

2007 No. 3483

ROAD TRAFFIC, ENGLAND

**The Civil Enforcement of Parking Contraventions (England)
General Regulations 2007**

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These Regulations are made by the Secretary of State for Transport, in exercise of the powers conferred by sections 72, 73(3), 79, 88 and 89 of the Traffic Management Act 2004^(a), by paragraph 6 of Schedule 9 to that Act, and by the Lord Chancellor, in exercise of the powers conferred on him by sections 78, 81, 82 and 89 of that Act.

PART 1
PRELIMINARY

Citation, commencement and application

1.—(1) These Regulations may be cited as the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and shall come into force on 31st March 2008.

(2) These Regulations apply only to England.

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;

(a) 2004 c. 18; section 79 was amended by the Disability Discrimination Act 2005 (c. 13), Schedule 1, paragraph 48 and section 81 was amended by S.I. 2006/1016. By virtue of section 92, the Secretary of State is the “appropriate national authority” as regards England, for the purposes of regulations made under Part 6.

“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;

“charge certificate” has the meaning given by regulation 21(1);

“enforcement authority” in relation to a penalty charge or the immobilisation 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 21(4) and 23(9) has the meaning given by regulation 19;

“outstanding” in relation to a penalty charge shall 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(3);

“pedestrian crossing contravention” means a parking contravention consisting of an offence referred to in paragraph 3(2)(c), 3(2)(h)(i), 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 parking 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;

“the English enforcement authorities” means Transport for London and those enforcement authorities which are London authorities or other local authorities in England and “the non-London enforcement authorities” means the English enforcement authorities other than Transport for London and the London authorities; and

“the Representations and Appeals Regulations” means the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007(a).

(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 parking contravention;
- (b) the penalty charge is the subject of a charge certificate served under regulation 21 which has not been set aside in accordance with regulation 23.

(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(b); or

(a) S.I 2007/3482.
(b) 1994 c. 22.

- (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 19 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.

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) 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 shall, unless the contrary is proved, 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(a).

(4) A document may be transmitted to a vehicle hire firm (as defined in regulation 5(4)) by a 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) a parking contravention within paragraph 2 of Schedule 7 to the 2004 Act (contraventions relating to parking places in Greater London);
- (b) a parking contravention within paragraph 3 of that Schedule (other parking contraventions in Greater London) in a civil enforcement area in Greater London; or

(a) 1971 c. 80.

- (c) a parking contravention within paragraph 4 of that Schedule (parking contraventions outside Greater London) in a civil enforcement area outside Greater London.

Person by whom a penalty charge is to be paid

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

(2) In a case not falling within paragraph (3), the penalty charge shall be 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 parking 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 regulation 4(4)(d) of the Representations and Appeals Regulations and the enforcement authority accepted those representations,

the penalty charge shall be payable by the person by whom the vehicle was hired and that person shall be treated as if he 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(a); 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. A penalty charge shall 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 him.

Criminal proceedings for parking contraventions in civil enforcement areas

7.—(1) 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.

(2) A penalty charge shall not be payable in relation to a pedestrian crossing 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(b), has been given in respect of that conduct.

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

- (a) a penalty charge has been paid in respect of a pedestrian crossing contravention; and
- (b) the circumstances are as mentioned in paragraph (2)(a) or (b),

(a) 1988 c. 53.

(b) Section 52 was amended by the Access to Justice Act 1999 (c. 22), Schedule 13, paragraph 147, by the Courts Act 2003 (c. 39) Schedule 8, paragraph 314 and by the Statute Law (Repeals) Act 2004 (c. 14), Schedule 1, Part 14.

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

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 parking contravention; and
 - (b) complies with the requirements of the Schedule which apply to it as well as to the those of regulation 3 of the Representations and Appeals Regulations which so apply.
- (2) The Schedule has effect with regard to penalty charge notices.

Penalty charge notices — service by a civil enforcement officer

9. Where a civil enforcement officer has reason to believe that a penalty charge is payable with respect to a vehicle which is stationary in a civil enforcement area, he may serve a penalty charge notice—

- (a) by fixing it to the vehicle; or
- (b) giving it to the person appearing to him 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 vehicle which is stationary 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 shall not thereby be taken to have begun to prepare a penalty charge notice.

(3) A regulation 10 penalty charge notice shall 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 23(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 shall continue 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 23(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 notice fixed to a vehicle in accordance with regulation 9(a) shall 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) shall be 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

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 in accordance with regulation 9, a civil enforcement officer or a person acting under his direction may fix an immobilisation device to the vehicle concerned 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 shall 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 shall 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) shall be 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 shall be guilty of an offence and shall be 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 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(a); and
- (b) in circumstances falling within section 117(1)(b) of the Road Traffic Regulation Act 1984(b) (use where a disabled persons’ concession would be available),

the person in charge of the vehicle shall be 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(c); and
- (b) in circumstances falling within section 117(1A)(b) of the Road Traffic Regulation Act 1984(d) (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 shall be 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 the appropriate period has elapsed since the service of a penalty charge notice under regulation 9 in respect of the contravention.

(5) For the purposes of paragraph (4) the appropriate period is—

- (a) in the case of a vehicle as respects which there are 3 or more penalty charges outstanding, 15 minutes;
- (b) in any other case 30 minutes.

(a) 1970 c. 44; in relation to England, 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 Traffic Management Act 2004 section 94 (1)—(4) and by the Disability Discrimination Act 2005 (c. 13) Schedule 1, paragraph 41.

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

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

(d) Subsection (1A) was inserted by the Disability Discrimination Act 2005, Schedule 1, paragraph 44.

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 shall 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 in Greater London

15.—(1) The functions of the London local authorities and Transport for London relating to adjudicators under section 81 of the 2004 Act and under regulations 17 and 18 shall be discharged jointly, under arrangements made under section 101(5) of the Local Government Act 1972(a), by a single joint committee appointed by those authorities and Transport for London under section 102(1)(b) of that Act.

(2) The arrangements for the discharge of functions by a single joint committee under section 73 of the Road Traffic Act 1991(b) which were—

- (a) made between the London local authorities and Transport for London; and
- (b) subsisting immediately before the coming into force of these Regulations,

shall continue in force and have effect as if made under this regulation, until such time as they are varied or replaced.

Discharge of functions relating to adjudicators outside Greater London

16.—(1) The functions of the non-London enforcement authorities relating to adjudicators under section 81 of the 2004 Act and under regulations 17 and 18 shall be discharged jointly, under arrangements made under section 101(5) of the Local Government Act 1972, by a joint committee or joint committees appointed under section 102(1)(b) of that Act of which at least three of the non-London enforcement authorities are constituent authorities.

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

(3) Any arrangements for the discharge of functions by a joint committee under section 73 of the Road Traffic Act 1991(c), as that section was applied to local authorities outside Greater London, which were—

- (a) made between local authorities outside Greater London; and
- (b) subsisting immediately before the coming into force of these Regulations,

shall continue in force and shall have effect as if made under this regulation, until such time as those arrangements are varied or replaced.

(a) 1972 c.70.

(b) Section 73 was amended by the Greater London Authority Act 1999 (c. 29), section 283.

(c) Section 73 of the Road Traffic Act 1991 has been applied with modifications to permitted and special parking areas outside London by individual orders designating such areas under Schedule 3 to that Act.

Appointment of adjudicators

17.—(1) The relevant enforcement authorities shall 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 shall 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,

shall not have effect without the consent of the Lord Chancellor and of 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(a)) to exercise his functions under paragraph (3).

(5) Adjudicators who—

- (a) were appointed under section 73 of the Road Traffic Act 1991, whether by the London local authorities and Transport for London or by local authorities outside Greater London; and
- (b) held office immediately before the coming into force of this regulation,

shall 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 shall 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 shall make and publish an annual report to the Secretary of State on the discharge by the adjudicators of their functions.

Expenses of the relevant authorities

18.—(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 shall refer the issue to an arbitrator nominated by the Chartered Institute of Arbitrators for him to determine.

(2) Where the Secretary of State is satisfied that there has been a failure on the part of any of the relevant enforcement authorities to agree those proportions, he may give to the relevant joint committee such directions as are in his 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 or 16 of which the enforcement authorities in default are constituent authorities.

PART 5

ENFORCEMENT OF PENALTY CHARGES

The notice to owner

19.—(1) Subject to regulation 20, where—

- (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,

(a) 2005 c. 4.

the enforcement authority concerned may serve a notice (“a notice to owner”) on the person who appears to them 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

20.—(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 23(5)(c) of these Regulations, is the date on which the district judge serves notice in accordance with regulation 23(5)(d);
- (b) in 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

21.—(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 subparagraph (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 notice of 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 certificate

22. Where a charge certificate has been served on any person and the increased penalty charge provided for in the certificate is not paid before the end of 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

23.—(1) This regulation applies where—

- (a) a county court makes an order under regulation 22;
- (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 made 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 he made representations to the enforcement authority under regulation 4 of the Representations and Appeals Regulations but did not receive from that authority a notice of rejection in accordance with regulation 6 of those Regulations;
- (c) that he appealed to an adjudicator under regulation 7 of those Regulations against the rejection by the enforcement authority of representations made by him under regulation 4 of those Regulations but—
 - (i) he had no response to the appeal;
 - (ii) the appeal had not been determined by the time that the charge certificate had been served; or
 - (iii) the appeal was determined in his favour; or
- (d) that he has paid the penalty charge to which the charge certificate relates.

(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 his case to insist on his serving his witness statement within the period of 21 days allowed for by paragraph (1).

(4) Where this paragraph applies, the district judge may allow such longer period for service of the witness statement as he considers appropriate.

(5) Where a witness statement is served under paragraph (1)(c)—

- (a) the order of the court shall be deemed to have been revoked;
- (b) the charge certificate shall be 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 shall be deemed to have been cancelled; and
- (d) the district judge shall 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 20, service of a witness statement under paragraph (2)(a) shall 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 shall refer the case to the adjudicator who may give such directions as he considers appropriate and the parties shall comply with those directions.

(8) A witness statement under this regulation may be served on the county court by email in accordance with Section I of Practice Direction 5B in Part 5 of the Civil Procedure Rules 1998(a).

(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

Setting the levels of charges applicable in Greater London

24.—(1) The functions conferred on the London local authorities by Part 2 of Schedule 9 to the 2004 Act (charges applicable in Greater London) in relation to parking contraventions shall be exercised by those authorities jointly by means of the single joint committee set up in pursuance of regulation 15 (“the Joint Committee”).

(2) No person who represents Transport for London on that joint committee shall take any part in any proceedings of the Joint Committee so far as they relate to the discharge by the Joint Committee of functions conferred on the London local authorities by Part 2 of Schedule 9 to the 2004 Act.

(3) Any arrangements in force immediately before the coming into force of these Regulations for the discharge of functions under sections 74 and 74A of the Road Traffic Act 1991 by means of the joint committee set up under section 73 of that Act shall continue in force and have effect as if made under this regulation, until such time as they are varied or replaced.

Modification of section 55 of the Road Traffic Regulation Act 1984

25.—(1) Section 55 of the Road Traffic Regulation Act 1984(b) shall apply to enforcement authorities subject to the following modifications.

(a) S.I. 1998/3132, to which there are amendments not relevant to these Regulations.

(b) In relation to England, section 55 was amended by the Local Government Act 1985 (c. 51), Schedule 5, paragraph 4(22), Schedule 17, by the Local Government (Finance) Act 1988 (c.41), Schedule 12, paragraph 42, By New Roads and Street Works Act 1991 (c.22), Schedule 8, paragraph 46, by the Road Traffic Act 1991, Schedule 7, paragraph 5, Schedule 8, by the Greater London Authority Act 1999 (c. 29), section 282, Schedule 34 and by the Traffic Management Act 2004, section 95.

(2) For subsection (1) there shall be substituted—

- “(1) An enforcement authority which is a London authority shall keep an account of—
- (a) their income and expenditure under this Part of this Act in respect of designated parking places;
 - (b) their income and expenditure as an enforcement authority in relation to parking contraventions within paragraph 2 of Schedule 7 to the 2004 Act (parking places); and
 - (c) their income and expenditure as an enforcement authority in relation to parking contraventions within paragraph 3 of that Schedule (other parking matters).

(1A) An enforcement authority which is not a London authority shall keep an account of—

- (a) their income and expenditure under this Part of this Act in respect of designated parking places in their area which are not in a civil enforcement area for parking contraventions;
- (b) their income and expenditure under this Part of this Act in respect of designated parking places in their area which are in a civil enforcement area for parking contraventions; and
- (c) their income and expenditure as an enforcement authority in relation to parking contraventions within paragraph 4 of Schedule 7 to the 2004 Act (contraventions outside London).”

(3) After subsection (3A) there shall be inserted—

“(3ZA) An enforcement authority which is a London authority shall, after each financial year, send a copy of the account kept by them under subsection (1) to the Mayor of London.

(3ZB) A copy of an account required to be sent under subsection (3ZA) shall be sent as soon as is reasonably practicable after the conclusion of the audit of the authority’s accounts for the financial year in question.”

(4) In subsection (10) before the definition of “London authority” there shall be inserted—

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

“enforcement authority” means an authority which is an enforcement authority for the purposes of paragraph 1(2), 2(5) or 8(5) of Schedule 8 to the 2004 Act (parking contraventions);”.

(5) After subsection (10) there shall be inserted the following subsections—

“(11) A reference in this section to the income and expenditure of an authority as an enforcement authority is to their income and expenditure in connection with their functions under Part 6 of the 2004 Act (civil enforcement).

(12) A reference in this section to a civil enforcement area for parking contraventions is to be construed in accordance with Schedule 8 to the 2004 Act.”

Surpluses to be carried forward

26. Where, immediately before the coming into force of these Regulations there is a surplus in an account which is—

- (a) 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(a); and
- (b) kept by a local authority which is not a London authority,

the surplus shall be carried forward and treated as a surplus arising under section 55 as it is modified by regulation 25.

(a) In relation to England, Schedule 3 was amended by S.I. 1996/500, 2003/859.

Signed by authority of the Lord Chancellor

10th December 2007

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

Signed by authority of the Secretary of State

10th December 2007

Rosie Winterton
Minister of State
Department for Transport

SCHEDULE

Regulation 8

PENALTY CHARGES NOTICES

Contents of a penalty charge notice served under regulation 9

1. A penalty charge notice served under regulation 9 must, in addition to the matters required to be included in it by regulation 3(2) of the Representations and Appeals Regulations, state—

- (a) the date on which the notice is served;
- (b) the name of the enforcement authority;
- (c) the registration mark of the vehicle involved in the alleged contravention;
- (d) the date and the time at which the alleged contravention occurred;
- (e) the grounds on which the civil enforcement officer serving the notice believes that a penalty charge is payable;
- (f) the amount of the penalty charge;
- (g) that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the penalty charge notice was served;
- (h) that if the penalty charge is paid not later than the last day of the period of 14 days beginning with the date on which the notice is served, the penalty charge will be reduced by the amount of any applicable discount;
- (i) the manner in which the penalty charge must be paid; and
- (j) that if the penalty charge is not paid before the end of the period of 28 days referred to in subparagraph (g), a notice to owner may be served by the enforcement authority on the owner of the vehicle.

Contents of a regulation 10 penalty charge notice

2. A regulation 10 penalty charge notice, in addition to the matters required to be included in it by regulation 3(4) of the Representations and Appeals Regulations, must state—

- (a) the date of the notice, which must be the date on which it is posted;
- (b) the matters specified in paragraphs 1(b), (c), (d), (f) and (i);
- (c) the grounds on which the enforcement authority believes that a penalty charge is payable;
- (d) that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the penalty charge notice is served;
- (e) that if the penalty charge is paid not later than the applicable date, the penalty charge will be reduced by the amount of any applicable discount;
- (f) that if after the last day of the period referred to in subparagraph (d)—

- (i) no representations have been made in accordance with regulation 4 of the Representations and Appeals Regulations; and
- (ii) the penalty charge has not been paid,
the enforcement authority may increase the penalty charge by the amount of any applicable surcharge and take steps to enforce payment of the charge as so increased;
- (g) the amount of the increased penalty charge; and
- (h) that the penalty charge notice is being served by post for whichever of the following reasons applies—
 - (i) that the penalty charge notice is being served by post on the basis of a record produced by an approved device;
 - (ii) that it is being so served, because a civil enforcement officer attempted to serve a penalty charge notice by affixing it to the vehicle or giving it to the person in charge of the vehicle but was prevented from doing so by some person; or
 - (iii) that it is being so served because a civil enforcement officer had begun to prepare a penalty charge notice for service in accordance with regulation 9, but the vehicle 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.

3. In paragraph 2 for the purposes of subparagraph (e) the “applicable date” is—

- (a) in the case of a penalty charge notice served by virtue of regulation 10(1)(a) (on the basis of a record produced by an approved device), the last day of the period of 21 days beginning with the date on which the notice was served;
- (b) in any other case, the last day of the period of 14 days beginning with that date.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, together with the Civil Enforcement of Parking (Representations and Appeals) (England) Regulations 2007 (S.I. 2007/3482), provide for the civil enforcement of parking contraventions in England (including Greater London) in accordance with Part 6 of the Traffic Management Act 2004. Part 6 and the two sets of Regulations accordingly supersede the provisions of Part II and Schedule 3 of the Road Traffic Act 1991.

Part 1 of these Regulations makes provision for preliminary matters including the citation, commencement and application of the Regulations (*regulation 1*), their interpretation (*regulation 2*), including in particular when a penalty charge is to be treated as “outstanding” for the purposes of these Regulations (see *regulation 13(5)(a)*), and the service of documents by post (*regulation 3*). Nothing in *regulation 3* applies to the service of any notice or order made by a county court.

Part 2 relates to penalty charges. *Regulation 4* enables penalty charges to be imposed for parking contraventions. A penalty charge is payable by the owner of the vehicle concerned (*regulation 5(1) and (2)*), except that *regulation 5(3) and (4)* makes special provision with respect to hired vehicles. In accordance with *regulation 6*, a penalty charge is not to be imposed except on the basis of a record produced by an “approved device” (see section 92(1) of the Traffic Management Act 2004 and the Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007 (S.I. 2007/3486) or information given by a civil enforcement officer as to conduct observed by him. *Regulation 7* prohibits criminal proceedings and fixed penalty notices under the Road Traffic Offenders Act 1988 in respect of parking contraventions in civil enforcement areas; but an exception is made for pedestrian crossing contraventions. Where such a contravention is the subject of criminal proceedings or of a fixed penalty notice, the issue of a penalty charge notice under the Regulations is prohibited and any penalty charge which has been paid must be refunded.

Regulation 8 defines a penalty charge notice and introduces the Schedule which makes detailed provision as to such notices including their content. *Regulation 9* enables a civil enforcement officer, where he has reason to believe that a penalty charge is payable for a stationary vehicle in a civil enforcement area, to fix a penalty charge notice to the vehicle or hand one to the person appearing to him to be in charge of it. *Regulation 10* makes provision for the service of a penalty charge notice by post, on the basis of the evidence of an approved device or where a civil enforcement officer has been prevented by some person from serving one in accordance with *regulation 9* or had begun to prepare a penalty charge notice in accordance with *regulation 9*, but the vehicle was driven away before it had been served under *regulation 9*, and for the time limits applicable to notices served by post. *Regulation 11* makes it an offence to interfere with a penalty charge notice served by its being fixed to a vehicle, except by or under the authority of the owner or person in charge of the vehicle or the enforcement authority.

Provision is made by *Part 3* as to the immobilisation of vehicles. *Regulation 12* defines the circumstances in which an immobilisation device may be fixed to a vehicle, requires a notice to be fixed to the vehicle at the time of immobilisation and creates the offences of interfering with the notice or the immobilisation device. *Regulation 13* specifies exceptions to the general power to immobilise and *regulation 14* specifies the pre-requisites for the release of a vehicle from an immobilisation device.

Part 4 provides for the appointment of adjudicators by enforcement authorities and for the functions of those authorities relating to adjudicators to be discharged through joint committees. By *regulation 15* the London authorities are required to discharge these functions through a single joint committee and provision is made for the arrangements for the joint discharge of functions under the Road Traffic Act 1991 by those authorities to be continued in force under the new legislation until superseded. *Regulation 16* requires the non-London English authorities to act through one or more joint committees (with a minimum membership of 3 authorities each) and also provides for arrangements under the 1991 Act to be continued as between English enforcement authorities until superseded. Enforcement authorities are required by *regulation 17* to appoint a sufficient number of adjudicators and provision is made for parking adjudicators holding

office under the 1991 Act immediately before the coming into force of these Regulations to continue in office.

Part 5 is concerned with the enforcement of penalty charges. *Regulations 19 and 20* provide for the service of a notice to owner by an enforcement authority in respect of an unpaid penalty charge and specify the contents of a notice to owner and the time limit for service. Provision is made by *regulations 21, 22 and 23* for the service of charge certificates in respect of unpaid penalty charges (where a notice to owner or penalty charge notice under regulation 10 has been served and the avenues of appeal have not been pursued or have been pursued unsuccessfully), for charge certificates to be enforced through a county court and for county court orders to be set aside where the respondent serves a witness statement stating one of the matters mentioned in *regulation 23(2)*.

In *Part 6*, *regulation 24* requires the function of setting the levels of charges under Schedule 9 to the Traffic Management Act 2004 to be discharged by the London local authorities through a joint committee. *Regulation 25* applies section 55 of the Road Traffic Regulation Act 1984, with modifications, to the income and expenditure of enforcement authorities under Part 6 of the Traffic Management Act 2004 and *regulation 26* provides for the carrying forward of the surpluses of non-London authorities in accounts kept under section 55 as that section applied to those authorities under orders made under Schedule 3 to the Road Traffic Act 1991.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Traffic Management Division, Department for Transport, 2/06 Great Minster House, 76 Marsham Street, London SW1P 4DR (telephone 020 7944 8692) and can be found on the website of the Department for Transport at www.dft.gov.uk/.

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