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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the civil enforcement of a penalty charge imposed in respect of a motor vehicle by a road user charging scheme made under Part 3 of the Transport Act 2000 ([c.38](#)).

Part 1 (regulations 1 to 3) deals with preliminary matters. Regulation 1(3) provides that these Regulations do not apply to the enforcement of road user charges imposed by the County Council of Durham (Market Place leading to Saddler Street, Durham City) (Road User Charging Scheme) Order 2002. Regulation 2 defines words and terms used in the Regulations. Regulation 3 contains provisions dealing with the service of penalty charge notices and other documents, apart from in adjudication proceedings (in which case Part 3 of the Schedule applies) or where notices or orders are being served by a county court.

Part 2 (regulations 4 to 6) deals with the imposition of, amount and liability for penalty charges. Regulation 4 explains the circumstances in which a penalty charge will be payable. Regulation 5 requires that the rates of penalty charge imposed by a charging authority are to be specified in the charging scheme or communicated to users of the road over which they apply. Regulation 5 also prescribes the maximum level of penalty charge that a charging scheme may impose for the use of a designated road and where the powers exercisable in respect of motor vehicles described in Part 6 are exercised. Regulation 6 explains that primary liability for a penalty charge resides with the registered keeper of a vehicle, but may be transferred to another person in the circumstances specified.

Part 3 (regulations 7 to 11) contains provisions about penalty charge notices. Regulation 7 explains when a penalty charge notice can be served and what information it must contain. Regulation 8 explains the right of the recipient of a penalty charge notice to make representations to the charging authority, which may accept the representations and cancel the penalty charge notice under regulation 9, or reject the representations under regulation 10. Regulation 11 explains the right to appeal to an adjudicator against a refusal by the charging authority to accept any representations made.

Part 4 (regulations 12 to 16) makes provision for the appointment of road user charging scheme adjudicators, their procedure and the recovery of sums that are the subject of an adjudicator's award.

Part 5 (regulations 17 to 20) provides for the civil enforcement of penalty charges. Where a penalty charge remains unpaid after the relevant period specified in regulation 17, the charging authority may issue a charge certificate, after which, in accordance with regulation 18, if the penalty charge continues to remain unpaid the sum due may be enforced as if it were payable under a county court order. Any sum to be paid under an adjudication or unpaid penalty charge which in either case is recoverable as if it was payable under a county court order may, under regulation 20, be enforced in accordance with the Enforcement of Road Traffic Debts Order 1993 ([S.I. 1993/2073](#)).

Part 6 (regulations 21 to 31) explain the range of enforcement powers in respect of motor vehicles that a charging authority may provide for in a charging scheme.

The powers to examine and enter motor vehicles in regulations 22 and 23 apply to any motor vehicle where the charging scheme so provides and enable an authorised person (as defined by regulation 21) to ascertain that any document or equipment required by the charging scheme to be carried, used or displayed in a motor vehicle is being properly carried, used or displayed. Regulation 24 allows items to be seized (if the charging scheme so provides) if they are evidence of the commission of an offence under section 173(5) or (6) of the Transport Act 2000.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Where there are three or more unpaid penalty charges in respect of a vehicle, the registered keeper's address cannot be ascertained, a period of 14 days from the date on which the third unpaid penalty charge was imposed has elapsed and the charging scheme so provides the motor vehicle may be immobilised (regulation 25), removed (regulation 27) and, if not released or returned, disposed of (regulation 28) to recover such unpaid penalty charges (and, where the charging scheme provides, any unpaid road user charges).

Regulation 30 provides that a person may take possession of a removed motor vehicle subject to the conditions stated, including payment of all unpaid road user charges and penalty charges. Regulation 31 allows the keeper of a motor vehicle that has been disposed of to recover any excess proceeds following payment of all unpaid road user charges and penalty charges provided the claim is made within one year of such disposal.

Part 7 (regulations 32 to 37) provides for representations to be made to the charging authority, and appeals to be made to an adjudicator, arising from the exercise of the powers to immobilise, remove or dispose of a motor vehicle. The charging authority may accept such representations and make an appropriate refund under regulation 33 or 36, or reject them. Where the charging authority rejects the representations an appeal to an adjudicator may be made under regulation 34 or 37.

The Schedule to the Regulations provides for the procedure for appeals to an adjudicator against the issue of a penalty charge notice or the exercise of powers in respect of a motor vehicle.

A regulatory impact assessment has not been produced for this instrument as it has negligible impact on the costs of business. An Explanatory Memorandum is available alongside the instrument on the UK legislation website, [www.legislation.gov.uk](http://www.legislation.gov.uk)