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STATUTORY INSTRUMENTS

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**2005 No. 2757**

**The Bus Lane Contraventions (Penalty Charges,  
Adjudication and Enforcement) (England) Regulations 2005**

**PART 3**

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

**Interpretation of Part 3**

**7. In this Part—**

“the detection date”, in relation to a contravention, means the date on which, according to a record produced by an approved device, the contravention occurred;

“the recipient”, in relation to a penalty charge notice, means the person on whom the penalty charge notice is served; and

“the 28 day period”, in relation to a penalty charge notice, means the period of 28 days beginning with the date of service of the notice.

**Penalty charge notices**

**8.—(1)** Where an approved local authority have reason to believe that a penalty charge is payable under Part 2 with respect to a vehicle, they may, in accordance with paragraphs (2) and (5) below, serve a notice (“penalty charge notice”) on the person appearing to them to be the owner of the vehicle or on the person appearing to them to be the person liable to pay the charge.

(2) Subject to paragraph (3), a penalty charge notice shall 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 have 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 penalty charge notice by virtue of paragraph (2),

the authority shall continue to be entitled to serve a penalty charge notice for a further period of six 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 Vehicle Excise and Registration Act 1994.

(5) A penalty charge notice must state—

(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 penalty charge is payable;

- (d) the amount of the penalty charge;
  - (e) that the penalty charge must be paid before the end of the 28 day period;
  - (f) 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, the penalty charge will be reduced by one half;
  - (g) that representations may be made, on any of the statutory grounds of appeal, to the authority against the imposition of the penalty charge but that representations made outside the 28 day period may be disregarded;
  - (h) what are the statutory grounds of appeal;
  - (i) the postal address to which representations are to be sent;
  - (j) any electronic mail 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 penalty charge has not been paid,the authority may increase the penalty charge by a half and take steps to enforce payment of the charge as so increased;
  - (l) the manner in which the penalty charge may be paid;
  - (m) that if the representations are rejected an appeal may be made on any of the statutory grounds of appeal may be made to an adjudicator in respect of a penalty charge; and
  - (n) that the recipient may, by notice in writing to the authority, request them—
    - (i) to make available at an office of theirs specified by him, free of charge and at a time during normal office hours so specified, for viewing by him and by his representative (if any), the record of the contravention produced by the approved device pursuant to which the penalty charge was imposed; or
    - (ii) to provide him, free of charge, with such still images from that record as, in the authority's opinion, establish the contravention.
- (6) Where the recipient of the notice makes a request under paragraph (5)(n), the authority shall comply with the request within a reasonable time.

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

9.—(1) The recipient may make written representations on any of the statutory grounds of appeal to the authority against the imposition of the penalty 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 6(1) (other proceedings pursued) applies;
  - (c) in a case where the penalty charge notice has been served on the recipient on the basis that he was the owner of the vehicle concerned, that the recipient—
    - (i) never was the owner of the vehicle in question;
    - (ii) had ceased to be its owner before the detection date; or
    - (iii) became its owner after the detection date;
  - (d) in a case where the penalty charge notice has been served on the recipient on the basis that he was the hirer of the vehicle concerned, that he was not liable to pay the penalty charge under regulation 5(2);

- (e) that the recipient was the registered keeper of the vehicle in question on the detection date, but on that date—
  - (i) the circumstances were as mentioned in regulation 5(2) (vehicle subject to hiring agreement);
  - (ii) the circumstances were as mentioned in regulation 5(3) (vehicle kept by a vehicle trader), and the recipient was either not a vehicle trader or was a vehicle trader but not the vehicle trader keeping the vehicle; or
  - (iii) the vehicle was in the control of a person who had assumed control of it without the recipient's consent; and
- (f) that the penalty charge exceeded the amount applicable in the circumstances of the case.

(3) Where the ground mentioned in paragraph (2)(c)(ii) 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 his possession).

(4) Where the ground mentioned in paragraph (2)(c)(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 from whom the vehicle was acquired by the recipient (if that information is in his possession).

### **Response to representations**

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

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

(2) Where an authority accept that at least one ground on which representations are made is established, they shall—

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

and where the ground that is accepted is that mentioned in regulation 9(2)(e)(ii), the person hiring the vehicle shall be deemed to be its owner for the purposes of these Regulations.

(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 shall—

- (a) state the reasons for the authority's decision;
- (b) state that an appeal against the imposition of the penalty 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 costs;
- (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 penalty charge is paid; or
  - (ii) an appeal is made to an adjudicator against the imposition of the penalty charge,

the authority may increase the penalty charge by 50 per cent and take steps to enforce payment.

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

(6) Regulation 8 shall apply 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 penalty 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 penalty charge notice is cancelled”; and

(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.