
STATUTORY INSTRUMENTS

2007 No. 3482

**The Civil Enforcement of Parking Contraventions
(England) Representations and Appeals Regulations 2007**

PART 1

PRELIMINARY

Citation, commencement and application

1.—(1) These Regulations may be cited as the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 and shall come into force on 31st March 2008.

(2) These Regulations apply only to England.

Interpretation

2.—(1) In these Regulations—

“the 1984 Act” means the Road Traffic Regulation Act 1984;

“the 2004 Act” means the Traffic Management Act 2004;

“appellant”, in relation to an appeal under these Regulations or any process connected with such an appeal, means the person bringing the appeal;

“the General Regulations” means the Civil Enforcement of Parking Contraventions (England) General Regulations 2007(1);

“notice of rejection” means a notice served by an enforcement authority rejecting, or not accepting, representations made to it under regulation 4, 8 or 11;

“notice to owner” has the meaning given in paragraph (2);

“penalty charge” and “penalty charge notice” have the same meanings as in the General Regulations (see regulation 2(1) of those Regulations);

“owner”, in relation to a vehicle, includes any person who, by virtue of regulation 5(3) of the General Regulations, falls to be treated as the owner of the vehicle for the purposes of those Regulations;

“procedural impropriety” has the meaning given by regulation 4(5); and

“recipient” has the meaning given in paragraph (2).

(2) In these Regulations (except regulation 3)—

(a) references to a “notice to owner” shall be taken—

(i) in a case where a penalty charge notice has been served under regulation 9 of the General Regulations, as references to a notice to owner as defined by regulation 2(1) of those Regulations;

- (ii) in a case where a penalty charge notice has been served under regulation 10 of the General Regulations, as references to that penalty charge notice; and
- (b) references to “the recipient” in relation to a notice to owner as so defined shall be taken as references to the person on whom the notice to owner was served.

PART 2

REPRESENTATIONS AND APPEALS IN RELATION TO NOTICES TO OWNER

Scope of Part 2 and duty to notify rights to make representations and to appeal

3.—(1) Regulations 4 to 7 have effect where a penalty charge which has become payable under the General Regulations has not been paid and either—

- (a) a penalty charge notice has been served by a civil enforcement officer under regulation 9 of the General Regulations, and a notice to owner served by the enforcement authority under regulation 19 of those Regulations; or
- (b) a penalty charge notice has been served under regulation 10 of the General Regulations.

(2) A penalty charge notice served under regulation 9 of the General Regulations must, in addition to the matters required to be included in it under paragraph 1 of the Schedule to the General Regulations, include the following information—

- (a) that a person on whom a notice to owner is served will be entitled to make representations to the enforcement authority against the penalty charge and may appeal to an adjudicator if those representations are rejected; and
- (b) that, if representations against the penalty charge are received at such address as may be specified for the purpose before a notice to owner is served—
 - (i) those representations will be considered;
 - (ii) but that, if a notice to owner is served notwithstanding those representations, representations against the penalty charge must be made in the form and manner and at the time specified in the notice to owner.

(3) A notice to owner served under regulation 19 of the General Regulations must, in addition to the matters required to be included in it under that regulation, include the following information—

- (a) that representations on the basis specified in regulation 4 against payment of the penalty charge may be made to the enforcement authority, but that any representations made outside the period of 28 days beginning with the date on which the notice is served (“the payment period”) may be disregarded;
- (b) the nature of the representations which may be made under regulation 4;
- (c) the address (including if appropriate any email address or FAX telephone number, as well as the postal address) to which representations must be sent and the form in which they must be made;
- (d) that if representations which have been made—
 - (i) within the payment period; or
 - (ii) outside that period but not disregarded,are not accepted by the enforcement authority the recipient of the notice may appeal against the authority’s decision to an adjudicator; and
- (e) in general terms, the form and manner in which an appeal may be made.

(4) A penalty charge notice served under regulation 10 of the General Regulations must, in addition to the matters required to be included in it under paragraph 2 of the Schedule to those Regulations, include the following information—

- (a) that representations on the basis specified in regulation 4 may be made to the enforcement authority against the imposition of the penalty charge but that representations made outside the period of 28 days beginning with the date on which the penalty charge notice is served (“the representations period”) may be disregarded;
- (b) the nature of the representations which may be made under regulation 4;
- (c) the address (including if appropriate any email address or FAX telephone number, as well as the postal address) to which representations must be sent and the form in which they must be made;
- (d) that if representations which have been made—
 - (i) within the representations period; or
 - (ii) outside that period but not disregarded,are not accepted by the enforcement authority the recipient of the penalty charge notice may appeal against the authority’s decision to an adjudicator;
- (e) where the penalty charge notice is served by virtue of regulation 10(1)(a) of the General Regulations (evidence produced by an approved device), the effect of paragraphs (5) and (6).

(5) The recipient of a penalty charge notice served by virtue of regulation 10(1)(a) of the General Regulations may, by notice in writing to the enforcement authority, request it—

- (a) to make available at one of its offices specified by him, free of charge and at a time during normal office hours so specified, for viewing by him or by his representative, the record of the contravention produced by the approved device pursuant to which the penalty charge was imposed; or
- (b) 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 penalty charge notice makes a request under paragraph (5), the enforcement authority shall comply with the request within a reasonable time.

Representations against notice to owner

4.—(1) The recipient may make representations against a notice to owner to the enforcement authority which served the notice on him.

(2) Any representations under this regulation must—

- (a) be made in such form as may be specified by the enforcement authority;
- (b) be to either or both of the following effects—
 - (i) that, in relation to the alleged contravention on account of which the notice to owner was served, one or more of the grounds specified in paragraph (4) applies; or
 - (ii) that, whether or not any of those grounds apply, there are compelling reasons why, in the particular circumstances of the case, the enforcement authority should cancel the penalty charge and refund any sum paid to it on account of the penalty charge.

(3) In determining the form for making representations, an enforcement authority which is a London authority must act through the joint committee through which, in accordance with regulation 15 of the General Regulations, it exercises its functions relating to adjudicators.

(4) The grounds referred to in paragraph (2)(b)(i) are—

- (a) that the alleged contravention did not occur;
 - (b) that the recipient—
 - (i) never was the owner of the vehicle in question;
 - (ii) had ceased to be its owner before the date on which the alleged contravention occurred; or
 - (iii) became its owner after that date;
 - (c) that the vehicle had been permitted to remain at rest in the place in question by a person who was in control of the vehicle without the consent of the owner;
 - (d) that the recipient is a vehicle-hire firm and—
 - (i) the vehicle in question was at the material time hired from that firm under a hiring agreement; and
 - (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice served in respect of any parking contravention involving the vehicle during the currency of the hiring agreement;
 - (e) that the penalty charge exceeded the amount applicable in the circumstances of the case;
 - (f) that there has been a procedural impropriety on the part of the enforcement authority;
 - (g) that the order which is alleged to have been contravened in relation to the vehicle concerned, except where it is an order to which Part VI of Schedule 9 to the 1984 Act⁽²⁾ applies, is invalid;
 - (h) in a case where a penalty charge notice was served by post on the basis that a civil enforcement officer was prevented by some person from fixing it to the vehicle concerned or handing it to the owner or person in charge of the vehicle, that no civil enforcement officer was so prevented;
 - (i) that the notice to owner should not have been served because—
 - (i) the penalty charge had already been paid in full;
 - (ii) the penalty charge had been paid, reduced by the amount of any discount set in accordance with Schedule 9 to the 2004 Act, within the period specified in paragraph 1(h) of the Schedule to the General Regulations.
- (5) In these Regulations “procedural impropriety” means a failure by the enforcement authority to observe any requirement imposed on it by the 2004 Act, by the General Regulations 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 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 the General Regulations or these Regulations to be taken; and
 - (b) in a case where an enforcement authority is seeking to recover an unpaid charge, the purported service of a charge certificate under regulation 21 of the General Regulations before the enforcement authority is authorised to serve it by those Regulations.
- (6) Where the ground mentioned in paragraph (4)(b)(ii) is relied on in any representations made under this regulation, those representations must include a statement of the name and address of

(2) See Schedule 9, paragraph 34(1) as to the orders to which Part VI of that Schedule applies; paragraph 34 of Schedule 9 was amended by the Local Government Act 1985 (c. 51), Schedule 17 and by the Road Traffic Regulation (Special Events) Act 1994 (c. 11), Schedule, paragraph 5.

the person to whom the vehicle was disposed of by the person making the representations (if that information is in his possession).

(7) Where the ground mentioned in paragraph (4)(b)(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 vehicle was acquired by the person making the representations (if that information is in his possession).

(8) Where the ground mentioned in paragraph (4)(d) 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 vehicle was hired at the material time.

(9) In this regulation “hiring agreement” and “vehicle-hire firm” have the same meanings as in section 66 of the Road Traffic Offenders Act 1988(3).

Duty of enforcement authority to which representations are made

5.—(1) The enforcement authority may disregard any representations which are received by it after the end of the period of 28 days beginning with the date on which the relevant notice to owner was served.

(2) Where representations are made to an enforcement authority by virtue of regulation 4(1) and in accordance with regulation 4(2), it shall subject to paragraph (1) be the duty of the enforcement authority—

- (a) to consider the representations 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 that—
 - (i) one or more of the grounds specified in regulation 4(4) applies; or
 - (ii) there are compelling reasons why, in the particular circumstances of the case, the notice to owner should be cancelled and any sum paid in respect of it should be refunded.

(3) Where the enforcement authority accepts that a ground specified in regulation 4(4) applies or that there are such compelling reasons it shall—

- (a) cancel the notice to owner; and
- (b) state in the notice served under paragraph (2)(b) that the notice to owner has been cancelled and at the same time refund any sum paid in relation to the notice.

(4) The cancellation of a notice to owner under this regulation shall not be taken to prevent the enforcement authority from serving, in accordance with the General Regulations, a fresh notice to owner on another person.

(5) If the enforcement authority fails to comply with paragraph (2)(b) within the period of 56 days there specified, it shall be deemed for the purposes of these Regulations to have accepted—

- (a) that such of the grounds referred to in paragraph (2)(b)(i) as were relied upon in the representations apply; or
- (b) in a case where paragraph (2)(b)(ii) is relied upon, that there are compelling reasons of the kind referred to in that paragraph,

and paragraph (3) shall apply accordingly.

Rejection of representations against notice to owner

6.—(1) Where representations are made under regulation 4 and the enforcement authority serves a notice of rejection under regulation 5(2)(b), that notice shall—

- (a) state that a charge certificate may be served unless before the end of 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 is served appeals to an adjudicator against the penalty charge;
- (b) indicate the nature of an adjudicator’s power to award costs; 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 served in accordance with paragraph (1) may contain such other information as the enforcement authority considers appropriate.

Appeals to an adjudicator in relation to decisions under regulation 5

7.—(1) Where an authority serves a notice of rejection under regulation 5(2)(b) in relation to representations made under regulation 4, the person who made those representations may appeal to an adjudicator against the authority’s decision—

- (a) before the end of 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) If, on an appeal under this regulation, the adjudicator after considering the representations in question together with any other representations made to the effect referred to in regulation 4(2)(b) and any representations made by the enforcement authority, concludes that a ground specified in regulation 4(4) applies, he shall allow the appeal and may give such directions to the enforcement authority as he may consider appropriate for the purpose of giving effect to his decision, and such directions may in particular include directions requiring—

- (a) the cancellation of the penalty charge notice;
- (b) the cancellation of the notice to owner; and
- (c) the refund of such sum (if any) as may have been paid to the enforcement authority in respect of the penalty charge.

(3) It shall be the duty of an enforcement authority to which such a direction is given to comply with it forthwith.

(4) 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 notice to owner should be cancelled he may recommend the enforcement authority to cancel the notice to owner.

(5) It shall be the duty of an enforcement authority to which a recommendation is made under paragraph (4) to consider afresh the cancellation of the notice to owner taking full account of all observations made by the adjudicator and, within the period of thirty-five days beginning with the date on which the recommendation was given (“the 35-day period”), to notify the appellant and the adjudicator as to whether or not it accepts the adjudicator’s recommendation.

(6) If the enforcement authority notifies the appellant and the adjudicator that it does not accept the adjudicator’s recommendation, it shall at the same time inform them of the reasons for its decision.

(7) No appeal to the adjudicator shall lie against the decision of the enforcement authority under paragraph (6).

(8) If the enforcement authority accepts the adjudicator's recommendation it shall forthwith cancel the notice to owner and refund to the appellant any sum paid in respect of the penalty charge.

(9) If the enforcement authority fails to comply with the requirements of paragraph (5) within the 35-day period, the authority shall be taken to have accepted the adjudicator's recommendation and shall cancel the notice to owner and refund to the appellant any sum paid in respect of the penalty charge immediately after the end of that period.

PART 3

REPRESENTATIONS AND APPEALS IN RELATION TO THE IMMOBILISATION OF VEHICLES

Right to make representations

8.—(1) This regulation applies to the owner or person in charge of a vehicle where—

- (a) in accordance with regulation 12 of the General Regulations an immobilisation device has been fixed to a vehicle found in a civil enforcement area; and
- (b) he secures the release of the vehicle from the device on payment of an amount in accordance with regulation 14 of those Regulations.

(2) A person to whom paragraph (1) applies shall immediately upon the release of the vehicle be informed—

- (a) of his right to make representations to the enforcement authority in accordance with this regulation; and
- (b) of his right to appeal to an adjudicator if his representations are not accepted,

and that information must include a statement of the effect of paragraphs (4) and (5).

(3) The enforcement authority shall give that information, or cause it to be given, in writing.

(4) A person to whom paragraph (1) applies may make representations to the effect—

- (a) that one or more of the grounds specified in paragraph (5) apply; or
- (b) that, whether or not any of those grounds apply, there are compelling reasons why, in the particular circumstances of the case, the enforcement authority should refund some or all of the amount paid to secure the release of the vehicle,

and any such representations shall be in such form as may be specified by the enforcement authority.

(5) The grounds are—

- (a) that the vehicle had not been permitted to remain at rest in a civil enforcement area in circumstances in which a penalty charge was payable under regulation 4 of the General Regulations;
- (b) that the vehicle had been permitted to remain at rest in the place where it was by a person who was in control of the vehicle without the consent of the owner;
- (c) that the place where the vehicle was at rest was not in a civil enforcement area;
- (d) that, in accordance with regulation 13 (limitations on the power to immobilise vehicles) of the General Regulations, there was in the circumstances of the case no power under those Regulations to immobilise the vehicle at the time at which it was immobilised or at all;
- (e) that the penalty charge or other charge paid to secure the release of the vehicle exceeded the amount applicable in the circumstances of the case; or
- (f) that there has been a procedural impropriety on the part of the enforcement authority.

(6) In determining the form for making representations an enforcement authority which is a London authority must act through the joint committee through which, in accordance with regulation 15 of the General Regulations, it exercises its functions relating to adjudicators.

Duty of enforcement authority to which representations are made

9.—(1) The enforcement authority may disregard any representations which are received by it after the end of the period of 28 days beginning with the date on which the person making them is informed under regulation 8(2) of his right to make representations.

(2) Subject to paragraph (1), it shall be the duty of the enforcement authority, if representations are made to it in accordance with regulation 8(4), before the end of the period of 56 days beginning with the date on which it receives the representations—

- (a) to consider them and any supporting evidence which the person making them provides; and
- (b) to serve on that person notice of its decision as to whether or not it accepts that—
 - (i) a ground specified in regulation 8(5) applies; or
 - (ii) there are compelling reasons why, in the particular circumstances of the case, some or all of the sums paid to secure the release of the vehicle should be refunded.

(3) Where an authority serves notice under paragraph (2)(b)(i) that it accepts that such a ground applies it shall (when serving that notice) refund any sums that the person to whom the vehicle was released was required to pay under regulation 14 of the General Regulations, except to the extent (if any) to which those sums were properly paid.

(4) Where an authority serves notice under paragraph (2)(b)(ii) that it accepts that there are such compelling reasons, it shall refund the sums referred to in paragraph (3) or such of them as it considers appropriate.

(5) Where an authority serves a notice of rejection under paragraph (2)(b), that notice shall—

- (a) inform the person on whom it is served of his right to appeal to an adjudicator under regulation 10;
- (b) indicate the nature of an adjudicator's power to award costs; and
- (c) describe in general terms the form and manner in which such an appeal is required to be made.

(6) Where an authority fails to comply with paragraph (2) before the end of the period of 56 days mentioned there—

- (a) it shall be deemed to have accepted the representations and to have served notice to that effect under paragraph (2)(b); and
- (b) it shall immediately after the end of that period refund all such sums as are mentioned in paragraph (3).

Appeals to an adjudicator in relation to decisions under regulation 9

10.—(1) Where an authority serves a notice of rejection under regulation 9(2)(b) in relation to representations made under regulation 8(4), the person making those representations may, before the end of—

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

appeal to a adjudicator against the authority's decision.

(2) On an appeal under this regulation, the adjudicator shall consider the representations in question and any additional representations which are made by the appellant together with any representations made to him by the enforcement authority.

(3) If the adjudicator concludes—

(a) that any of the grounds referred to in regulation 8(5) apply; and

(b) that the enforcement authority would have been under the duty imposed by regulation 9(3) to refund any sum if it had served notice that it accepted that the ground in question applied,

he shall direct that authority to refund that sum.

(4) It shall be the duty of an enforcement authority to which a direction is given under paragraph (3) to comply with it forthwith.

(5) If the adjudicator gives no direction under paragraph (3) but is satisfied that there are compelling reasons why, in the particular circumstances of the case, some or all of the sums paid to secure the release of the vehicle should be refunded, he may recommend the enforcement authority to make such a refund.

(6) It shall be the duty of an enforcement authority to which a recommendation is made under paragraph (5) to consider afresh the making of a refund of those sums taking full account of any observations by the adjudicator and, within the period of thirty-five days beginning with the date on which the direction was given (“the 35-day period”), to notify the appellant and the adjudicator as to whether or not it accepts the adjudicator’s recommendation.

(7) If the enforcement authority notifies the appellant and the adjudicator that it does not accept the adjudicator’s recommendation it shall at the same time inform them of the reasons for its decision.

(8) No appeal to the adjudicator shall lie against the decision of the enforcement authority under paragraph (7).

(9) If the enforcement authority accepts the adjudicator’s recommendation it shall make the recommended refund within the 35-day period.

(10) If the enforcement authority fails to comply with the requirements of paragraph (6) within the 35-day period, the authority shall be taken to have accepted the adjudicator’s recommendation and shall make the recommended refund immediately after the end of that period.

PART 4

REPRESENTATIONS AND APPEALS IN RELATION TO REMOVED VEHICLES

Right to make representations about a removed vehicle

11.—(1) This regulation applies to a person where, as respects a vehicle which has been found in a civil enforcement area for parking contraventions and removed under regulations made under section 99 of the 1984 Act—

(a) he is required to pay an amount on recovery of the vehicle under section 101A of that Act;

(b) he receives a sum in respect of the vehicle under section 101A(2) of that Act;

(c) he is informed that the proceeds of sale of the vehicle did not exceed the aggregate amount mentioned in that provision; or

(d) he is informed that the vehicle was disposed of without there being any proceeds of sale.

(2) A person to whom paragraph (1) applies shall immediately upon the happening of an occurrence referred to in paragraph (1) be informed—

- (a) of his right to make representations to the enforcement authority in accordance with this regulation; and
 - (b) of his right to appeal to an adjudicator if his representations are not accepted,
- and that information must include a statement of the effect of paragraphs (4) and (5).
- (3) The enforcement authority shall give that information, or cause it to be given, in writing.
 - (4) A person to whom paragraph (1) applies may make representations to the effect—
 - (a) that one or more of the grounds specified in paragraph (5) apply; or
 - (b) that, whether or not any of those grounds apply, there are compelling reasons why, in the particular circumstances of the case, the enforcement authority should—
 - (i) refund some or all of the amount paid to secure the release of the vehicle or deducted from the proceeds of sale; or
 - (ii) waive its right to recover all or any of the sums due to it on account of the removal or disposal of the vehicle,
- and any such representations shall be in such form as may be specified by the enforcement authority.
- (5) The grounds referred to in paragraph (4)(a) are—
 - (a) that the vehicle had not been permitted to remain at rest in a civil enforcement area for parking contraventions in circumstances in which a penalty charge was payable by virtue of regulation 4 of the General Regulations;
 - (b) that a civil enforcement officer had not, in accordance with regulation 9 of the General Regulations, fixed a penalty charge notice to the vehicle or handed such a notice to the person appearing to him to be in charge of the vehicle, before the vehicle was removed;
 - (c) that, at the time the vehicle was removed, the power to remove the vehicle conferred by paragraph (2) of regulation 5C of the Removal and Disposal of Vehicles Regulations 1986⁽⁴⁾ was, by virtue of paragraph (3) of that regulation, not exercisable;
 - (d) that the vehicle had been permitted to remain at rest in the place where it was by a person who was in control of the vehicle without the consent of the owner;
 - (e) that the place where the vehicle was at rest was not in a civil enforcement area for parking contraventions;
 - (f) that the penalty charge or other charge paid to secure the release of the vehicle exceeded the amount applicable in the circumstances of the case; or
 - (g) that there has been a procedural impropriety on the part of the enforcement authority.
 - (6) In determining the form for making representations the London authorities must act through the joint committee through which, in accordance with regulation 15 of the General Regulations, they exercise their functions relating to adjudicators.

Duty of enforcement authority to which representations are made

12.—(1) The enforcement authority may disregard any representations under regulation 11 which are received by it after the end of the period of 28 days beginning with the date on which the person making them is informed under regulation 11(2) of his right to make representations.

(2) Subject to paragraph (1), if representations are made to it in accordance with regulation 11(4), it shall be the duty of the enforcement authority, before the end of the period of 56 days beginning with the date on which it receives the representations—

(4) [S.I. 1986/183](#); relevant amending instrument is [S.I. 2007/3484](#).

- (a) to consider them and any supporting evidence which the person making them provides; and
- (b) to serve on that person notice of its decision as to whether or not it accepts that—
 - (i) a ground specified in regulation 11(5) applies; or
 - (ii) there are compelling reasons of the kind referred to in regulation 11(4)(b).
- (3) Where an authority serves notice under paragraph (2)(b)(i) that it accepts that a ground specified in regulation 11(5) applies it shall (when serving that notice)—
 - (a) refund any sums that—
 - (i) the person to whom the vehicle was released was required to pay under section 101A(1) of the 1984 Act; or
 - (ii) were deducted from the proceeds of sale of the vehicle in accordance with section 101A(2) of that Act,except to the extent (if any) to which those sums were properly paid or deducted; and
 - (b) inform the person making representations that it has waived the right to recover any sum which might otherwise have been due to it by way of a penalty charge or on account of the removal, storage or disposal of the vehicle.
- (4) Where an authority serves notice under paragraph (2)(b)(ii) that it accepts that there are such compelling reasons, it shall (when serving that notice)—
 - (a) refund the sums referred to in paragraph (3)(a) or such of them as it considers appropriate in the circumstances of the case; and
 - (b) inform the person making representations that it has waived the right to recover any sum which might otherwise have been due to it by way of a penalty charge or on account of the removal, storage or disposal of the vehicle.
- (5) An authority which has waived its right to recover a sum loses its right to do so.
- (6) Where an authority serves notice under paragraph (2)(b) that it does not accept that paragraph (2)(b)(i) or (ii) is fulfilled, that notice shall—
 - (a) inform the person on whom it is served of his right to appeal to an adjudicator under regulation 13;
 - (b) indicate the nature of an adjudicator's power to award costs; and
 - (c) describe in general terms the form and manner in which such an appeal is required to be made.
- (7) Where an authority fails to comply with paragraph (2) before the end of the period of 56 days mentioned there it shall be treated as having accepted the representations and as having served notice to that effect under paragraph (2)(b) and paragraph (3) shall apply accordingly.

Appeals to an adjudicator in relation to decisions under regulation 12

13.—(1) Where an authority serves a notice of rejection under regulation 12(2)(b) in relation to representations under regulation 11(4), the person making those representations may, before—

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

appeal to an adjudicator against the authority's decision.

(2) On an appeal under this regulation, the adjudicator shall consider the representations in question and any additional representations that are made by the appellant.

(3) If the adjudicator concludes—

- (a) that any of the grounds referred to in subparagraphs (a) to (g) of regulation 11(5) applies; and
- (b) that the enforcement authority would have been under the duty imposed by regulation 12(3) to refund any sum if it had served notice that it accepted that the ground in question applied,

he shall direct that authority to refund that sum.

(4) It shall be the duty of an enforcement authority to which a direction is given under paragraph (3) to comply with it forthwith and the enforcement authority shall cease to have any right to recover any sum which might otherwise have been due to it by way of a penalty charge or on account of the removal, storage or disposal of the vehicle.

(5) If the adjudicator gives no direction under paragraph (3) but is satisfied that there are compelling reasons why, in the particular circumstances of the case, some or all of the sums paid to secure the release of the vehicle, or deducted from the proceeds of sale, should be refunded, he may recommend the enforcement authority to make such a refund.

(6) It shall be the duty of an enforcement authority to which a recommendation is made under paragraph (5) to consider afresh the making of a refund of those sums taking full account of any observations by the adjudicator and, within the period (“the 35-day period”) of thirty-five days beginning with the date on which the direction was given, to notify the appellant and the adjudicator as to whether or not it accepts the adjudicator’s recommendation.

(7) If the enforcement authority notifies the appellant and the adjudicator that it does not accept the adjudicator’s recommendation, it shall at the same time inform them of the reasons for its decision.

(8) No appeal to the adjudicator shall lie against the decision of the enforcement authority under paragraph (7).

(9) If the enforcement authority accepts the adjudicator’s recommendation it shall make the recommended refund within the 35-day period.

(10) If the enforcement authority fails to comply with the requirements of paragraph (6) within the 35-day period, the authority shall be taken to have accepted the adjudicator’s recommendation and shall make the recommended refund immediately after the end of that period.

PART 5

OFFENCES AND PROCEDURE

False representations

14.—(1) A person who makes any representation under Part 2 or 3 of these Regulations, or under the Schedule so far as it relates to an appeal under Part 2 or 3, which is false in a material particular, and does so recklessly or knowing it to be false, is guilty of an offence.

(2) A person convicted of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Procedure to be followed by adjudicators, service of documents and recovery of sums payable

15.—(1) The Schedule to these Regulations shall have effect as to procedure and the service of documents in adjudication proceedings.

(2) Subject to the provisions of that Schedule, an adjudicator may regulate his own procedure.

(3) Any amount which is payable—

(a) under an adjudicator's adjudication;

(b) by virtue of any other provision of these Regulations which requires an enforcement authority to refund any sum,

shall, if a county court so orders, be recoverable by the person to whom the amount is payable as if it were payable under a county court order.

(4) Paragraph (3) does not apply to a penalty charge which remains payable following an adjudication under regulation 7.

Signed by authority of the Lord Chancellor

10th December 2007

Bridget Prentice
Parliamentary Under Secretary of State,
Ministry of Justice