
STATUTORY INSTRUMENTS

2006 No. 501

The Fines Collection Regulations 2006

PART 4

Clamping of motor vehicles

Requirements with respect to the making of a clamping order

16. Before a clamping order is made by the court under paragraph 39(3)(b) or 42(2)(c), or by the fines officer under paragraph 40, of Schedule 5 the court or, as the case may be, the fines officer must be satisfied—

- (a) that P has the means to pay the sum due; and
- (b) that the value of the vehicle or vehicles to be clamped, if sold, would be likely to exceed the amount of the sum due, the amount of the likely charges due and the likely costs of the sale.

Matters to be included in a clamping order

17. A clamping order must specify—

- (a) P's full name, address and date of birth;
- (b) details—
 - (i) of P's conviction (including date and nature) for which the liability to pay the sum due was imposed,
 - (ii) of the amount of the sum due,
 - (iii) of the collection order,
 - (iv) of the further steps notice, and
 - (v) of the vehicle or vehicles to be clamped;
- (c) the date after which the order must be executed if the sum due is not paid;
- (d) the name, official address and telephone number of the fines officer and the court; and
- (e) how the sum due may be paid.

Procedure on making a clamping order

18.—(1) On the making of a clamping order by the court or the fines officer, the fines officer must send a copy of the order to a clamping contractor who, if the sum due is not paid, must execute the order in accordance with these Regulations on or after the date specified in the order.

(2) The copy of the clamping order sent to the clamping contractor must be accompanied by details of P's last known address, the vehicle or vehicles to be clamped and, if known, the likely whereabouts of the vehicle or vehicles to be clamped.

Places where vehicles may be clamped

19.—(1) Vehicles may be clamped at any place (including on any highway or road) to which the public has access.

(2) Vehicles may be clamped on any private land to which access may be had at the time of clamping, without opening or removing any door, gate or other barrier.

(3) Authorised persons and other employees of the contractor entering land in accordance with paragraph (2) may enter such private land with their equipment and with or without a vehicle or vehicles for the purpose of clamping a vehicle on the land, releasing it from a clamp or removing it to secure storage.

Vehicles which must not be clamped

20. The following vehicles must not be clamped—

- (a) a vehicle not registered in P's name under the Vehicle Excise and Registration Act 1994⁽¹⁾;
- (b) a vehicle on which a current disabled person's badge is displayed or in relation to which there are reasonable grounds for believing that it is used for the carriage of a disabled person;
- (c) a vehicle used for police, fire or ambulance purposes; and
- (d) a vehicle being used by a doctor on call away from his usual place of work which is displaying a British Medical Association badge or other health emergency badge showing the doctor's address.

Defect in clamping order or irregularity in its execution

21.—(1) A clamping order made for the purpose of enforcing payment of a sum adjudged to be paid, as mentioned in paragraph 1 of Schedule 5, shall not be held void by reason of any defect in the order.

(2) A person acting in the execution of a clamping order shall not be deemed to be a trespasser by reason only of any irregularity in the execution of the order.

(3) Nothing in this regulation shall prejudice the claim of any person for special damages in respect of any loss caused by a defect in the order or irregularity in its execution.

Clamping a vehicle

22.—(1) If a vehicle to be clamped is so positioned that, while the vehicle is clamped in that position there would be at any time a contravention of any prohibition or restriction imposed by or under any enactment, the authorised person must before the vehicle is clamped, have it repositioned to the nearest place where there would be no such contravention while it is clamped there.

(2) If a repositioned vehicle is not visible from the place in which it was originally positioned, the authorised person must ensure that a notice is placed at or near the original position of the vehicle indicating that the vehicle has been clamped as required by the clamping order, where the vehicle may be found and giving a telephone number available during all reasonable hours for enquires by P or a person acting on his behalf.

(3) No extra charge may be required in respect of the repositioning of the vehicle.

(4) On clamping a vehicle the authorised person must affix in a prominent position on the vehicle a clamping notice specifying—

(1) 1994 c. 22.

- (a) that the vehicle has been clamped and that it is an offence under paragraph 49 of Schedule 5 to remove or attempt to remove the clamp or the notice;
- (b) details of the clamping order;
- (c) how to secure the release of the vehicle;
- (d) the amount of the sum due and charges payable for the release of the vehicle;
- (e) a telephone number and address for enquires;
- (f) the name and address of the clamping contractor;
- (g) the name, official address and telephone number of the fines officer and the court;
- (h) the opening hours of the contractor and the court; and
- (i) how to apply under regulations 27 and 28 for the release of a vehicle wrongly clamped.

Release of vehicle on payment of charges and sum due

23.—(1) The office of the contractor where payment of the sum due and charge or charges due may be made must be readily accessible from the place where the vehicle is clamped during all hours when the contractor undertakes clamping and for a least 2 hours thereafter.

(2) Payment of, or towards the payment of, the sum due and the charge or charges due can be made to the authorised person, as well as at the contractor's office, or at the court office specified in the clamping notice. A reasonable method of payment must be accepted by the contractor or authorised person.

(3) A vehicle in respect of which the sum due and charge or charges due have been paid in full must be released from clamping or, as the case may be, storage within—

- (a) 4 hours of the time of payment if payment is made at or to the contractor's office or the court; or
- (b) 2 hours of the time of payment if payment is made to an authorised person.

(4) If any payment made by P or a person acting on his behalf is less than the amount of the sum due and charge or charges due, it must first be applied to meet the charge or charges and any balance remaining must then be applied towards payment of the sum due.

(5) On payment by P or a person acting on his behalf of, or towards the payment of, the sum due and charge or charges due, the contractor or the authorised person must issue a receipt which includes the following information—

- (a) the contractor's name, address, telephone number, and value added tax registered number;
- (b) the registration mark of the vehicle;
- (c) the date of the clamping order requiring the vehicle to be clamped;
- (d) the name, official address and telephone number of the fines officer and the court;
- (e) if applicable, the date and time of clamping;
- (f) the name of P and, if payment is made by a person acting on his behalf, of that person;
- (g) the name or identification number, or both, of the member of the contractor's staff issuing the receipt;
- (h) the amount, date and time of the payment;
- (i) how to apply under regulations 27 and 28 for the release of a vehicle wrongly clamped;
- (j) if applicable, the place where the vehicle is clamped; and
- (k) the serial number of the receipt.

Removal of vehicle for storage

24.—(1) A vehicle clamped under a clamping order must, unless released from clamping under regulation 23, 27 or 28, remain clamped where it is positioned or repositioned for the period of not less than 24 hours from the time of clamping.

(2) When the period referred to in paragraph (1) has expired, if—

- (a) the sum due and charge or charges due have not been paid in full;
- (b) there is no application under regulations 27 or 28 outstanding; and
- (c) the case has not been referred to the court under paragraph 42(1) of Schedule 5,

the contractor must have the vehicle removed by, or under the direction and supervision of, an authorised person to secure premises for storage.

(3) When a vehicle is removed to storage the contractor must send by post to P at his last known address or have delivered to him by hand, with a copy to the fines officer, a written notice specifying—

- (a) the contractor’s name, address and telephone number;
- (b) his value added tax registered number;
- (c) the registration mark of the clamped vehicle;
- (d) the date, time and place of clamping;
- (e) that the vehicle was clamped under the clamping order;
- (f) the date of the clamping order and the name, official address and telephone number of the fines officer and the court;
- (g) that since the sum due and charges due have not been paid in full the vehicle has been removed for storage;
- (h) the date of removal of the vehicle and the address, telephone number for, and hours of opening of, the storage premises;
- (i) the daily or weekly storage charge payable;
- (j) that the vehicle will be released on payment of the amount of the sum due and charges due in full with a statement of how the amount is made up;
- (k) how to pay the sum due and charges due;
- (l) how to apply under regulations 27 and 28 for the release of a vehicle wrongly clamped; and
- (m) a serial number of the notice.

Storage of vehicle

25.—(1) A vehicle removed to storage must remain in storage, unless released on payment of the sum due and charges due in full or pursuant to a decision under regulation 27 or an order under regulation 28(6), or sold or otherwise disposed of by order of the court under paragraph 41(2) of Schedule 5.

(2) The clamping contractor may subcontract the storage of vehicles to another person or storage may be undertaken by another person under a contract with the Lord Chancellor and, in any such case, references in these Regulations to the “clamping contractor”, except in this paragraph, and “the contractor”, so far as applicable to the storage of vehicles under these Regulation, shall be construed as references to that other person.

(3) Premises used for the storage of vehicles must be secure and such as to protect the vehicles from damage or deterioration.

Sale of clamped vehicles

26.—(1) The period referred to in paragraph 41(1)(b) (power to order sale of clamped vehicle) of Schedule 5 for the sale of a vehicle shall be the period of 1 month from the date on which the vehicle was clamped.

(2) If the sum due has not been paid in full before the expiry of the period of 10 clear working days from the date the vehicle was clamped the fines officer must apply in writing to the court for an order for sale of the vehicle under paragraph 41(2) of Schedule 5. A copy of the application must be sent to P by post at his last known address.

(3) The hearing for the sale of a vehicle must not be listed before the expiry of the period of 21 days from the date the vehicle was clamped.

(4) When the application under paragraph (2) is listed for hearing the court must notify P in writing—

- (a) of the date, time and place of the hearing;
- (b) that he may attend, and be represented at, the hearing and may submit written representations;
- (c) that the court has the power to order the sale of the vehicle if the sum due has not been paid in full before the expiry of the period of 1 month from the date the vehicle was clamped; and
- (d) of the amount of the sum due and charges payable to secure the release of the vehicle,

and must notify the fines officer of the date and time of the hearing.

(5) The fines officer must make himself available for the hearing but only for the purpose of answering the court's questions and providing relevant information.

(6) If at the hearing the court decides that it will order the vehicle to be sold on the expiry of the period of 1 month from the date the vehicle was clamped if the sum due is not paid in full before the expiry of that period, the fines officer must so notify P in writing.

(7) If at the hearing the court decides that the vehicle should not be sold it may direct that the vehicle be released to P with or without payment of the charges due.

(8) In considering whether or not to order the sale of the vehicle the court must consider the history of P's case, in particular whether the clamping order was justified, reasonable and proportionate.

(9) After the court's decision on the application the case remains with the fines officer under the collection order.

(10) If the court makes an order for sale the fines officer must send a copy of the order for sale to the contractor who must arrange for the vehicle or vehicles to be sold by an agent or by auction.

(11) On the sale of a vehicle pursuant to an order under paragraph 41(2) of Schedule 5 the ownership of the vehicle shall vest in the purchaser and the contractor must secure the registration of the vehicle in the name of the purchaser under the Vehicle Excise and Registration Act 1994.

(12) When the vehicle has been sold the contractor must first deduct from the net proceeds of sale an amount equal to the charges due and must then transmit the remaining balance to the fines officer.

(13) The fines officer, receiving the remaining balance from the contractor, must deduct an amount sufficient to discharge P's liability in respect of the sum due, and send payment of any remaining balance to P within 10 working days of the date of the sale of the vehicle, accompanied by a written statement of account.

(14) If when a vehicle is sold, the net proceeds of sale are not sufficient to meet the amount of the sum due and charges due, the net proceeds of sale must first be applied towards meeting the charges due and then, if a balance remains, towards discharging P's liability in respect of the sum due.

(15) Where the balance is not sufficient to satisfy payment of the sum due the fines officer must then seek to recover the outstanding amount of the sum due under the collection order and the powers conferred by Schedule 5, including his power to refer the case to the court under paragraph 42 of that Schedule.

Release of vehicle wrongly clamped

27.—(1) Where a vehicle is clamped, removed or stored in breach of any provision of this Part of these Regulations, a person may apply for the release and, where appropriate, the return of the vehicle in accordance with this regulation and regulation 28.

(2) Before making an application to the court under regulation 28, a request for the release and, where appropriate, return of the vehicle must be made to—

- (a) the fines officer, if the breach relates to the content or making of the clamping order, or
- (b) the contractor, if the breach relates to the execution of the clamping order, removal or storage of a vehicle.

(3) If a request is made to—

- (a) the contractor in a case where an alleged breach concerns the content or making of the clamping order, he must refer that request to the fines officer; and
- (b) to the fines officer in a case where an alleged breach concerns the execution of the clamping order, removal or storage, he must refer that request to the contractor.

(4) The fines officer or, as the case may be, the contractor must send to that person written notice of his decision within 7 working days of the date on which that request was made.

(5) If the decision is to accept the request, arrangements must immediately be made for the release and, where appropriate, return of the vehicle without charge.

28.—(1) A person may apply to the court for the release and, where appropriate, the return of the vehicle if, having made a request under regulation 27—

- (a) the request was refused; or
- (b) there was a failure to make a decision on that request within the period referred to in regulation 27(4).

(2) An application must be made in writing, within 10 workings days (or such further time as the court may allow) of the date when—

- (a) the applicant received notice of the decision on his request under regulation 27; or
- (b) if there was a failure to make a decision, the expiry of the period referred to in regulation 27(4).

(3) An application must be listed for an expedited hearing.

(4) The designated officer of the court must notify—

- (a) the applicant and the fines officer or, as the case may be, the contractor, of the date time and place of the hearing; and
- (b) the applicant that he may attend, and be represented at, the hearing and submit written representations.

(5) The fines officer or, as the case may be, a senior manager of the contractor, must be available for the hearing but only for the purpose of answering the court's questions and to provide relevant information, including the decision letter on the initial application.

(6) On an application, the court may—

- (a) order the release and, where appropriate the return, of the vehicle with or without payment of the charges due; or
- (b) dismiss the application.