

Draft Regulations laid before Parliament under section 89(5) of the Traffic Management Act 2004 for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2007 No. 0000

ROAD TRAFFIC, ENGLAND

**The Civil Enforcement of Parking Contraventions (England)
Representations and Appeals Regulations 2007**

<i>Made</i>	-	-	-	-	2007
<i>Coming into force</i>	-	-			2007

ARRANGEMENT OF REGULATIONS

**PART 1
PRELIMINARY**

1. Citation, commencement and application
2. Interpretation

**PART 2
REPRESENTATIONS AND APPEALS IN RELATION TO NOTICES TO OWNER**

3. Scope of Part 2
4. Representations against notice to owner
5. Duty of enforcement authority to which representations are made
6. Rejection of representations against notice to owner
7. Appeals to an adjudicator in relation to decisions under regulation 5

**PART 3
REPRESENTATIONS AND APPEALS IN RELATION TO THE IMMOBILISATION OF
VEHICLES**

8. Right to make representations
9. Duty of enforcement authority to which representations are made
10. Appeals to an adjudicator in relation to decisions under regulation 9

**PART 4
OFFENCES AND PROCEDURE**

11. False representations
12. Procedure to be followed by adjudicators and service of notices

SCHEDULE — PROCEDURE IN ADJUDICATION PROCEEDINGS

PART 1 — INTERPRETATION

PART 2 — PROCEDURE RELATING TO APPEALS

PART 3 — SERVICE OF DOCUMENTS AND NOTICES

PART 4 — THE REGISTER

The Lord Chancellor, in exercise of the powers conferred upon him by sections 80 and 89 of the Traffic Management Act 2004^(a) hereby makes the following Regulations, a draft of which has been laid before, and approved by resolution of, each House of Parliament:

PART 1

PRELIMINARY

Citation, commencement and application

1.—(1) These Regulations may be cited as the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 and shall come into force at the end of the period of 35 days beginning with the date on which they are made.

(2) These Regulations apply only to England.

Interpretation

2. In these Regulations—

“notice of rejection” means a notice served by an enforcement authority rejecting representations made to it under regulation 4 or 9;

“notice to owner” has the meaning given in regulation 3(c);

“Part 6 regulations” means regulations for the time being in force and made by the Secretary of State and the Lord Chancellor under sections 72, 78, 79, 81 and 82 of the Traffic Management Act 2004;

“penalty charge notice” means a notice given in accordance with Part 6 regulations by or on behalf of an enforcement authority to the effect that a penalty charge is payable in relation to an alleged parking contravention involving a specified vehicle;

“procedural impropriety” has the meaning given by regulation 4(5); and

“recipient” has the meaning given in regulation 3(c).

PART 2

REPRESENTATIONS AND APPEALS IN RELATION TO NOTICES TO OWNER

Scope of Part 2

3. This Part of these Regulations has effect where, in accordance with Part 6 regulations,—

- (a) a penalty charge notice has been given;
- (b) the penalty charge has not been paid; and

(a) 2004 c. 18.

- (c) the enforcement authority has served on a person (in these Regulations referred to as “the recipient”) a notice (“a notice to owner”) requiring him to pay the penalty charge within a specified period.

Representations against notice to owner

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

(2) Any representations under this regulation must—

- (a) be made in such form as may be specified by the enforcement authority;
- (b) be to the effect—
 - (i) that one or more of the grounds specified in paragraph (4) applies; or
 - (ii) that, whether or not any of those grounds apply, there are compelling reasons why, in the particular circumstances of the case, the enforcement authority should cancel the penalty charge and refund any sum paid to it on account of the penalty charge.

(3) In determining the form for making representations the enforcement authority must act through the joint committee through which, in accordance with Part 6 regulations, it exercises its functions relating to adjudicators.

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

- (a) that the alleged contravention did not occur;
- (b) that the recipient—
 - (i) never was the owner of the vehicle in question;
 - (ii) had ceased to be its owner before the date on which the alleged contravention occurred; or
 - (iii) became its owner after that date;
- (c) that the vehicle had been permitted to remain at rest in the place in question by a person who was in control of the vehicle without the consent of the owner;
- (d) that the recipient is a vehicle-hire firm and—
 - (i) the vehicle in question was at the material time hired from that firm under a hiring agreement; and
 - (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice fixed to the vehicle during the currency of the hiring agreement;
- (e) that the penalty charge exceeded the amount applicable in the circumstances of the case;
- (f) that there has been a procedural impropriety on the part the enforcement authority;
- (g) that the relevant order, except where it is an order to which Part VI of Schedule 9 to the Road Traffic Regulation Act 1984(a) applies, is invalid;
- (h) in a case where a penalty charge notice was served by post on the basis that a civil enforcement officer was prevented by some person from fixing it to the vehicle concerned or handing it to the owner or person in charge of the vehicle, that no civil enforcement officer was so prevented;
- (i) that the conduct constituting the parking contravention in respect of which the penalty charge notice has been given is the subject of criminal proceedings;
- (j) that a fixed penalty notice, as defined by section 52 of the Road Traffic Offenders Act 1988(a), has been given in respect of that conduct.

(a) 1984 c. 27. *See* Schedule 9, paragraph 34(1) as to the orders to which Part VI of that Schedule applies; paragraph 34 of Schedule 9 was amended by the Local Government Act 1985 (c. 51), Schedule 17 and by the Road Traffic Regulation (Special Events) Act 1994 (c. 11), Schedule, paragraph 5.

(5) In paragraph (5)(f) “procedural impropriety” means a failure by the enforcement authority to observe any requirement imposed on it by the 2004 Act, by Part 6 Regulations or by these Regulations in relation to the imposition or recovery of a penalty charge or other sum and includes in particular—

- (a) the taking of any step, whether or not involving the service of any document, otherwise than—
 - (i) in accordance with the conditions subject to which; or
 - (ii) at the time or during the period when, it is authorised or required by Part 6 Regulations or these Regulations to be taken; and
- (b) the service of a charge certificate under Part 6 regulations before the enforcement authority is authorised to serve it by such regulations.

(6) Where the ground mentioned in paragraph (4)(b)(ii) is relied on in any representations made under this regulation, those representations must include a statement of the name and address of the person to whom the vehicle was disposed of by the person making the representations (if that information is in his possession).

(7) Where the ground mentioned in paragraph (4)(b)(iii) is relied on in any representations made under this regulation, those representations must include a statement of the name and address of the person from whom the vehicle was acquired by the person making the representations (if that information is in his possession).

(8) In this regulation “hiring agreement” and “vehicle-hire firm” have the same meanings as in section 66 of the Road Traffic Offenders Act 1988.

Duty of enforcement authority to which representations are made

5.—(1) The enforcement authority may disregard any representations which are received by it after the end of the period of 28 days beginning with the date on which the notice to owner was served.

(2) Subject to paragraph (1), it shall be the duty of an enforcement authority to which representations are made under regulation 4(2)—

- (a) to consider them and any supporting evidence which the person making them provides; and
- (b) to serve on that person notice of its decision as to whether or it accepts that—
 - (i) a ground specified in regulation 4(4) applies; or
 - (ii) there are compelling reasons why, in the particular circumstances of the case, the notice to owner should be cancelled and any sum paid in respect of it should be refunded.

(3) Where the enforcement authority accepts that a ground specified in regulation 4(4) applies or that there are such compelling reasons it shall—

- (a) cancel the notice to owner; and
- (b) state in the notice served under paragraph (2)(b) that the notice to owner has been cancelled and at the same time refund any sum paid in relation to the notice.

(4) The cancellation of a notice to owner under this regulation shall not be taken to prevent the enforcement authority from serving, in accordance with Part 6 regulations, a fresh notice to owner on another person.

(5) Where the ground that is accepted is that mentioned in regulation 4(4)(d), the person hiring the vehicle shall be deemed to be its owner for the purposes of these Regulations and Part 6 regulations.

(a) 1988 c. 53; 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.

Rejection of representations against notice to owner

6.—(1) Where representations are made under regulation 4 but the enforcement authority do not cancel the penalty charge and notice to owner under regulation 5, the notice served under regulation 5(2)(b) shall be a notice of rejection and shall—

- (a) state that a charge certificate may be served under Part 6 regulations unless before the end of the period of 28 days beginning with the date of service of the notice of rejection—
 - (i) the penalty charge is paid; or
 - (ii) the person on whom the notice is served appeals to an adjudicator against the penalty charge;
- (b) indicate the nature of an adjudicator's power to award costs against any person appealing to him; and
- (c) describe in general terms the form and manner in which an appeal to an adjudicator must be made.

(2) A notice of rejection served in accordance with paragraph (1) may contain such other information as the enforcement authority considers appropriate.

Appeals to an adjudicator in relation to decisions under regulation 5

7.—(1) Where an authority serves a notice of rejection under regulation 5(2)(b) that it does not accept that any of the grounds on which representations were made under that regulation has been established and that it is not prepared to cancel the notice to owner, the person making those representations may appeal to an adjudicator against the authority's decision—

- (a) before the end of the period of 28 days beginning with the date of service of that notice; or
- (b) within longer period as an adjudicator may allow.

(2) If, on an appeal under this regulation, the adjudicator concludes that a ground specified in regulation 4(4) has been established, he shall allow the appeal and may give directions to the enforcement authority with respect to—

- (a) the cancellation of the notice to owner; and
- (b) the refund of such sum (if any) as may have been paid to it in respect of the penalty charge.

(3) It shall be the duty of an enforcement authority to which such a direction is given to comply with it forthwith.

(4) If the adjudicator makes no direction under paragraph (2) but is satisfied that there are compelling reasons why, in the particular circumstances of the case, the notice to owner should be cancelled he may recommend the enforcement authority to cancel the notice to owner.

(5) It shall be the duty of an enforcement authority to which a recommendation is made under paragraph (4) to consider afresh the cancellation of the notice to owner taking full account of any observations by the adjudicator and, within the period of thirty-five days beginning with the date on which the direction was given (“the 35-day period”), to notify the appellant and the adjudicator as to whether or not it accepts the adjudicator’s recommendation.

(6) If the enforcement authority notifies the appellant and the adjudicator it does not accept the adjudicator’s recommendation it shall at the same time inform them of the reasons for its decision.

(7) If the enforcement authority accepts the adjudicator’s recommendation it shall forthwith cancel the notice to owner and refund to the appellant any sum paid in relation to the notice to owner.

(8) If the enforcement authority fails to comply with the requirements of paragraph (5), (6) or (7) within the 35-day period, the authority shall be taken to have accepted the adjudicator’s recommendation and shall cancel the notice to owner and make any necessary refund immediately after the end of that period.

PART 3

REPRESENTATIONS AND APPEALS IN RELATION TO THE IMMOBILISATION OF VEHICLES

Right to make representations

- 8.—(1) This regulation applies to a the owner or person in charge of a vehicle where—
- (a) in accordance with Part 6 regulations an immobilisation device has been fixed to a vehicle found in a civil enforcement area; and
 - (b) he secures the release of the vehicle from the device on payment of an amount in accordance with such regulations.
- (2) A person to whom paragraph (1) applies shall immediately upon the release of the vehicle be informed—
- (a) of his right to make representations to the enforcement authority in accordance with this regulation; and
 - (b) of his right to appeal to an adjudicator if his representations are not accepted.
- (3) The enforcement authority shall give that information, or cause it to be given, in writing.
- (4) A person to whom paragraph (1) applies may make representations to the effect—
- (a) that one or more of the grounds specified in paragraph (5) apply; or
 - (b) that, whether or not any of those grounds apply, there are compelling reasons why, in the particular circumstances of the case, the enforcement authority should refund some or all of the amount paid to secure the release of the vehicle,
- and any such representations shall be in such form as may be specified by the enforcement authority.
- (5) The grounds are—
- (a) that there were no reasonable grounds for the civil enforcement officer who immobilised, or authorised the immobilisation of, the vehicle to believe that the vehicle had been permitted to remain at rest in the civil enforcement area in circumstances in which a penalty charge was payable under Part 6 regulations;
 - (b) that the vehicle had been permitted to remain at rest in the place where it was by a person who was in control of the vehicle without the consent of the owner;
 - (c) that the place where the vehicle was at rest was not in a civil enforcement area;
 - (d) that, in accordance with an exemption included in Part 6 regulations by virtue of section 79(5) or (6) of the Traffic Management Act 2004, there was in the circumstances of the case no power under such regulations to immobilise the vehicle;
 - (e) that the immobilisation device was fixed in contravention of Part 6 regulations as to the time which must elapse before it could be fixed;
 - (f) that the penalty charge or other charge paid to secure the release of the vehicle exceeded the amount applicable in the circumstances of the case; or
 - (g) that there has been a procedural impropriety on the part of the enforcement authority.
- (6) In determining the form for making representations under paragraph (4) the enforcement authority must act through the joint committee through which, in accordance with Part 6 regulations, it exercises its function of appointing adjudicators.

Duty of enforcement authority to which representations are made

- 9.—(1) The enforcement authority may disregard any representations which are received by it after the end of the period of 28 days beginning with the date on which the person making them is informed under regulation 8(2) of his right to make representations.

(2) Subject to paragraph (1), it shall be the duty of the enforcement authority, if representations are made to it in accordance with regulation 8(4), before the end of the period of 56 days beginning with the date on which it receives the representations—

- (a) to consider them and any supporting evidence which the person making them provides; and
- (b) to serve on that person notice of its decision as to whether it accepts that—
 - (i) a ground specified in regulation 8(5) applies; or
 - (ii) there are compelling reasons why, in the particular circumstances of the case, some or all of the sums paid to secure the release of the vehicle should be refunded.

(3) Where an authority serve notice under paragraph (2)(b)(i) that they accept that such a ground has been established they shall (when serving that notice) refund any sums that the person to whom the vehicle was released was required to pay under Part 6 regulations, except to the extent (if any) to which those sums were properly paid.

(4) Where an authority serve notice under paragraph (2)(b)(ii) that they accept that there are such compelling reasons, they shall refund the sums referred to in paragraph (3) or such of them as they consider appropriate.

(5) Where an authority serves notice under paragraph (2)(b) that it does not accept that any of the grounds has been established and that it is not prepared to refund all of the sums paid to secure the release of the vehicle, that notice shall—

- (a) inform the person on whom it is served of his right to appeal to an adjudicator under regulation 10;
- (b) indicate the nature of an adjudicator's power to award costs against any person appealing to him under that regulation; and
- (c) describe in general terms the form and manner in which such an appeal is required to be made.

(6) Where an authority fails to comply with paragraph (2) before the end of the period of 56 days mentioned there—

- (a) it shall be deemed to have accepted the representations and to have served notice to that effect under paragraph (2)(b); and
- (b) shall immediately after the end of that period refund all such sums as are mentioned in paragraph (3).

Appeals to an adjudicator in relation to decisions under regulation 9

10.—(1) Where an authority serves notice under regulation 9(2)(b) that it does not accept that any of the grounds has been established and that it is not prepared to refund all of the sums paid to secure the release of the vehicle, the person making those representations may, before—

- (a) the end of the period of 28 days beginning with the date of service of that notice; or
- (b) such longer period as an adjudicator may allow,

appeal to a adjudicator against the authority's decision.

(2) On an appeal under this regulation, the adjudicator shall consider the representations in question and any additional representations which are made by the appellant.

(3) If the adjudicator concludes—

- (a) that any of the grounds referred to in regulation 8(5); and
- (b) that the enforcement authority would have been under the duty imposed by regulation 9(3) to refund any sum if it had served notice that it accepted that the ground in question had been established,

he shall direct that authority to make the necessary refund.

(4) It shall be the duty of an enforcement authority to which a direction is given under paragraph (3) to comply with it forthwith.

(5) If the adjudicator makes no direction under paragraph (3) but is satisfied there are compelling reasons why, in the particular circumstances of the case, some or all of the sums paid to secure the release of the vehicle should be refunded, he may recommend the enforcement authority to make such a refund.

(6) It shall be the duty of an enforcement authority to which a recommendation is made under paragraph (5) to consider afresh the making of a refund of those sums taking full account of any observations by the adjudicator and, within the period ("the 35-day period") of thirty-five days beginning with the date on which the direction was given, to notify the appellant and the adjudicator as to whether or not it accepts the adjudicator's recommendation.

(7) If the enforcement authority notifies the appellant and the adjudicator it does not accept the adjudicator's recommendation it shall at the same time inform them of the reasons for its decision.

(8) If the enforcement authority accepts the adjudicator's recommendation it shall make the recommended refund within the 35-day period.

(9) If the enforcement authority fails to comply with the requirements of paragraph (6), (7) or (8) within the 35-day period, the authority shall be taken to have accepted the adjudicator's recommendation and shall make the recommended refund immediately after the end of that period.

PART 4

OFFENCES AND PROCEDURE

False representations

11.—(1) A person who makes any representation under these Regulations which is false in a material particular, and does so recklessly or knowing it to be false, is guilty of an offence.

(2) A person convicted of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Procedure to be followed by adjudicators and service of notices

12.—(1) The Schedule to these Regulations shall have effect as to procedure and the service of documents in adjudication proceedings.

(2) Subject to the provisions of that Schedule, an adjudicator may regulate his own procedure.

Signed by authority of the Lord Chancellor

2007

Name
[Parliamentary Under Secretary] [Minister of State],
Department for Constitutional Affairs

PROCEDURE IN ADJUDICATION PROCEEDINGS

PART 1

INTERPRETATION

Interpretation of Schedule**1.—(1) In this Schedule—**

“appeal” means an appeal under regulation 7(1) or 10(1);

“document exchange” means a document exchange providing a system of delivery of documents by reference to numbered boxes at document exchanges (DX);

“fax” means the making of a facsimile copy of a document by the transmission of electronic signals;

“hearing” means an oral hearing;

“proper officer” means a member of the administrative staff provided under section 81(4)(a) of the Traffic Management Act 2004 appointed to perform the functions of the proper officer under this Schedule;

“register” means the register required to be kept under paragraph 19; and

“registered keeper” means the person in whose name a vehicle is registered under the Vehicle Excise and Registration Act 1994(a).

(2) In this Schedule in relation to an appeal or any process connected with an appeal—

“appellant” means the person bringing the appeal;

“disputed decision” means the decision appealed against;

“the enforcement authority” means the enforcement authority which made the disputed decision; and

“the original representations” means the representations to the enforcement authority under regulation 4(1) or 8(4).

PART 2

PROCEDURE RELATING TO APPEALS

Initiating an appeal**2.—(1) An appeal shall be made by delivering a notice of appeal to the proper officer.****(2) A notice of appeal—**

(a) must be in writing signed by the appellant or his duly authorised agent;

(b) must state the name and address of the appellant;

(c) may specify some other address as being the address at which the appellant wishes documents to be sent to him in connection with the appeal;

(d) must state the date and any reference number of the disputed decision and the name of the enforcement authority; and

(a) 1994 c. 22.

- (e) may include any representations which the appellant desires to make in addition to the original representations.

(3) If the notice of appeal is delivered to the proper officer later than the time limit specified in regulation 7(1) or 10(1) (as the case may be), the appellant must include in the notice a statement of the reasons on which he relies for justifying the delay, and the adjudicator shall treat any such statement of reasons for delay as a request for extending that time limit.

Action upon receipt of notice of appeal and copy of such notice

3.—(1) Upon receiving a notice of appeal the proper officer shall send an acknowledgement of its receipt to the appellant.

(2) If he is satisfied that the notice is in accordance with paragraph 2, the proper officer shall—

- (a) enter particulars of the appeal in the register; and
- (b) send to the enforcement authority a copy of the notice of appeal and any directions extending the time limit for appealing.

(3) Upon receipt of a copy of the notice of appeal sent under this paragraph, the enforcement authority shall within 7 days deliver to the proper officer copies of—

- (a) the original representations;
- (b) the relevant penalty charge notice (if any); and
- (c) the relevant notice of rejection.

(4) If a notice of appeal is received by the proper officer and he considers that it may not be in accordance with paragraph 2, he shall refer the issue of its validity to an adjudicator.

(5) If—

- (a) a notice of appeal is delivered outside the appeal period with a request to extend the appeal period and the adjudicator declines to direct that the period be extended, or
- (b) the adjudicator determines that a notice of appeal is not in accordance with paragraph 2,

the proper officer shall inform the appellant that the adjudicator has declined the request for an extension or, as the case may be, of the reasons why the adjudicator considers that the notice does not accord with paragraph 2 and shall record the action taken in the register.

Further representations

4.—(1) Any party may deliver representations on any of the grounds of appeal set out in regulation 4(5) or 8(5), whichever is appropriate in the circumstances, to the proper officer at any time before the appeal is determined.

(2) The adjudicator may invite a party to deliver to the proper officer representations dealing with such matters relating to the appeal as may be specified and any such representations shall be so delivered within the time and in the manner specified.

(3) Where a party fails to respond to an invitation under subparagraph (2), the adjudicator may (without prejudice to any other power he may have) draw such inferences as appear to him proper.

(4) Any representations delivered under this paragraph shall be signed by, or by the authorised representative of, the party in question.

(5) Where the appellant delivers representations to the proper officer under this paragraph, the proper officer shall send a copy of the representations to the enforcement authority.

(6) Where the enforcement authority deliver representations to the proper officer under this paragraph, it shall at the same time send a copy of the representations to the appellant.

(7) This paragraph is without prejudice to the powers of an adjudicator under paragraph 8.

Adjudicator's power to require attendance of witnesses and production of documents

5.—(1) The adjudicator may, by notice in writing sent to any person (including a party to the proceedings), require that person—

- (a) to attend, at a time and place specified by the adjudicator, to give evidence at the hearing of an appeal; and
- (b) to produce any documents in his custody or under his control, relating to any matter in the proceedings,

and any such notice shall contain a statement of the effect of paragraphs (2) to (6) below.

(2) A person in respect of whom a requirement has been made under subparagraph (1) may apply to the adjudicator to vary or set aside the requirement.

(3) A person shall not be bound to comply with a requirement under subparagraph (1) unless he has been given at least 7 days' notice of the hearing or, if less than 7 days, he has informed the adjudicator that he accepts such notice as he has been given.

(4) No person, other than the appellant, shall be bound to comply with a requirement under subparagraph (1) unless the necessary expenses of his attendance are paid or tendered to him.

(5) No person shall be required to give any evidence or produce any documents under subparagraph (1) which he could not be required to give or produce in the trial of an action in a court of law.

(6) Any person who fails to comply with a requirement made under subparagraph (1) is guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Disposal of an appeal without a hearing

6.—(1) Subject to the following provisions of this paragraph, the adjudicator may dispose of an appeal without a hearing.

(2) The adjudicator shall not dispose of an appeal without a hearing if, in his opinion, the appeal raises issues of public importance such as to require that a hearing be held.

(3) The adjudicator shall not dispose of an appeal without a hearing if either party has requested a hearing unless—

- (a) the party who made the request withdraws the request before notice of a hearing has been sent to the other party under paragraph 7;
- (b) both parties have subsequently consented to the appeal being disposed of without a hearing; or
- (c) the party requesting the hearing having been sent a notice of the hearing of an appeal in accordance with paragraph 7, fails to attend or be represented at the hearing.

(4) Where the adjudicator is minded to dispose of an appeal without a hearing, he—

- (a) shall inform the parties of that he is so minded; and
- (b) shall not dispose of the appeal without a hearing unless and until either—
 - (i) there has elapsed a period of 28 days beginning with the date on which an acknowledgement is sent in accordance with paragraph 3(1) during which neither party has requested a hearing; or
 - (ii) both parties have consented to its disposal without a hearing.

Notice of time and place of hearing

7.—(1) This paragraph shall have effect where a hearing is to be held for the purpose of disposing of an appeal.

(2) The proper officer shall—

- (a) fix the time and place of the hearing; and

- (b) not less than 21 days before the time so fixed, or such shorter time as the parties agree—
 - (i) send to each party a notice that the hearing is to be at that time and place; or
 - (ii) inform them of those matters in such other manner as he thinks fit.
- (3) The adjudicator may alter the time and place of any hearing, and the proper officer shall, not less than seven days before the date on which the hearing is then to be held, or such shorter time as the parties agree—
 - (a) send to each party notice of the new time and place of the hearing; or
 - (b) inform them of those matters in such other manner as he thinks fit.
- (4) This paragraph applies to an adjourned hearing but, if, before the adjournment, the time and place of the adjourned hearing are notified to all persons expected to attend, no further notice shall be required.

Admission to a hearing

- 8.—**(1) Subject to the provisions of this paragraph, a hearing shall be held in public.
- (2) The adjudicator may direct that the whole or any part of a hearing be held in private if he is satisfied that by reason of —
 - (a) the likelihood of disclosure of intimate personal or financial circumstances;
 - (b) the likelihood of disclosure of commercially sensitive information or information obtained in confidence; or
 - (c) exceptional circumstances not falling within paragraphs (a) or (b);
 it is just and reasonable for him so to do.
- (3) The following persons shall be entitled to attend the hearing of an appeal which is held in private—
 - (a) any other adjudicator; and
 - (b) (for the purpose of discharging his functions as a member of that Council) a member of the Council on Tribunals.
- (4) The adjudicator, with the consent of the parties, may permit any other person to attend the hearing of an appeal which is held in private or, where part of it is so held, that part.
- (5) Without prejudice to any other powers he may have, an adjudicator may exclude from the hearing of an appeal, or part of it, any person whose conduct has disrupted or is likely, in the opinion of the adjudicator, to disrupt the hearing.

Appearances at a hearing

- 9.—**(1) The following persons shall be entitled to appear at a hearing relating to an application—
 - (a) the registered keeper of the vehicle which is alleged to have been involved in the parking contravention giving rise to the appeal;
 - (b) a person who has duly made representations in respect of the appeal; and
 - (c) the enforcement authority.
- (2) Any other person may appear at a hearing at the discretion of the adjudicator.
- (3) At the hearing of an appeal, the appellant may conduct his case himself (with assistance from any person if he wishes) or may be represented, by a solicitor, counsel or any other person.
- (4) If in any particular case the adjudicator is satisfied that there are sufficient reasons for doing so, he may prohibit a particular person from assisting or representing either party at the hearing.

Procedure at a hearing

10.—(1) At the beginning of the hearing of an appeal the adjudicator shall explain the order of proceedings which he proposes to adopt.

(2) Subject to the provisions of this paragraph, the adjudicator shall conduct the hearing of an appeal in such manner as he considers most suitable to the clarification of the issues before him and generally to the just handling of the proceedings; he shall so far as appears to him appropriate seek to avoid formality in the proceedings.

(3) At the hearing of an appeal—

- (a) the parties shall be entitled to give evidence, to call witnesses and to address the adjudicator both on the evidence and generally on the subject matter of the appeal;
- (b) the adjudicator may receive evidence of any fact which appears to him to be relevant notwithstanding that such evidence would be inadmissible in proceedings before a court of law.

(4) Without prejudice to paragraph 6(3)(c), where a party who has been sent a notice of the hearing of an appeal or has otherwise been notified of the hearing in accordance with paragraph 7 fails to attend the hearing, the adjudicator may dispose of the appeal in his absence.

Decisions on appeals

11.—(1) The adjudicator shall determine the appeal after considering all the evidence and all representations made by or on behalf of the parties.

(2) The adjudicator must state the reasons for his decision.

(3) Where an appeal is disposed of at a hearing, the adjudicator may give his decision and the reasons orally at the end of the hearing, or may reserve his decision and give it and his reasons subsequently in writing.

(4) Upon the decision being given (whether at a hearing or otherwise), the proper officer shall—

- (a) forthwith record the decision in the register, together with the adjudicator's reasons and any directions given; and
- (b) send a copy of the register entry to each party.

Review of adjudicator's decision

12.—(1) The adjudicator may, on the application of a party, review and revoke or vary any decision to reject a notice of appeal or to dismiss or allow an appeal, or any decision as to costs, on the grounds (in each case) that—

- (a) the decision was wrongly made as the result of an administrative error;
- (b) the adjudicator was wrong to reject the notice of appeal;
- (c) a party who failed to appear or be represented at a hearing had good and sufficient reason for his failure to appear;
- (d) where the decision was made after a hearing, new evidence has become available since the conclusion of the hearing, the existence of which could not reasonably have been known or foreseen;
- (e) where the decision was made without a hearing, new evidence has become available since the decision was made, the existence of which could not reasonably have been known or foreseen; or
- (f) the interests of justice require such a review.

(2) The adjudicator may, on the application of a party, review and revoke or vary any interlocutory decision.

(3) An application under subparagraph (1) or (2) must—

- (a) be delivered to the proper officer within the period of 14 days beginning with the date on which the copy of the register entry is served on the parties; and
 - (b) state the grounds in full.
- (4) The parties shall have the opportunity to be heard on any application for review under subparagraph (1) or (2).
- (5) If, having reviewed the decision, the adjudicator directs that it be set aside, he shall substitute a new decision or order a re-determination by either himself or a different adjudicator.
- (6) Paragraph 11 shall apply to a confirmation, revocation or variation of a decision under this paragraph as it applies to a decision made on the disposal of an appeal.

Costs

13.—(1) The adjudicator shall not normally make an order awarding costs and expenses, but may, subject to paragraph (2) make such an order—

- (a) against a party (including an appellant who has withdrawn his appeal or an enforcement authority which has consented to an appeal being allowed) if he is of the opinion that that party has acted frivolously or vexatiously or that his conduct in making, pursuing or resisting an appeal was wholly unreasonable; or
- (b) against an enforcement authority where he considers that the disputed decision was wholly unreasonable.

(2) An order shall not be made under subparagraph (1) against a party unless that party has been given an opportunity of making representations against the making of the order.

(3) An order under subparagraph (1) shall require the party against whom it is made to pay to the other party a specified sum in respect of the costs and expenses incurred by that other party in connection with the proceedings.

Consolidation of proceedings

14.—(1) Where there are pending two or more appeals and at any time it appears to an adjudicator that—

- (a) some common question of law or fact arises in both or all appeals; or
- (b) for some other reason it is desirable to make an order under this paragraph,

the adjudicator may order that all of the appeals or those specified in the order shall be considered together and may give such consequential directions as may appear to him to be necessary.

(2) An order shall not be made under this paragraph unless all parties concerned have been given an opportunity of making representations against the making of the order.

Miscellaneous powers of adjudicators

15.—(1) An adjudicator may, if he thinks fit—

- (a) extend the time appointed by or under this Schedule for the doing of any act notwithstanding that the time appointed has expired;
- (b) if an appellant at any time gives notice of the withdrawal of his appeal, dismiss the proceedings;
- (c) if an enforcement authority consent to an appeal being allowed, allow the appeal;
- (d) if both or all of the parties agree in writing on the terms of a decision to be made by an adjudicator, decide accordingly; or
- (e) adjourn a hearing.

(2) An adjudicator may exercise the powers conferred by this Schedule (other than paragraph 12) on his own motion or on the application of a party.

Clerical errors

16. Clerical mistakes in any document recording a direction or decision of the adjudicator, or errors in such a document arising from an accidental slip or omission, may be corrected by the proper officer on the direction of the adjudicator.

PART 3

SERVICE OF DOCUMENTS AND NOTICES

Service of documents on the parties

17.—(1) This paragraph has effect in relation to any notice or other document required or authorised by these Regulations to be sent to a party to an appeal.

(2) Any document shall be regarded as having been sent to that party if it is—

- (a) delivered to him;
- (b) left at his proper address;
- (c) sent by first class post to him at that address; or
- (d) transmitted to him by fax or other means of electronic data transmission in accordance with subparagraph (3).

(3) A document may be transmitted to a party by fax or by other means of electronic data transmission where—

- (a) the party has indicated in writing that he is willing to regard a document as having been duly sent to him if it is transmitted to a specified fax telephone number or, as the case may be, a specified electronic address; and
- (b) the document is transmitted to that number or address.

(4) In the case of an enforcement authority, an indication under paragraph (3)(a) may be expressed to apply in relation to any appeal to which they are the respondent.

(5) Where the proper address includes a box number at a document exchange the delivery of such a document may be effected by leaving the document addressed to that box number—

- (a) at that document exchange; or
- (b) at a document exchange which transmits documents every working day to that exchange, and any such document so left shall be taken to have been delivered on the second working day after the day on which it was left.

(6) For the purposes of these Regulations, and of section 7 (references to service by post) of the Interpretation Act 1978^(a) (“the 1978 Act”) in its application to this paragraph,—

- (a) the proper address of the appellant is the address for service specified pursuant to paragraph 2(2)(c) or, if no address is so specified, the address specified pursuant to regulation 2(2)(b), and
- (b) the proper address of an authority in proceedings in which it is the respondent is such address as the authority from time to time specify in a notice delivered to the proper officer as being the authority’s address for service in all such proceedings.

(7) If no address for service has been specified, the proper address for the purposes of this Schedule, and section 7 of the 1978 Act, shall be—

- (a) in the case of an individual, his usual or last known address;
- (b) in the case of a partnership, the principal or last known place of business of the firm within the United Kingdom;

^(a) 1978 c. 30.

- (c) in the case of an incorporated or unincorporated body, the registered or principal office of the body.
- (8) A party may at any time, by notice in writing delivered to the proper officer, change his proper address for the purposes of this Schedule and section 7 of the 1978 Act.
- (9) A party may, by notice in writing delivered to the proper officer, vary or revoke any indication given under subparagraph (3)(a).
- (10) A notice or document—
 - (a) left at the proper address of a party shall be taken to have been delivered on the first working day after the day on which it was left;
 - (b) sent by fax or other means of electronic transmission shall be taken to have been delivered on the first working day after the day on which it was transmitted.

Delivery of notices or documents to the proper officer

- 18.**—(1) This paragraph has effect in relation to any notice or other document required or authorised by or under this Part to be delivered to the proper officer.
- (2) Any such notice or document may be delivered to the proper officer by being transmitted to the proper officer by fax or other means of electronic data transmission, but only to a telephone number or, as the case may be, electronic address for the time being published by the proper officer for the purpose of receiving such notices or documents.
- (3) Any notice or document so transmitted shall be taken to have been delivered on the first working day after the day on which it was transmitted.
- (4) Where the address of the proper officer includes a box number at a document exchange the delivery of such a document may be effected by leaving the document addressed to that box number—
 - (a) at that document exchange; or
 - (b) at a document exchange which transmits documents every working day to that exchange, and any such document so left shall be taken to have been delivered on the second working day after the day on which it was left.
- (5) Paragraphs 2(2)(a) and 4(4)—
 - (a) shall, in the case of a document transmitted by fax, be satisfied if a copy of the signature of the relevant person appears on the transmitted copy; and
 - (b) shall not apply in relation to a document transmitted by other means of electronic data transmission.

PART 4

THE REGISTER

The register

- 19.**—(1) The proper officer shall establish and maintain, in accordance with the following provisions of this paragraph, a register for the purpose of recording proceedings conducted under these Regulations.
- (2) The register shall be kept open for inspection by any person without charge at all reasonable hours at the accommodation provided for adjudicators.
- (3) The register may be kept in electronic form.
- (4) If the register is kept in electronic form, the duty to allow inspection is to be treated as a duty to allow inspection of a reproduction in legible form of the recording of the entry the inspection of which is being sought.

(5) A document purporting to be certified by the proper officer to be a true copy of any entry of a decision in a register shall be evidence of the entry and of the matters contained in it.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply only to England, make provision entitling a person who is or may be liable to pay a penalty charge in respect of a parking contravention, or who secures the release of a vehicle from an immobilisation device which has been fixed to it on account of such a contravention, to make representations to the enforcement authority regarding his liability for charges and to appeal to an adjudicator if his representations are not accepted. These Regulations should be read in conjunction with the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (S.I. 2007/0000).

Part 1 contains preliminary provisions.

Part 2 concerns representations and appeals against penalty charges which are the subject of a notice to owner given under regulations made jointly by the Secretary of State and the Lord Chancellor under Part 6 of the Traffic Management Act 2004 (“Part 6 regulations”). *Regulation 3* defines the scope of *Part 2*. *Regulation 4* confers on the recipient of a notice to owner the right to make representations to the enforcement authority which served it on him. It specifies the form of the representations and the grounds on which they may be made. *Regulations 5 and 6* set out the duties of an enforcement authority to which representations are made, according as it accepts or rejects the representations. *Regulation 7* enables a person who has made representations under *regulation 4* to appeal to an adjudicator against an enforcement authority’s rejection of his representations.

Part 3 makes equivalent provision to *Part 2* for representations and appeals in relation to vehicles which have been immobilised in accordance with Part 6 regulations. *Regulation 8* confers, on the owner or person in charge of a vehicle who secures its release from an immobilisation device fixed in accordance with Part 6 regulations, a right to make representations to the enforcement authority and to appeal to an adjudicator, where those representations are rejected. The enforcement authority is required to inform the person securing the release of the vehicle of his rights in writing. The basis for making representations is specified in *regulation 8(4) and (5)*. *Regulation 9* sets out the duties of an enforcement authority to which representations are made and *regulation 10* provides for an appeal to be made to an adjudicator where representations under *regulation 9* are rejected.

Part 4 relates to offences and procedure. *Regulation 11* creates an offence of making false or reckless representations under these Regulations. *Regulation 12* introduces *the Schedule* which makes detailed provision as to the procedure to be followed in adjudication proceedings and the service of documents in such proceedings. Otherwise the procedure is in the discretion of the adjudicator.