireland, the County Court.

Power of entry without warrant

3.—(1) The enforcement authority may enter premises (other than premises used wholly or mainly as a private dwelling) or land, at reasonable hours for the purposes of ascertaining whether there has been a breach of these Regulations.

(2) Before the enforcement authority exercises the power of entry in sub-paragraph (1) the enforcement authority must serve on the occupier of the premises or land a notice (an “inspection notice”).

(3) An inspection notice must—

- (a) be in writing;
- (b) be served on the occupier of the premises or land at least two working days before the proposed date of entry;
- (c) specify the proposed date of entry;
- (d) set out the reason for which entry is required;
- (e) summarise the enforcement authority’s powers of seizure and detention of any relevant equipment or records or other information under paragraph 5; and
- (f) explain that compensation may be payable for damage caused in seizing and removing any relevant equipment or records or other information and give the address to which an application for compensation should be directed.

(4) The requirement in sub-paragraph (2) does not apply where the enforcement authority—

- (a) reasonably suspects a breach of these Regulations; and
- (b) reasonably considers that to give notice in accordance with sub-paragraph (2) would defeat the purpose of the entry.

(5) If the enforcement authority enters premises or land in the circumstances referred to in sub-paragraph (4) and finds one or more occupiers on the premises or land, the enforcement authority must provide to the occupier, or if there is more than one occupier, to at least one of them, a document that—

- (a) is in writing;
- (b) meets the requirements of sub-paragraphs (3)(d) to (3)(f); and
- (c) where applicable, indicates the nature of the alleged breach of these Regulations.

(6) The enforcement authority must produce suitable identification to the occupier of the premises or land, or (if there is more than one) to at least one of them, when requested to do so by them.

(7) The enforcement authority, when entering any premises or land by virtue of this paragraph, may be accompanied by such persons and take such equipment as appear to the enforcement authority to be necessary.

Power of entry with warrant

4.—(1) If a justice is satisfied by any written information on oath—

- (a) that there are reasonable grounds for believing—
 - (i) that any relevant equipment or records or other information, which the enforcement authority has power under paragraph 5 to inspect, copy, seize or require to be produced, is or are on any premises or land and that the inspection, copying, seizure or production of that item is likely to disclose evidence of a breach of regulation 5, 6, 7, 8, 9, 10 or 11; or
 - (ii) that there has been or is about to be, a breach of regulation 5, 6, 7, 8, 9, 10 or 11; and
- (b) either—

- (i) that admission to the premises or land has been or is likely to be refused and that notice of intention to apply for a warrant under this paragraph has been given to the occupier;
- (ii) that an application for admission or the giving of such notice, would defeat the object of the entry; or
- (iii) that the premises or land are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await the occupier's return;

the justice may by warrant under the justice's hand, which continues in force for a period of one month, authorise the enforcement authority to enter the premises or land, if need be by force.

(2) On entering any premises or land by authority of a warrant under sub-paragraph (1), the enforcement authority must give to the occupier, or if there is more than one occupier, to at least one of them, or, if the occupier is temporarily absent, leave in a prominent place on the premises or land, or an appropriate part of the premises or land, a notice in writing—

- (a) summarising the enforcement authority's powers of seizure and detention of any relevant equipment or records or other information under paragraph 5; and
- (b) explaining that compensation may be payable for damage caused in entering premises or land and seizing and removing any relevant equipment or records or other information and giving the address to which an application for compensation should be directed.

(3) The enforcement authority, when entering any premises or land by virtue of this paragraph may be accompanied by such persons and take such equipment as appear to the enforcement authority to be necessary.

(4) The enforcement authority, when leaving any premises or land which the enforcement authority entered by virtue of a warrant, must, if the premises or land are unoccupied or the occupier is temporarily absent, leave them in as secure a state as that in which they were found.

(5) In this paragraph, "justice" means—

- (a) in England and Wales, a justice of the peace;
- (b) in Scotland, a sheriff or summary sheriff; and
- (c) in Northern Ireland, a lay magistrate.

Powers of inspection etc

5.—(1) The enforcement authority exercising the power of entry under paragraph 3 or paragraph 4 may—

- (a) inspect the premises and land;
- (b) require any occupier of the premises or land to produce relevant equipment or records or any other information, in whatever form it is held, together with an explanation of such records or information within such period as the enforcement authority considers reasonable;
- (c) inspect any relevant equipment or records or any other information, in whatever form it is held;
- (d) if the enforcement authority has reasonable grounds for believing that there has been a breach of these Regulations, seize and detain relevant equipment or records or any other information, in whatever form it is held, for the purposes of ascertaining whether there has been such a breach;
- (e) take photographs, copies or measurements;
- (f) require any person on the premises or land to provide such other assistance as the enforcement authority reasonably considers necessary.

(2) The enforcement authority must—

- (a) provide to the occupier of the premises or land or, if there is more than one occupier, to at least one of them, a written record of any items which are seized and removed; and

(b) retain seized items for no longer than absolutely necessary.

(3) Any object or document which is inspected or seized should, so far as possible, be retained in its original condition.

6. The enforcement authority may, for the purposes of assessing compliance with these Regulations, require a person to provide access to embedded software in a public charge point insofar as the enforcement authority considers that such access is necessary for the purpose of assessing such compliance.

Compensation for seizure and detention

7.—(1) Where the enforcement authority exercises any power under paragraph 5(1)(d) to seize and detain any relevant equipment, records or other information, the enforcement authority is liable to pay compensation to any person having an interest in the item seized and detained in respect of any loss or damage caused by the exercise of the power if—

- (a) there has been no breach of any provision of these Regulations by that person; and
- (b) the exercise of the power is not attributable to any neglect or default by that person.

(2) Any disputed question as to the right to, or the amount of, any compensation payable under this paragraph must be determined by arbitration—

- (a) in England and Wales, in accordance with the Arbitration Act 1996(a);
- (b) in Scotland, in accordance with the Arbitration (Scotland) Act 2010(b); and
- (c) in Northern Ireland, in accordance with the Arbitration Act 1996.

Obstruction of the enforcement authority and false statements

8.—(1) A person must not—

- (a) intentionally obstruct the enforcement authority when it is acting in pursuance of any provision of these Regulations;
- (b) intentionally fail to comply with any requirement properly imposed by the enforcement authority under any provision of these Regulations; or
- (c) without reasonable cause, fail to give the enforcement authority any other assistance or information which the enforcement authority may reasonably require of that person for the purposes of the exercise of the enforcement authority's functions under any provision of these Regulations.

(2) A person must not, in giving any information which is required of that person by virtue of sub-paragraph (1)(c)—

- (a) make any statement which the person knows is false in a material particular; or
- (b) recklessly make a statement which is false in a material particular.

PART 2

Civil sanctions

Interpretation

9. In Parts 2, 3 and 4 of this Schedule, “civil sanction” means a compliance notice issued in accordance with paragraph 10 or a civil penalty imposed in accordance with paragraph 11.

(a) 1996 c. 23.
(b) 2010 asp 1.

Compliance notice

10.—(1) Subject to sub-paragraph (2), where the enforcement authority considers that a person has breached regulation 5, 6, 7, 8, 9, 10 or 11, the enforcement authority may serve a compliance notice on the person considered to be in breach requiring the person to take such steps as the enforcement authority considers appropriate in relation to the breach.

(2) The enforcement authority may not serve a compliance notice on a person unless it has first complied with paragraphs 13 to 15.

(3) The notice must be in writing and dated, and must—

- (a) set out the reasons for which the notice has been served;
- (b) describe the steps required to remedy the breach;
- (c) specify the date, which must not be less than 28 days from the date of the notice, by which the breach must be remedied;
- (d) set out the consequences of failing to comply with the notice; and
- (e) set out the rights of appeal in accordance with paragraphs 16 and 17.

(4) Without limiting the generality of sub-paragraph (1) above, where the enforcement authority considers that a person has breached regulation 5, 6, 7, 8, 9, 10 or 11, a compliance notice may prohibit the person from installing further public charge points until that person has remedied any breach set out in the compliance notice.

Civil penalties

11.—(1) Subject to sub-paragraph (2), where—

- (a) a person does not comply with a compliance notice under paragraph 10, or
- (b) the enforcement authority considers that there has been a breach of paragraph 8 by a person,

the enforcement authority may serve a notice (a “penalty notice”) on the person requiring them to pay a civil penalty.

(2) The enforcement authority may not serve a penalty notice on a person unless it has first complied with paragraphs 13 to 15.

(3) The enforcement authority may not require a person to pay a civil penalty if the authority is satisfied on the balance of probabilities that there was a reasonable excuse for the non-compliance or the breach.

(4) The enforcement authority may require a person to pay a civil penalty without first serving a compliance notice under paragraph 10 if it considers it appropriate to do so.

(5) A penalty notice must be in writing, dated and include—

- (a) the reasons for imposing the civil penalty;
- (b) the amount to be paid;
- (c) how payment is to be made;
- (d) the period within which payment must be made, which must be not less than 28 days from the date of the final decision;
- (e) the rights of appeal in accordance with paragraphs 16 and 17; and
- (f) the consequences of failing to comply with the notice.

Amount of civil penalty

12.—(1) The maximum amount of a civil penalty is—

- (a) £10,000 for each public charge point in respect of which there has been a breach of regulation 5, 6, 8, 9, 10 or 11;

- (b) £10,000 for a network of rapid charge points in respect of which there has been a breach of regulation 7;
- (c) £250,000 for a breach of paragraph 8 of this Schedule.

(2) Before requiring a person to pay a civil penalty pursuant to paragraph 11, the enforcement authority may require the person to provide such information as is reasonable in connection with determining the appropriate amount of the civil penalty within such period as is reasonable.

Notice of intent

13.—(1) Subject to sub-paragraph (3), where the enforcement authority proposes to impose a civil sanction on a person, it must serve on that person a notice of what is proposed (a “notice of intent”).

(2) The notice of intent must include—

- (a) the reasons for the proposed civil sanction;
- (b) the requirements of the proposed compliance notice and, in the case of a proposed civil penalty, the amount to be paid; and
- (c) information as to the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received.

(3) The requirement to serve a notice of intent does not apply where the enforcement authority reasonably considers that, in consequence of one or both of the matters referred to in sub-paragraph (4), it is appropriate to impose a civil sanction without first serving a notice of intent.

(4) The matters referred to in sub-paragraph (3) are—

- (a) a risk of harm to, or disruption of, the electricity system;
- (b) a risk to public health or safety.

Representations and objections

14. A person on whom a notice of intent is served may within 28 days beginning with the day on which the notice was received make written representations and objections to the enforcement authority in relation to the proposed civil sanction.

Final decision

15.—(1) Sub-paragraph (2) applies where a notice of intent has been served pursuant to paragraph 13.

(2) After the end of the period for making representations and objections, the enforcement authority must, taking into account any representations or objections made in accordance with paragraph 14, decide whether to impose the proposed civil sanction, with or without modifications to the matters set out in the notice of intent.

Appeals

16.—(1) A person on whom a civil sanction is imposed may appeal against it.

(2) The grounds for appeal are—

- (a) that the decision to impose a civil sanction was based on an error of fact;
- (b) that the decision to impose a civil sanction was wrong in law;
- (c) in the case of a civil penalty, that the amount of the civil penalty is unreasonable;
- (d) in the case of a compliance notice, that any steps required to remedy the breach are unreasonable;
- (e) that the decision to impose a civil sanction was unreasonable for any other reason;
- (f) that the decision to impose a civil sanction was wrong for any other reason.

- 17.**—(1) Any appeal under paragraph 16 must be made to the First-tier Tribunal.
- (2) An appeal must be brought within 28 days of the date on which the final decision is received.
- (3) Any compliance notice relating to the subject matter of the appeal is suspended pending an appeal.
- (4) The Tribunal may, in relation to a compliance notice—
- (a) withdraw the compliance notice;
 - (b) confirm the compliance notice;
 - (c) vary the compliance notice;
 - (d) take such steps as the enforcement authority could take in relation to the act or omission giving rise to the compliance notice;
 - (e) remit the decision whether to confirm the compliance notice, or any matter relating to that decision, to the enforcement authority.
- (5) The Tribunal may, in relation to a civil penalty—
- (a) allow the appeal and cancel the civil penalty;
 - (b) allow the appeal and reduce the amount of the civil penalty; or
 - (c) dismiss the appeal.
- (6) An appeal—
- (a) is to be a re-hearing of the enforcement authority’s decision to impose a civil sanction; and
 - (b) may be determined having regard to matters of which the enforcement authority was unaware.
- (7) Sub-paragraph (6)(a) has effect despite any provision of rules of court.

Enforcement of penalty decision

- 18.**—(1) This paragraph applies where a sum is payable to the enforcement authority as a civil penalty pursuant to these Regulations.
- (2) In England and Wales, the civil penalty is recoverable as if it were payable under an order of the County Court.
- (3) In Scotland, the civil penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant of execution issued by the Sheriff Court of any sheriffdom.
- (4) In Northern Ireland, the civil penalty is recoverable as if it were payable under an order of the County Court.
- (5) Where action is taken under this paragraph for the recovery of a sum payable as a civil penalty pursuant to these Regulations, the civil penalty is, in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003(a) (register of judgments and orders etc.) as if it were a judgement entered in the county court.

(a) 2003 c. 39; section 98 has been amended by sections 48(1) and 106(2) of, and paragraph 55(1), (2), (3)(a) and (b) of Schedule 8 and paragraph 15 of Schedule 16 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15) and section 17(5) of, and paragraph 40(a) and (c) of Part 2 of Schedule 9 to, the Crime and Courts Act 2013 (c. 22). Further amendments made by the Tribunals, Courts and Enforcement Act 2007 have yet to be brought into force.

PART 3

Enforcement undertakings

Enforcement undertakings

19. The enforcement authority may accept a written undertaking (an “enforcement undertaking”) given by a person to the enforcement authority to take such action as may be specified in the undertaking within such period as may be specified where the enforcement authority has reasonable grounds to suspect that the person has breached regulation 5, 6, 7, 8, 9, 10 or 11.

Contents of an enforcement undertaking

20.—(1) An enforcement undertaking must specify—

- (a) action to be taken by the person to secure that the breach does not continue or recur;
- (b) action to secure that the position is, so far as possible, restored to what it would have been if the breach had not been committed; or
- (c) action (including the payment of a sum of money) to be taken by the person to benefit any person affected by the breach.

(2) An enforcement undertaking must specify the period within which the action must be completed.

(3) An enforcement undertaking must include—

- (a) a statement that the undertaking is made in accordance with this Schedule;
- (b) the terms of the undertaking; and
- (c) information as to how and when a person is considered to have discharged the undertaking.

(4) The enforcement undertaking may be varied, or the period within which the action must be completed may be extended, if the person and the enforcement authority agree in writing.

Acceptance of an enforcement undertaking

21. If the enforcement authority has accepted an enforcement undertaking then, unless the person from whom the undertaking is accepted has failed to comply with the undertaking or any part of it, the enforcement authority may not impose on that person a civil sanction in respect of the act or omission to which the undertaking relates.

Discharge of an enforcement undertaking

22.—(1) A person who has given an enforcement undertaking may at any time apply for a certificate that it has been complied with.

(2) If the enforcement authority is satisfied that the enforcement undertaking has been complied with it must issue a certificate to that effect.

(3) The enforcement authority may require the person who has given the undertaking to provide sufficient information to determine that the undertaking has been complied with.

(4) The enforcement authority must decide whether to issue such a certificate, and give written notice of the decision to the applicant, within—

- (a) 14 days of the application, or
- (b) where sufficient information is provided following a request under sub-paragraph (3), 14 days of receipt of that information.

Appeals

23.—(1) A person to whom a notice is given pursuant to paragraph 22(4) may appeal against a decision not to issue a certificate on the grounds that the decision—

- (a) was based on an error of fact;
- (b) was wrong in law;
- (c) was unfair or unreasonable;
- (d) was wrong for any other reason.

(2) An appeal under sub-paragraph (1) must be made to the First-tier Tribunal.

(3) An appeal must be brought within two months of the date on which written notice of the decision is received.

(4) The Tribunal may, in relation to the decision referred to in sub-paragraph (1)—

- (a) confirm the decision;
- (b) vary the decision; or
- (c) remit the decision, or any matter relating to it, to the enforcement authority.

Inaccurate, incomplete or misleading information

24.—(1) A person who has given inaccurate, misleading or incomplete information in relation to an enforcement undertaking is regarded as not having complied with it.

(2) The enforcement authority may by notice in writing revoke a certificate issued under paragraph 22 if it was issued on the basis of inaccurate, misleading or incomplete information.

Non-compliance with an enforcement undertaking

25.—(1) If a person does not comply with an enforcement undertaking the enforcement authority may in the case of a breach of regulation 5, 6, 7, 8, 9, 10 or 11 impose a civil sanction.

(2) If a person has complied partly but not fully with an enforcement undertaking, that partial compliance must be taken into account in connection with the imposition of a civil sanction on the person.

PART 4

Publication of enforcement action

26.—(1) Subject to sub-paragraph (3), the enforcement authority must from time to time publish information on—

- (a) civil sanctions that have been imposed; and
- (b) enforcement undertakings that have been agreed.

(2) In sub-paragraph (1)(a), the reference to information on civil sanctions that have been imposed does not include information about cases where the sanction has been imposed but overturned on appeal.

(3) This paragraph does not apply to cases where the enforcement authority considers that publication would be inappropriate.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made using powers in the Automated and Electric Vehicles Act 2018 (c. 18). They impose certain requirements on charge point operators that operate public charge points.

Regulation 5 requires a charge point operator, within a specified period, to ensure that a person is able to pay to charge an electric vehicle by contactless payment without entering into a pre-existing contract with the operator. This requirement applies to new public charge points, rapid charge points and existing charge points that are made available to the general public after these Regulations come into force.

Regulation 6 requires that charge point operators ensure that, within two years of the date that these Regulations come into force, a person is able to pay to charge an electric vehicle using a payment service provided by a third party roaming provider.

Regulation 7 requires that charge point operators ensure that, within one year of the date that these Regulations come into force, their network of rapid charge points is, on average, 99% reliable. It also sets out how reliability is measured.

Regulation 8 requires charge point operators to provide an annual report to the Secretary of State in respect of the reliability of their network of rapid charge points.

Regulation 9 requires charge point operators to provide a staffed telephone helpline that is available 24 hours per day to provide assistance to those using their charge points. It also requires charge point operators to record every contact with helpline staff and to submit a quarterly report to the Secretary of State.

Regulation 10 requires charge point operators to hold certain specified data and ensure that the data is accurate, regularly updated and provided to the Secretary of State, Distribution Network Operators, Transmission Owners and Electricity Systems Operators.

Regulation 11 requires charge point operators to clearly display, at or near a charge point, the total price in pence per kilowatt hour for charging an electric vehicle and provides that the total price for charging an electric vehicle may not increase once charging has commenced.

Regulation 12 provides for the enforcement authority to enforce the Regulations.

The Schedule makes further provision about enforcement. Part 1 of the Schedule provides the enforcement authority with various investigatory powers. These include powers to require the provision of information, powers of entry and powers to inspect certain items and information. Part 2 of the Schedule specifies the civil sanctions that can be imposed if there is a breach of the relevant regulations. These consist of compliance notices, which require a person who has breached the relevant regulations to take certain steps, and civil penalties. A civil penalty can also be imposed in certain circumstances if a person obstructs the enforcement authority when it is carrying out its duties. Part 3 of the Schedule allows the enforcement authority to accept undertakings from a person it suspects has breached the relevant regulations. Part 4 of the Schedule requires the enforcement authority to publish information about action it has taken.

Regulation 13 provides for the Secretary of State to undertake a review of the regulatory provision contained in these Regulations on a five-yearly basis.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Department for Transport, 33 Horseferry Road, London, SW1P 4DR and is published with an Explanatory Memorandum alongside this instrument on <https://www.legislation.gov.uk>.

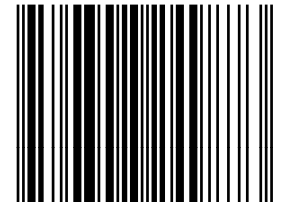
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