

2021 No. 1357

ENVIRONMENTAL PROTECTION, ENGLAND

The Littering From Vehicles Outside London (Keepers: Civil Penalties) (Amendment) Regulations 2021

<i>Made</i>	- - - -	<i>1st December 2021</i>
<i>Laid before Parliament</i>		<i>2nd December 2021</i>
<i>Coming into force</i>	- -	<i>14th February 2022</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by section 88A of the Environmental Protection Act 1990(a).

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Littering From Vehicles Outside London (Keepers: Civil Penalties) (Amendment) Regulations 2021.

(2) These Regulations come into force on 14th February 2022.

(3) These Regulations extend to England and Wales.

(4) These Regulations apply in England.

Amendments to the Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018

2. The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018(b) are amended as follows.

Amendment to regulation 2

3. In regulation 2 (interpretation), after the definition of “adjudicator”, insert—

““enforcement notice” has the meaning given in regulation 6A(1);”.

Insertion of regulation 6A

4. After regulation 6 (penalty amount and payment), insert—

(a) 1990 c. 43. Section 88A was inserted by section 154(2) of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).
(b) S.I. 2018/171.

“Enforcement Notices

6A.—(1) Where a fixed penalty is increased in accordance with regulation 6(3), the litter authority may serve a further notice (an “enforcement notice”) on the person the penalty notice was given to setting out the amount of the fixed penalty that is due.

(2) A litter authority may cancel an enforcement notice at any time by informing the recipient in writing, and serve or cancel such further enforcement notices as it thinks fit.”.

Amendment to regulation 7

5. In regulation 7(1) (recovery of unpaid amounts)—

- (a) for “a penalty notice” substitute “an enforcement notice”;
- (b) for “within the fixed penalty payment period” substitute “before the end of the period of 14 days beginning with the day on which the enforcement notice is served.”.

Insertion of regulation 7A

6. After regulation 7, insert—

“Invalid notices

7A.—(1) This regulation applies where—

- (a) a county court makes an order under regulation 7,
- (b) the person against whom it is made makes a witness statement complying with paragraph (2), and
- (c) that witness statement is, within the period of 21 days beginning with the date on which notice of the county court’s order is served on the maker of the witness statement, served on the county court which made the order.

(2) The witness statement must state that the person making it—

- (a) did not receive the penalty notice in question,
- (b) made representations to the litter authority under regulation 14 but did not receive a notice of rejection from that litter authority,
- (c) appealed to an adjudicator under regulation 16 against the rejection by that litter authority of representations made by that person under regulation 14 and—
 - (i) no response to the appeal was received,
 - (ii) the appeal had not been determined by the time that the enforcement notice had been served, or
 - (iii) the appeal was determined in that person’s favour, or
- (d) has paid the fixed penalty to which the enforcement notice relates.

(3) Where it appears to the court, on the application of a person on whom an enforcement notice has been served, that it would be unreasonable in the circumstances of that person’s case to insist on the witness statement being served within the period mentioned in paragraph (1)(c), the court may allow such longer period for service of the witness statement as it considers appropriate.

(4) Where a witness statement is served under paragraph (1)(c), or within such longer period as may be allowed under paragraph (3)—

- (a) the order of the court is to be treated as revoked,
- (b) the enforcement notice is to be treated as cancelled,
- (c) in the case of a witness statement containing such a statement as is mentioned in paragraph (2)(a), the penalty notice to which the enforcement notice relates is to be treated as cancelled, and

(d) the court must serve written notice of the effect of service of the witness statement on the person making it and on the litter authority concerned.

(5) Where a witness statement is served by a person (P) containing a statement referred to in paragraph (2)(a) in respect of a penalty notice (the original penalty notice), the litter authority may give P a fresh penalty notice in respect of the littering offence the original penalty notice related to.

(6) A fresh penalty notice referred to in paragraph (5) must not be given—

- (a) after the end of the period of 14 days beginning with the day on which the notice referred to in paragraph (4)(d) is served on the litter authority, or
- (b) if the original penalty notice was not given by the litter authority in accordance with the procedural requirements set out in regulations 4 and 8.

(7) Where a witness statement contains such a statement as is mentioned in paragraph (2)(b) or (c)(i) or (ii), the litter authority may refer the case to an adjudicator, who may give such directions as the adjudicator considers appropriate.

(8) In this regulation, “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.”.

Amendment to regulation 14

7. In regulation 14(9) (representations against penalty notice), after “regulation 4(5)” insert “or 7A(6)”.

Amendment to regulation 19

8. In regulation 19(1) (appeal procedure)—

- (a) after “applies in respect of” insert “a case referred to an adjudicator under regulation 7A(7) and”;
- (b) omit sub-paragraph (o);
- (c) after sub-paragraph (n) insert—

“(oa) in paragraph 19(a) the references to regulations 18 and 19(4) of the RUCS Regulations 2013 were references, respectively, to regulations 7(2)(b) and 7A(4) of these Regulations;”.

Jo Churchill

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

1st December 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 (S.I. 2018/171, “the 2018 Regulations”).

Regulation 4 amends the 2018 Regulations by inserting new regulation 6A which provides a power for a litter authority to issue an enforcement notice.

Regulation 5 amends regulation 7 of the 2018 Regulations to provide that a litter authority may recover any amounts of a fixed penalty which remain unpaid 14 days after an enforcement notice has been served.

Regulation 6 inserts new regulation 7A which provides for a witness statement to be made by a person against whom a county court order has been made under regulation 7. If the witness statement is made in accordance with paragraphs (1) to (3), the consequences described in

paragraph (4) take effect, including the county court order being treated as revoked. In such circumstances, paragraphs (5) to (7) apply so as to govern the issue of a fresh penalty notice or the referral of the case to an adjudicator by the litter authority. Regulation 8 makes consequential amendments to regulation 19 of the 2018 Regulations relating to the application with modifications of the Schedule to the Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013 (S.I. 2013/1783) (which relates to procedure in adjudication proceedings) to the 2018 Regulations.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

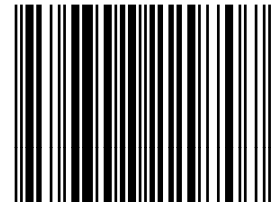
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