
STATUTORY INSTRUMENTS

2013 No. 362

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

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;
- (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(1); and
- (b) “the material time” means the time when the contravention giving rise to the penalty charge is said to have occurred.

(1) 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.

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(2), 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.

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—

(2) 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.

- (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.