
STATUTORY INSTRUMENTS

2013 No. 362

**The Civil Enforcement of Road Traffic Contraventions
(General Provisions) (Wales) Regulations 2013**

PART 1

PRELIMINARY

Title, commencement and application

1.—(1) These Regulations may be cited as the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013 and they come into force on 25 March 2013.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

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

“the 28-day period” has the meaning given by regulation 10(4);

“adjudicator” means an adjudicator appointed under Part 4 of these Regulations;

“applicable discount” and “applicable surcharge” mean the amount of any discount or, as the case may be, surcharge set in accordance with Schedule 9 to the 2004 Act;

“approved device” has the meaning given by article 2 of the Civil Enforcement of Road Traffic Contraventions (Approved Devices) (Wales) Order 2013(1);

“charge certificate” has the meaning given in regulation 20(1);

“civil enforcement area” has the meaning given by paragraph 8 of Schedule 8 to the 2004 Act;

“civil enforcement officer” has the meaning given by section 76 of the 2004 Act;

“enforcement authority” in relation to a penalty charge or the immobilisation or removal of a vehicle means the enforcement authority in relation to the alleged contravention in consequence of which the charge was incurred or the vehicle was immobilised;

“notice to owner”, subject to regulations 20(4) and 22(9), has the meaning given by regulation 18;

“outstanding” in relation to a penalty charge is to be construed in accordance with paragraphs (2) to (4);

“owner” in relation to a vehicle includes any person who falls to be treated as the owner of the vehicle by virtue of regulation 5;

“pedestrian crossing contravention” means a parking contravention consisting of an offence referred to in paragraphs 4(2)(c) or 4(2)(i)(i) of Schedule 7 to the 2004 Act (prohibition on stopping of vehicles on or near pedestrian crossings);

“penalty charge” means a penalty charge relating to a road traffic contravention and payable in accordance with regulation 4;

“penalty charge notice” has the meaning given by regulation 8(1);

“regulation 10 penalty charge notice” has the meaning given by regulation 10;

“road traffic contravention” in relation to Wales, means any of the following:

- (a) a parking contravention as described in paragraph 4, Part 1 of Schedule 7 to the 2004 Act;
- (b) a bus lane contravention as described in Part 2 of Schedule 7 to the 2004 Act; or
- (c) a moving traffic contravention as described in Part 4 of Schedule 7 to the 2004 Act.

“the Welsh enforcement authorities” means those enforcement authorities which are local authorities in Wales; and

“the Representations and Appeals Regulations” means the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013⁽²⁾.

(2) For the purposes of these Regulations a penalty charge is outstanding in relation to a vehicle if—

- (a) the charge has not been paid and the enforcement authority to which the charge is payable has not waived payment, whether by cancellation of the penalty charge notice or notice to owner or otherwise;
- (b) the owner of the vehicle when it was immobilised was also the owner of the vehicle when the penalty charge was imposed; and
- (c) either—
 - (i) a notice to owner or regulation 10 penalty charge notice has been served in respect of the charge and the conditions in paragraph (3) are satisfied; or
 - (ii) no notice to owner or regulation 10 penalty charge notice has been served in respect of the charge and the conditions in paragraph (4) are satisfied.

(3) The conditions referred to in paragraph (2)(c)(i) are that—

- (a) the penalty charge was imposed, in accordance with these Regulations, by an enforcement authority in respect of a road traffic contravention;
- (b) the penalty charge is the subject of a charge certificate served under regulation 20 which has not been set aside in accordance with regulation 22.

(4) The conditions referred to in paragraph (2)(c)(ii) are that—

- (a) the penalty charge related to a vehicle which, when the penalty charge became payable—
 - (i) was not registered under the Vehicle Excise and Registration Act 1994⁽³⁾; or
 - (ii) was so registered, but without the inclusion in the registered particulars of the correct name and address of the keeper of the vehicle;
- (b) having taken all reasonable steps, the enforcement authority to which the penalty charge was payable was unable to ascertain the name and address of the keeper of the vehicle and was consequently unable to serve a notice to owner under regulation 18, or a regulation 10 penalty charge notice; and
- (c) the period of 42 days beginning with the date on which the penalty charge became payable has expired.

(2) S.I. 2013/359.

(3) 1994 c. 22.

Service by post

3.—(1) Subject to paragraph (5), any notice (except a penalty charge notice served under regulation 9) or charge certificate under these Regulations—

- (a) may be served by first class (but not second class) post; and
- (b) where the person on whom it is to be served is a body corporate, is duly served if it is sent by first class post to the secretary or clerk of that body.

(2) Unless the contrary is proved, service of a notice or charge certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted is to be taken to have been effected on the second working day after the day of posting.

(3) In paragraph (2), “working day” means any day except—

- (a) a Saturday or a Sunday;
- (b) New Year’s Day;
- (c) Good Friday;
- (d) Christmas Day;
- (e) any other day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(4).

(4) A document may be transmitted to a vehicle hire firm (as defined in regulation 5(4)) by means of electronic data transmission where—

- (a) the vehicle hire firm has indicated in writing to the person sending the notice or document that it is willing to regard a document as having been duly sent to it if it is transmitted to a specified electronic address; and
- (b) the document is transmitted to that address.

(5) Nothing in this regulation applies to the service of any notice or order made by a county court.

PART 2

PENALTY CHARGES

Imposition of penalty charges

4. Subject to the provisions of these Regulations a penalty charge is payable with respect to a vehicle where there has been committed in relation to that vehicle a road traffic contravention in a civil enforcement area in Wales.

Person by whom a penalty charge is to be paid

5.—(1) Where a road traffic contravention occurs, the person by whom the penalty charge for the contravention is to be paid, is to be determined in accordance with the following provisions of this regulation.

(2) In a case not falling within paragraph (3), the penalty charge is payable by the person who was the owner of the vehicle involved in the contravention at the material time.

(3) Where—

- (a) the vehicle is a mechanically propelled vehicle which was, at the material time, hired from a vehicle-hire firm under a hiring agreement;

(4) 1971 c.80.

(b) 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 road traffic contravention involving the vehicle during the currency of the hiring agreement; and

(c) in response to a notice to owner served on him, the owner of the vehicle made representations on the ground specified in regulation 4(4)(d) of the Representations and Appeals Regulations and the enforcement authority accepted those representations,

the penalty charge is payable by the person by whom the vehicle was hired and that person must be treated as if they were the owner of the vehicle at the material time for the purposes of these Regulations.

(4) In this regulation—

- (a) “hiring agreement” and “vehicle-hire firm” have the same meanings as in section 66 of the Road Traffic Offenders Act 1988⁽⁵⁾; and
- (b) “the material time” means the time when the contravention giving rise to the penalty charge is said to have occurred.

Evidence of contravention

6.—(1) In respect of a parking contravention, a penalty charge must not be imposed except on the basis of—

- (a) a record produced by an approved device; or
- (b) information given by a civil enforcement officer as to conduct observed by that officer.

(2) In respect of—

- (a) a bus lane contravention; or
- (b) a moving traffic contravention,

a penalty charge must not be imposed except on the basis of a record produced by an approved device.

Criminal proceedings for road traffic contraventions in civil enforcement areas

7.—(1) A penalty charge is not payable in relation to a road traffic contravention where—

- (a) the conduct constituting the contravention is the subject of criminal proceedings; or
- (b) a fixed penalty notice, as defined by section 52 of the Road Traffic Offenders Act 1988⁽⁶⁾, has been given in respect of that conduct.

(2) Where, notwithstanding the provisions of paragraph (1)—

- (a) a penalty charge has been paid in respect of a road traffic contravention; and
- (b) the circumstances are as mentioned in paragraph (1)(a) or (b),

the enforcement authority must, as soon as reasonably practicable after those circumstances come to its notice, refund the amount of the penalty charge.

(3) No criminal proceedings may be instituted and no fixed penalty notice may be served in respect of any parking contravention occurring in a civil enforcement area, except a pedestrian crossing contravention.

(5) 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.

(6) Section 52 was amended by the Statute Law (Repeals) Act 2004 (c.14), Schedule 1, Part 14 and by the Road Safety Act 2006 (c.49), Schedule 1, paragraphs 1 and 2.

Penalty charge notices

- 8.—**(1) In these Regulations a “penalty charge notice” means a notice which—
- (a) was served in accordance with regulation 9 or 10 in relation to a road traffic contravention; and
 - (b) complies with the requirements of—
 - (i) paragraph (2) below;
 - (ii) the Schedules to these Regulations; and
 - (iii) regulation 3 of the Representations and Appeals Regulations which so apply.
- (2) A penalty charge notice must be in the form set out in Schedule 2 to these regulations or a form to the like effect, provided that it contains all of the prescribed particulars as set out in Schedule 1 to these regulations and regulation 3 of the Representations and Appeals Regulations.
- (3) The Schedules have effect with regard to penalty charge notices.

Penalty charge notices – service by a civil enforcement officer

- 9.** A civil enforcement officer who has reason to believe that a parking contravention is being committed by a stationary vehicle in a civil enforcement area, may serve a penalty charge notice—
- (a) by fixing it to the vehicle; or
 - (b) by giving it to the person appearing to the civil enforcement officer to be in charge of the vehicle.

Penalty charge notices – service by post

- 10.—**(1) An enforcement authority may serve a penalty charge notice by post where—
- (a) on the basis of a record produced by an approved device, the authority has reason to believe that a penalty charge is payable with respect to a road traffic contravention committed in relation to a vehicle in a civil enforcement area;
 - (b) a civil enforcement officer attempted to serve a penalty charge notice in accordance with regulation 9 but was prevented from doing so by some person; or
 - (c) a civil enforcement officer had begun to prepare a penalty charge notice for service in accordance with regulation 9, but the vehicle concerned was driven away from the place in which it was stationary before the civil enforcement officer had finished preparing the penalty charge notice or had served it in accordance with regulation 9,
- and references in these Regulations to a “regulation 10 penalty charge notice” are to a penalty charge notice served by virtue of this paragraph.
- (2) For the purposes of paragraph 1(c), a civil enforcement officer who observes conduct which appears to constitute a parking contravention is not thereby to be taken to have begun to prepare a penalty charge notice.
- (3) A regulation 10 penalty charge notice must be served on the person appearing to the enforcement authority to be the owner of the vehicle involved in the contravention in consequence of which the penalty charge is payable.
- (4) Subject to paragraph (6), a regulation 10 penalty charge notice may not be served later than the expiration of the period of 28 days beginning with the date on which, according to a record produced by an approved device, or information given by a civil enforcement officer, the contravention to which the penalty charge notice relates occurred (in these Regulations called “the 28-day period”).
- (5) Paragraph (6) applies where—

- (a) within 14 days of the appropriate date the enforcement authority has requested the Secretary of State to supply the relevant particulars in respect of the vehicle involved in the contravention and those particulars have not been supplied before the expiration of the 28-day period;
 - (b) an earlier regulation 10 penalty charge notice relating to the same contravention has been cancelled under regulation 22(5)(c); or
 - (c) an earlier regulation 10 penalty charge notice relating to the same contravention has been cancelled under regulation 5 of the Representations and Appeals Regulations.
- (6) Where this paragraph applies, notwithstanding the expiration of the 28-day period, an enforcement authority continues to be entitled to serve a regulation 10 penalty charge notice—
- (a) in a case falling within paragraph (5)(a), for a period of six months beginning with the appropriate date; or
 - (b) in a case falling within paragraph (5)(b) or (c), for a period of 4 weeks beginning with the appropriate date.
- (7) In this regulation—
- (a) “the appropriate date” means-
 - (i) in a case falling within paragraph (5)(a), the date referred to in paragraph (4);
 - (ii) in a case falling within paragraph (5)(b), the date on which the district judge serves notice in accordance with regulation 22(5)(d); or
 - (iii) in a case falling within paragraph (5)(c) the date on which the previous regulation 10 penalty charge notice was cancelled; and
 - (b) “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.

Removal of or interference with a penalty charge notice

11.—(1) A penalty charge fixed to a vehicle in accordance with regulation 9(a) must not be removed or interfered with except by or under the authority of—

- (a) the owner or person in charge of the vehicle; or
- (b) the enforcement authority.

(2) A person contravening paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

PART 3

IMMOBILISATION OF VEHICLES FOR PARKING CONTRAVENTIONS

Power to immobilise vehicles

12.—(1) Subject to regulation 13 (limitations on the power to immobilise vehicles), where a penalty charge notice has been served—

- (a) in respect of a parking contravention; and
- (b) in accordance with regulation 9,

a civil enforcement officer or a person acting under the direction of a civil enforcement officer may fix an immobilisation device to the vehicle while it remains in the place where it was found.

(2) On any occasion when an immobilisation device is fixed to a vehicle in accordance with this regulation, the person fixing the device must also fix to the vehicle a notice—

- (a) indicating that such a device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from that device;
- (b) specifying the steps to be taken in order to secure its release; and
- (c) warning that unlawful removal of an immobilisation device is an offence.

(3) A notice fixed to a vehicle in accordance with this regulation must not be removed or interfered with except by or under the authority of—

- (a) the owner, or person in charge of the vehicle; or
- (b) the enforcement authority.

(4) A person contravening paragraph (3) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) Any person who, without being authorised to do so in accordance with these Regulations, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with this regulation is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Limitations on the power to immobilise vehicles

13.—(1) An immobilisation device must not be fixed to a vehicle in accordance with regulation 12 if there is displayed on the vehicle—

- (a) a current disabled person's badge; or
- (b) a current recognised badge.

(2) If, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (1)(a), the vehicle was not being used—

- (a) in accordance with regulations under section 21 of the Chronically Sick and Disabled Persons Act 1970(7);
- (b) in circumstances falling within section 117(1)(b) of the Road Traffic Regulation Act 1984(8) (use where a disabled persons' concession would be available),

the person in charge of the vehicle is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (1)(b), the vehicle was not being used—

- (a) in accordance with regulations under section 21A of the Chronically Sick and Disabled Persons Act 1970(9);

(7) 1970 c.44. In relation to Wales, section 21 was amended by the Local Government Act 1972 (c.70), Schedule 30, by the Transport Act 1982 (c.49) section 68, by the Road Traffic Regulation Act 1984 (c.27), Schedule 13, by the Local Government Act 1985 (c.51), Schedule 5, paragraph 1, by the Road Traffic Act 1991 (c.40), section 35(2)-(5), Schedule 8, by the Local Government (Wales) Act 1994 (c.19), Schedule 10, paragraph 8 and Schedule 18, by the Traffic Management Act 2004 section 94(1)-(4), by the Disability Discrimination Act 2005 (c.13) Schedule 1, paragraph 41 and by the Tribunals, Courts and Enforcement Act 2007, Schedule 8.

(8) 1984 (c.27). In relation to Wales section 117(1) was amended by the Road Traffic Act 1991 section 35(6) and Schedule 8 and by the Disability Discrimination Act 2005, Schedule 1, paragraph 44(1), (2) and by the Traffic Management Act 2004, section 94(5).

(9) Section 21A was inserted by the Disability Discrimination Act 2005, section 9.

- (b) in circumstances falling within section 117(1A)(b) of the Road Traffic Regulation Act 1984⁽¹⁰⁾ (use where a disabled person's concession would be available by virtue of displaying a non-GB badge),

the person in charge of the vehicle is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) An immobilisation device must not be fixed to a vehicle which is in a parking place in respect of a contravention consisting of, or arising out of, a failure—

- (a) to pay a parking charge with respect to the vehicle;
- (b) properly to display a ticket or parking device; or
- (c) to remove the vehicle from a parking place by the end of the period for which the appropriate charge was paid,

until 15 minutes have elapsed since the service of a penalty charge notice under regulation 9 in respect of the contravention.

(5) In this Regulation—

- (a) “disabled person's badge” is a badge issued by local authorities for motor vehicles driven by or used for the carriage of disabled persons in accordance with section 21 of the Chronically Sick and Disabled Persons Act 1970 and regulations made thereunder; and
- (b) “recognised badge” has the same meaning as in section 21A(1) of the Chronically Sick and Disabled Persons Act 1970.

Release of immobilised vehicles

14.—(1) A vehicle to which an immobilisation device has been fixed in accordance with regulation 12 may only be released from that device by or under the direction of a person authorised by the enforcement authority to give such a direction.

(2) Subject to paragraph (1), such a vehicle must be released from the device on payment in any manner specified in the notice fixed to the vehicle under regulation 12(2) of—

- (a) the penalty charge payable in respect of the parking contravention; and
- (b) such charge in respect of the release as may be required by the enforcement authority.

PART 4

ADJUDICATORS

Discharge of functions relating to adjudicators

15.—(1) The functions of the Welsh enforcement authorities relating to adjudicators under section 81 of the 2004 Act and under regulations 16 and 17 are to be discharged jointly, under arrangements made under section 101(5) of the Local Government Act 1972⁽¹¹⁾, by a joint committee or joint committees appointed under section 102(1)(b) of that Act.

(2) The constituent authorities of a joint committee may include county or county borough councils in England.

(3) Any arrangements for the discharge of functions by a joint committee under section 73 of the Road Traffic Act 1991⁽¹²⁾, as that section was applied to local authorities, which subsisted

⁽¹⁰⁾ Subsection (1A) was inserted by the Disability Discrimination Act 2005, Schedule 1, paragraphs 42 and 44.

⁽¹¹⁾ 1972 c.70.

⁽¹²⁾ 1991 c.40.

immediately before the coming into force of these Regulations continue in force and have effect as if made under this regulation, until such time as those arrangements are varied or replaced.

Appointment of adjudicators

16.—(1) The relevant enforcement authorities must appoint such number of adjudicators for the purposes of Part 6 of the 2004 Act on such terms as they may decide.

(2) Any decision by those authorities to appoint a person as an adjudicator will not have effect without the consent of the Lord Chancellor.

(3) Any decision by those authorities—

- (a) not to re-appoint a person as an adjudicator; or
- (b) to remove a person from his office as an adjudicator,

will not have effect without the consent of the Lord Chancellor and the Lord Chief Justice.

(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005⁽¹³⁾) to exercise his functions under paragraph (3).

(5) Adjudicators who—

- (a) were appointed under section 73 of the Road Traffic Act 1991; and
- (b) held office immediately before the coming into force of this regulation,

are to be treated as having been appointed under this regulation on the same terms as those on which they held office at that time.

(6) Each adjudicator must make an annual report to the relevant enforcement authorities in accordance with such requirements as may be imposed by those authorities.

(7) The relevant authorities must make and publish an annual report to the Welsh Ministers on the discharge by the adjudicators of their functions.

Expenses of the relevant authorities

17.—(1) In default of a decision by any of the enforcement authorities under section 81(9)(a) of the 2004 Act as to the proportions in which their expenses under section 81 of that Act are to be defrayed, the authorities concerned must refer the issue to be determined by an arbitrator nominated by the Chartered Institute of Arbitrators.

(2) Where the Welsh Ministers are satisfied that there has been a failure on the part of any of the relevant enforcement authorities to agree those proportions, they may give to the relevant joint committee such directions as are in their opinion necessary to secure that the issue is referred to arbitration in accordance with paragraph (1).

(3) In this regulation “the relevant joint committee” means the joint committee constituted under regulation 15 of which the enforcement authorities in default are constituent authorities.

PART 5

ENFORCEMENT OF PENALTY CHARGES

The notice to owner

18.—(1) Subject to regulation 19, where—

(13) 2005 c.4.

- (a) a penalty charge notice has been served with respect to a vehicle under regulation 9; and
- (b) the period of 28 days specified in the penalty charge notice as the period within which the penalty charge is to be paid has expired without that charge being paid,

the enforcement authority concerned may serve a notice (“a notice to owner”) on the person who appears to it to have been the owner of the vehicle when the alleged contravention occurred.

(2) A notice to owner served under paragraph (1) must, in addition to the matters required to be included in it under regulation 3(3) of the Representations and Appeals Regulations, state—

- (a) the date of the notice, which must be the date on which the notice is posted;
- (b) the name of the enforcement authority serving the notice;
- (c) the amount of the penalty charge payable;
- (d) the date on which the penalty charge notice was served;
- (e) the grounds on which the civil enforcement officer who served the penalty charge notice under regulation 9 believed that a penalty charge was payable with respect to the vehicle;
- (f) that the penalty charge, if not already paid, must be paid within “the payment period” as defined by regulation 3(3)(a) of the Representations and Appeals Regulations;
- (g) that if, after the payment period has expired, no representations have been made under regulation 4 of the Representations and Appeals Regulations and the penalty charge has not been paid, the enforcement authority may increase the penalty charge by the applicable surcharge; and
- (h) the amount of the increased penalty charge.

Time limit for service of a notice to owner

19.—(1) A notice to owner may not be served after the expiry of the period of 6 months beginning with the relevant date.

- (2) The relevant date—
 - (a) in a case where a notice to owner has been cancelled under regulation 22(5)(c) of these Regulations, is the date on which the district judge serves notice in accordance with regulation 22(5)(d);
 - (b) in a case where a notice to owner has been cancelled under regulation 5 of the Representations and Appeals Regulations, is the date of such cancellation;
 - (c) in a case where payment of the penalty charge was made, or had purportedly been made, before the expiry of the period mentioned in paragraph (1) but the payment or purported payment had been cancelled or withdrawn, is the date on which the enforcement authority is notified that the payment or purported payment has been cancelled or withdrawn;
 - (d) in any other case, is the date on which the relevant penalty charge notice was served under regulation 9.

Charge certificates

20.—(1) Where a notice to owner is served on any person and the penalty charge to which it relates is not paid before the end of the relevant period, the authority serving the notice may serve on that person a statement (a “charge certificate”) to the effect that the penalty charge in question is increased by the amount of the applicable surcharge.

- (2) The relevant period, in relation to a notice to owner, is the period of 28 days beginning—
 - (a) where no representations are made under regulation 4 of the Representations and Appeals Regulations, with the date on which the notice to owner is served;

- (b) where—
 - (i) such representations are made;
 - (ii) a notice of rejection is served by the authority concerned; and
 - (iii) no appeal against the notice of rejection is made, with the date on which the notice of rejection is served;
 - (c) where an adjudicator has, under regulation 7(4) of the Representations and Appeals Regulations, recommended the enforcement authority to cancel the notice to owner, with the date on which the enforcement authority notifies the appellant under regulation 7(5) of those Regulations that it does not accept the recommendation; or
 - (d) in a case not falling within sub-paragraph (c) where there has been an unsuccessful appeal to an adjudicator under the Representations and Appeals Regulations against a notice of rejection, with the date on which the adjudicator’s decision is served on the appellant.
- (3) Where an appeal against a notice of rejection is made but is withdrawn before the adjudicator serves notice of his decision, the relevant period in relation to a notice to owner is the period of 14 days beginning with the date on which the appeal is withdrawn.
- (4) In this regulation—
- (a) references to a “notice to owner” include a regulation 10 penalty charge notice; and
 - (b) “notice of rejection” has the meaning given by regulation 2 of the Representations and Appeals Regulations.

Enforcement of charge certificates

21. Where a charge certificate has been served on any person and the increased penalty charge provided for in the certificate is not paid within the period of 14 days beginning with the date on which the certificate is served, the enforcement authority may, if a county court so orders, recover the increased charge as if it were payable under a county court order.

Invalid notices

- 22.**—(1) This regulation applies where—
- (a) a county court makes an order under regulation 21;
 - (b) the person against whom it is made makes a witness statement complying with paragraph (2); and
 - (c) that statement is served on the county court which makes the order, before the end of—
 - (i) the period of 21 days, beginning with the date on which notice of the county court’s order is served on him; or
 - (ii) such longer period as may be allowed under paragraph (4).
- (2) The witness statement must state one and only one of the following—
- (a) that the person making it did not receive the notice to owner in question;
 - (b) that representations were made to the enforcement authority under regulation 4 of the Representations and Appeals Regulations but a notice of rejection was not received from that authority in accordance with regulation 6 of those Regulations;
 - (c) that an appeal was made to an adjudicator under regulation 7 of those Regulations against the rejection by the enforcement authority of representations made under regulation 4 of those Regulations but—
 - (i) no response to the appeal was received;

- (ii) the appeal had not been determined by the time that the charge certificate had been served; or
 - (iii) the appeal was determined in the appellant’s favour; or
 - (d) that the penalty charge to which the charge certificate relates has been paid.
- (3) Paragraph (4) applies where it appears to a district judge, on the application of a person on whom a charge certificate has been served, that it would be unreasonable in the circumstances of the case to insist on serving his witness statement within the period of 21 days allowed for by paragraph (1).
- (4) Where this paragraph applies, the district judge may consider allowing a longer period for service of the witness statement.
- (5) Where a witness statement is served under paragraph (1)(c)—
- (a) the order of the court is deemed to have been revoked;
 - (b) the charge certificate is deemed to have been cancelled;
 - (c) in the case of a statement under paragraph (2)(a), the notice to owner to which the charge certificate relates is deemed to have been cancelled; and
 - (d) the district judge must serve written notice of the effect of service of the statement on the person making it and on the enforcement authority concerned.
- (6) Subject to regulation 19, service of a witness statement under paragraph (2)(a) must not prevent the enforcement authority from serving a fresh notice to owner.
- (7) Where a witness statement has been served under paragraph (2)(b), (c) or (d), the enforcement authority must refer the case to the adjudicator who may give such directions as are appropriate in the circumstances and the parties must comply with those directions.
- (8) A witness statement under this regulation may be served on the county court by email in accordance with Section 1 of Practice Direction 5B in Part 5 of the Civil Procedure Rules 1998(14).
- (9) In this regulation—
- (a) references to a “notice to owner” include a regulation 10 penalty charge notice; and
 - (b) “witness statement” means a statement which is a witness statement for the purposes of the Civil Procedure Rules 1998 and which is supported by a statement of truth in accordance with Part 22 of those Rules.

PART 6

FINANCIAL PROVISIONS

Modification of section 55 of the Road Traffic Regulation Act 1984

23.—(1) Section 55 of the Road Traffic Regulation Act 1984(15) applies in relation to the income and expenditure of enforcement authorities in connection with their functions under Part 6 of the 2004 Act in relation to parking contraventions, subject to the following modifications.

(2) For subsection (1) there is substituted—

“(1) A local authority in Wales which is an enforcement authority must keep an account—

(14) S.I. 1998/3132. L17.

(15) In relation to Wales, section 55 was amended by the Local Government Act 1985 (c. 51), Schedule 17, by the Local Government (Wales) Act 1994 (c. 19), Schedule 7, by the New Roads and Street Works Act 1991 (c. 22), Schedule 8, paragraph 46, by the Road Traffic Act 1991, Schedule 7, paragraph 5 and Schedule 8 and by the Traffic Management Act 2004, section 95.

- (a) of its income and expenditure in respect of any designated parking places in its area which are not in a civil enforcement area;
 - (b) of its income and expenditure (otherwise than as an enforcement authority) in respect of designated parking places in its area which are in a civil enforcement area; and
 - (c) of its income and expenditure in connection with its functions as an enforcement authority in relation to parking contraventions within Part 1, paragraph 4 of Schedule 7 to the 2004 Act.”.
- (3) For subsection (3A) there is substituted—
- “(3A) A local authority in Wales which is an enforcement authority must after the end of each financial year send a copy of the accounts kept under subsection (1) to the Welsh Ministers.”.
- (4) In subsection (3B) for the words “the end of” there is substituted “the conclusion of the audit of the accounts of the body concerned for”.
- (5) In subsection (10) after “in this section—” there is inserted—
- ““the 2004 Act” means the Traffic Management Act 2004;
- “enforcement authority” means an authority which is an enforcement authority for the purposes of Part 6 of the 2004 Act (pursuant to paragraph 8(5) of Schedule 8) and references to the functions of an authority as an enforcement authority are to its functions under that Part of that Act.”.

Income and expenditure

24.—(1) In connection with its functions as an enforcement authority, a local authority in Wales must keep separate income and expenditure accounts in relation to each of the following types of contravention—

- (a) bus lane contraventions as described in Part 2 of Schedule 7 to the 2004 Act; and
- (b) moving traffic contraventions as described in Part 4 of Schedule 7 to the 2004 Act,

in addition to those accounts in relation to parking contraventions as described in regulation 23.

(2) A local authority in Wales which is an enforcement authority must, after the end of each financial year, send a copy of each of the accounts kept under subsection (1) to the Welsh Ministers.

Surpluses to be carried forward

25. Where, immediately before the coming into force of these Regulations there is a surplus in an account which is kept under section 55 of the Road Traffic Regulation Act 1984 as modified in relation to that authority by an Order made under Schedule 3 to the Road Traffic Act 1991 and kept by a local authority the surplus must be carried forward.

Application of sums paid by way of penalty charge

26.—(1) Any surplus in an account which is kept under section 55 of the Road Traffic Regulation Act 1984, must be treated as a surplus arising under that section as modified by regulation 23 and must be applied for all or any of the purposes specified in that section.

(2) Any surplus arising in an account kept by an enforcement authority in relation to bus lane or moving traffic contraventions must be applied for all or any of the purposes specified in paragraph (3) and, insofar as it is not applied, must be appropriated to the carrying out of some specific project falling within those purposes and carried forward until applied to that project.

(3) The purposes referred to in paragraph (2) are—

- (a) the making good to the enforcement authority’s general fund of any amount charged to that fund in respect of any deficit in the four years preceding the financial year in question;
 - (b) the purposes of environmental improvement in the enforcement authority’s area;
 - (c) meeting costs incurred, whether by the enforcement authority or by some other person, in the provision or operation of, or of facilities for public passenger transport services; or
 - (d) the purposes of a highway or road improvement project in the enforcement authority’s area.
- (4) For the purposes of paragraph (3)(b), “environmental improvement” includes—
- (a) the reduction of environmental pollution (as defined in the Pollution Prevention and Control Act 1999⁽¹⁶⁾);
 - (b) improving or maintaining the appearance or amenity of—
 - (i) a road or land in the vicinity of a road, or
 - (ii) open land or water to which the general public has access; and
 - (c) the provision of outdoor recreational facilities available to the public without charge.
- (5) For the purposes of paragraph (3)(d), “a highway improvement project” means a project connected with the carrying out by the appropriate highway authority of any operation which constitutes the improvement of a highway (within the meaning of the Highways Act 1980)⁽¹⁷⁾.

PART 7

AMENDMENT AND REVOCATION

Revocation

27.—(1) Upon the coming into force of these Regulations, the instruments set out in paragraph (2) are revoked.

- (2) The instruments described in paragraph (1) are—
- (a) The Civil Enforcement of Parking Contraventions (General Provisions) (Wales) (No.2) Regulations 2008 ⁽¹⁸⁾; and
 - (b) The Civil Enforcement of Parking Contraventions (Penalty Charge Notices, Enforcement and Adjudication) (Wales) Regulations 2008⁽¹⁹⁾.

Amendment to paragraph 9(4) of Schedule 7 to the Traffic Management Act 2004

28. The table in paragraph 9(4) of Schedule 7 to the Traffic Management Act 2004 is amended as follows—

- (a) After diagram number 957, under the heading “Description” insert: “With flow bus lane which pedal cycles and taxis may also use ahead.”
- (b) After diagram number 957, under the heading “Diagram number” insert: “958”.
- (c) After diagram number 958, under the heading “Description”, insert: “With flow bus lane which pedal cycles may also use.”
- (d) After diagram number 958, under the heading “Diagram number” insert: “959.”

⁽¹⁶⁾ 1999 (c.24).

⁽¹⁷⁾ 1980 (c.66).

⁽¹⁸⁾ S.I. 2008/1214 (W.122). This revoked and replaced S.I. 2008/614 (W.66).

⁽¹⁹⁾ S.I. 2008/609, as amended by S.I. 2008/913.

- (e) After diagram number 959.1, under the heading “Description” insert: “Contra flow bus lane.”
- (f) After diagram number 959.1, under the heading “Diagram number”, insert: “960.”

26th February 2013

26th February 2013

C Grayling
Lord Chancellor
Ministry of Justice
Carl Sargeant
Minister for Local Government and
Communities, one of the Welsh Ministers