
STATUTORY INSTRUMENTS

2013 No. 359

**The Civil Enforcement of Road Traffic Contraventions
(Representations and Appeals) (Wales) Regulations 2013**

PART 2

REPRESENTATIONS AND APPEALS IN RELATION TO NOTICES TO OWNER

Representations against notice to owner

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

(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 road traffic 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 the enforcement authority must act through the joint committee through which, in accordance with regulation 15 of the General Provisions Regulations, it exercises its functions relating to adjudicators.

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

(a) that the alleged road traffic 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 road traffic contravention occurred; or

(iii) became its owner after that date;

(c) that at the time that the road traffic contravention was committed, the vehicle in question was in the control of a person who did not have 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 their liability in respect of any penalty charge notice served in respect of any road traffic 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⁽¹⁾ applies, is invalid;
- (h) in a case where a penalty charge notice was served by post because 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 a civil enforcement officer was not so prevented;
- (i) that the notice to owner should not have been served because—
 - (i) the penalty charge has already been paid in full;
 - (ii) the penalty charge has 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 Schedule 1 to the General Provisions 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 Provisions 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 Provisions 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 20 of the General Provisions 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 the person to whom the vehicle was disposed of (if that information is known).

(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 known).

(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⁽²⁾

(1) See Schedule 9, paragraph 34(1) of the 1984 Act 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(3).

(2) 1988 c.53. Section 66 was amended by the Road Safety Act 2006, section 5, Schedule 1, paragraphs 1,8 and 9 and section 59, Schedule 7.