
STATUTORY INSTRUMENTS

2007 No. 0000

ROAD TRAFFIC, ENGLAND

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

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SCHEDULE — PENALTY CHARGES NOTICES

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 section 101B of the Road Traffic Regulation Act 1984^(b), and by the Lord Chancellor, in exercise of the powers conferred on him by sections 78, 81, 82 and 89 of the Traffic Management Act 2004.

^(a) 2004 c. 18[; section 79 was amended by the Disability Discrimination Act 2005 (c. 13), Schedule 1, paragraph 48].
^(b) 1984 c. 27; section 101B was inserted by the Traffic Management Act 2004, Schedule 11, paragraph 3(2).

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 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.—(1) In these Regulations—

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

“the 28-day period” has the meaning given by regulation 10(3);

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

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

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

“notice to owner” has the meaning given by regulation 19;

“penalty charge” means a penalty charge relating to a parking contravention in accordance with regulation 4;

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

“the English enforcement authorities” means Transport for London and those enforcement authorities which are London authorities or 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 the conditions in paragraph (3) are fulfilled.

(3) The conditions are that—

- (a) the penalty charge was imposed, in accordance with these Regulations or with Part II of the Road Traffic Act 1991(b), by an enforcement authority (whether or not the authority under whose authority the vehicle was immobilised) in respect of a parking contravention;
- (b) the owner of the vehicle when it was immobilised was also the owner of the vehicle when the penalty charge was imposed;
- (c) the penalty charge is the subject of a charge certificate issued under regulation 21 which has not been set aside in accordance with regulation 23; and
- (d) the penalty charge has not been paid or cancelled.

Service by post

3.—(1) Any charge certificate or notice under these Regulations—

(a) S.I. 2007/0000.
(b) 1991 c. 40.

- (a) may be served by 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 post to the secretary or clerk of that body.

(2) Service of a charge certificate contained in a letter 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).

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
- (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 payable

5.—(1) Except where paragraph (2) applies, a penalty charge shall be payable by the owner of the vehicle involved in the contravention to which the penalty charge relates.

(2) This paragraph applies where—

- (a) that vehicle was, at the time when the contravention is said to have taken place, hired from a vehicle-hire firm under a hiring agreement; and
- (b) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice given in respect of any parking contravention involving the vehicle during the currency of the hiring agreement.

(3) Where paragraph (2) applies a penalty charge shall be payable by the person by whom the vehicle was hired at the material time.

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

Evidence of contravention

6. A penalty charge shall not be imposed except on the basis of—

(a) 1971 c. 80.
(b) 1988 c. 53.

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

Circumstances in which a penalty charge need not be paid or is to be refunded

- 7.—(1) A penalty charge shall not be payable in relation to a parking 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(a), has been given in respect of that conduct.
- (2) Where, notwithstanding the provisions of paragraph (1)—
- (a) a penalty charge has been paid in respect of a contravention; and
 - (b) the circumstances are as mentioned in paragraph (1)(a) or (b),

the enforcement authority shall, as soon as reasonably practicable after those circumstances come to their 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 given in accordance with regulation 9 or 10 in relation to a parking contravention; and
 - (b) complies with the requirements of the Schedule which are applicable to it.
- (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—
- (a) fix a penalty charge notice to the vehicle; or
 - (b) give such a notice 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; or
 - (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.
- (2) A penalty charge notice served in accordance with paragraph (1) shall be served on the person appearing to the enforcement authority to be the owner of the vehicle concerned.
- (3) Subject to paragraph (4), a penalty charge notice may not be served under paragraph (1) later than the expiration of the period of 28 days beginning with the appropriate date (in these Regulations called “the 28-day period”).
- (4) Where—
- (a) within 14 days of the appropriate date the enforcement authority has requested the Secretary of State for the supply of relevant particulars; and
 - (b) those particulars have not been supplied before the expiration of the 28-day period,

(a) 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 authority shall continue to be entitled to serve a penalty charge notice for a period of six months beginning with the appropriate date.

(5) In this regulation—

“the appropriate date”, in relation to a contravention, means, the date on which, according to a record produced by an approved device, or information given by a civil enforcement officer, the contravention occurred;

“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(a).

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 (exceptions), where a civil enforcement officer has reason to believe that a vehicle has been permitted to remain at rest in any place in a civil enforcement area in circumstances in which a penalty charge has become payable, he or a person acting under his direction may fix an immobilisation device to the vehicle while it remains in the place where it was found.

(2) On any occasion when an immobilisation device is fixed to a vehicle in accordance with this regulation, the person fixing the device 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 section 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 (4) 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.

(a) 1994 c. 22.

Exceptions to 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 (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(b); and
- (b) in circumstances falling within section 117(1A)(b) of the Road Traffic Regulation Act 1984 (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 giving 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 60 minutes.

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(3) of—

- (a) the penalty charge payable in respect of the parking contravention;

(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[, and] by the Road Traffic Act 1991 (c. 40), section 35(2)—(5), Schedule 8[, the Traffic Management Act 2004 section 94 (1)—(4) and the Disability Discrimination Act 2005 (c. 13) Schedule 1, paragraph 41].

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

- (b) such charge in respect of the release as may be required by the enforcement authority; and
- (c) if there are three or more penalty charges outstanding in relation to the vehicle in addition to the penalty charge referred to in subparagraph (a), those penalty charges.

PART 4

ADJUDICATORS AND JOINT ARRANGEMENTS

Discharge in Greater London of functions under this Part and Part 2 of Schedule 9 to the 2004 Act

15.—(1) The functions of the London authorities and Transport for London relating to—

- (a) adjudicators under section 81 of the 2004 Act and under regulations 17 and 18; and
- (b) setting the level of charges under Part 2 of Schedule 9 to the 2004 Act,

shall be discharged jointly, under arrangements made under section 101(5) of the Local Government Act 1972, by a single joint committee appointed by them under section 102(4) 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^(a) which were—

- (a) made between the London 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 outside London under this Part

16.—(1) The functions of the non-London enforcement authorities relating to adjudicators 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(4) of that Act of which at least three of the non-London enforcement authorities and no other body are constituent authorities.

(2) The arrangements for the discharge of functions by a joint committee under section 73 of the Road Traffic Act 1991^(b), as that section was applied to local authorities outside 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 in relation to those of the constituent authorities as are non-London enforcement authorities and shall have effect as if made under this regulation, until such time as they are varied or replaced.

Appointment of adjudicators

17.—(1) The English 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 of those authorities—

- (a) to appoint a person as an adjudicator;
- (b) not to re-appoint a person as an adjudicator; or

^(a) Section 73 was amended by the Greater London Authority Act 1999, section 283.

^(b) Section 73 was applied with modifications to permitted and special parking areas outside London by individual orders designating such areas under Schedule 3 to the Road Traffic Act 1991.

(c) to remove a person from his office as an adjudicator,
shall not have effect without the consent of the Lord Chancellor.

(3) Adjudicators who—

(a) were appointed under section 73 of the Road Traffic Act 1991, whether by the London authorities and Transport for London or by local authorities outside 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.

Expenses of the relevant authorities

18.—(1) In default of a decision by any of the English 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 English 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 issued with respect to a vehicle under regulation 9 or 10;
and

(b) the period of 28 days specified in the penalty charge notice as the period within which the penalty charge is to be paid has expired without that charge being paid,

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

(2) A notice to owner given under paragraph (1) must state—

(a) the name of the enforcement authority serving the notice;

(b) the amount of the penalty charge payable;

(c) the grounds on which the civil enforcement officer who issued the penalty charge notice believed that a penalty charge was payable with respect to the vehicle;

(d) that the penalty charge must be paid before the end of the period (“the payment period”) of 28 days beginning with the date on which the notice to owner is served;

(e) that representations against payment of the penalty charge may be made to the enforcement authority but that any representations made outside the payment period may be disregarded;

(f) the grounds on which representations may be made;

(g) the address to which representations must be sent and the form in which they must be made;

(h) that if representations which have been—

(i) made within the payment period; or

- (ii) made outside that period but not disregarded under subparagraph (e),
- are not accepted by the enforcement authority the recipient of the notice may appeal against the authority's decision to an adjudicator; and
- (i) the grounds on which such an appeal may be made.

Time limit for service of a notice to owner

20.—(1) Subject to paragraph (3), a notice to owner may not be served under regulation 19 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 of these Regulations or under regulation 5 or 7 of the Representations and Appeals Regulations, is the date of such cancellation; and
- (b) in any other case, is the date on which the relevant penalty charge notice was given under regulation 9 or 10.

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; or
- (c) where there has been an unsuccessful appeal under the Representations and Appeals Regulations against a notice of rejection to an adjudicator, 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.

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) A person against whom an order under regulation 22 is made (“the respondent”) may apply for it to be set aside by making a witness statement which—

- (a) complies with paragraph (2); and
- (b) is served on the county court which made the order, before the end of the period of 21 days beginning with the date on which the county court makes the order.

(2) The witness statement must state one, and only one, of the following—

- (a) that the respondent did not receive the notice to owner in question;
 - (b) that the respondent made representations to the enforcement authority concerned 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 the respondent appealed to an adjudicator under regulation 7 of those Regulations against the rejection by that authority of representations made by him under regulation 4 of those Regulations but—
 - (i) the appeal had not been determined by the time the charge certificate was issued; or
 - (ii) the respondent had no response to the appeal.
- (3) An applicant under paragraph (1) may apply to a district judge for the period of 21 days referred to in paragraph (1)(b) to be extended.
- (4) On receipt of a witness statement purporting to be made under paragraph (1) or an application under paragraph (3), the court shall forthwith send a copy of it to the enforcement authority which served a charge certificate under regulation 22 and the enforcement authority may, within the period of 14 days beginning with the date on which a copy of the application or witness statement was served on the authority, make representations to the effect—
- (a) that the time-limit referred to in paragraph (1)(b) should not be extended; or
 - (b) that the witness statement is invalid for a specified reason, including in particular any of the following reasons—
 - (i) the facts stated in the statement are incorrect;
 - (ii) the statement claimed that more than one of the grounds mentioned in paragraph (2) are met;
 - (iii) the statement was not signed by the purported respondent.
- (5) On an application under paragraph (1) the district judge shall have regard to any representations made by the enforcement authority under paragraph (4)(b) and may declare a witness statement to be void if he is satisfied that it is invalid for any reason.
- (6) On an application under paragraph (3), the district judge—
- (a) shall take into consideration any representations by the enforcement authority under paragraph 4(a); and
 - (b) if he is satisfied that it would be unreasonable in the circumstances of his case to insist on the applicant's serving a witness statement within the period of 21 days allowed for by paragraph (1), may allow such longer period for service of the witness statement as he considers appropriate.
- (7) The applicant shall be notified of any decision to declare a witness statement to be void.
- (8) Where a witness statement is served under paragraph (1)(c) and the notice to owner is subsequently declared to be void under paragraph (5),—
- (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.
- (9) Service of a statement under paragraph (2)(a) shall not prevent the enforcement authority from serving a fresh notice to owner.
- (10) Where a statement has been served under paragraph (2)(b) or (c) above and has not subsequently been declared to be void, the enforcement authority shall refer the case to an adjudicator who may give such directions as he considers appropriate.

(11) 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).

(12) In this regulation “witness statement” means a statement which is a witness statement for the purposes of the Civil Procedure Rules 1998 and which is supported by a statement of truth in accordance with Part 22 of those Rules.

PART 6

REPRESENTATIONS AND APPEALS IN RELATION TO REMOVED VEHICLES

Right to make representations about a removed vehicle

24.—(1) This regulation applies to a person where, as respects a vehicle found in a civil enforcement area for parking contraventions which has been removed under section 99 of the Road Traffic Regulation Act 1984^(b)—

- (a) he is required to pay an amount on recovery of the vehicle under section 101A of that Act;
- (b) he receives a sum in respect of the vehicle under section 101A(2) of that Act;
- (c) is informed that the proceeds of sale of the vehicle did not exceed the aggregate amount mentioned in that provision; or
- (d) is informed that the vehicle was disposed of without there being any proceeds of sale.

(2) A person to whom paragraph (1) applies shall immediately upon the happening of an occurrence referred to in paragraph (1) 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 referred to in paragraph (4)(a) are—

- (a) that there were no reasonable grounds for believing 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 2 of these 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 for parking contraventions;
- (d) 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
- (e) that there has been a procedural impropriety on the part the enforcement authority.

^(a) S.I. 1998/3132.

^(b) 1984 c. 27; section 101A was inserted by the Traffic Management Act 2004 (c. 18) Schedule 11, paragraph 3.

(6) In paragraph (5) “procedural impropriety”—

- (a) means a failure by the enforcement authority to observe any requirement imposed on them by the 2004 Act or these Regulations in relation to the imposition or recovery of a penalty charge or other sum; and
- (b) without prejudice to subparagraph (a), includes in particular 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 these Regulations to be taken.

(7) In determining the form for making representations under paragraph (4) the enforcement authority must act through the joint committee through which, in accordance with regulation 15(1) or 16(1), it exercises its functions relating to adjudicators.

Duty of enforcement authority to which representations are made

25.—(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 24(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 24(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 24(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, or deducted from the proceeds of sale, should be refunded.

(3) Where an authority serves notice under paragraph (2)(b)(i) that it accepts that such a ground has been established it shall (when serving that notice) refund any sums that—

- (a) the person to whom the vehicle was released was required to pay under section 101A(1) of the Road Traffic Regulation Act 1984; or
- (b) were deducted from the proceeds of sale of the vehicle in accordance with section 101A(2) of that Act,

except to the extent (if any) to which those sums were properly paid or deducted.

(4) Where an authority serves notice under paragraph (2)(b)(ii) that it accepts that there are such compelling reasons, it shall refund the sums referred to in paragraph (3) or such of them as it considers 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 26;
- (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 25

26.—(1) Where an authority serves notice under regulation 25(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 subparagraphs (a) to (e) or regulation 24(5) have been established; and
- (b) that the enforcement authority would have been under the duty imposed by regulation 25(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, or deducted from the proceeds of sale, 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 (5), (6) or (7) 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.

Offence

27.—(1) A person who makes any representation under regulation 25 or 26 which is false in a material particular and does so recklessly or knowing it to be false in that particular is guilty of an offence.

(2) Any 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

28.—(1) The Schedule to the Representations and Appeals Regulations shall have effect as to procedure and the service of documents in adjudication proceedings under this Part of these Regulations as if it were incorporated in these Regulations subject to the modifications specified in paragraph (3).

(2) Accordingly references in that Schedule as it has effect by virtue of paragraph (1) to “these Regulations” shall be taken as references to these Regulations and not to the Representations and Appeals Regulations.

(3) The modifications referred to in paragraph (1) are—

- (a) in paragraph 1(1), in the definition of “appeal” for “regulation 7(1) of 10(1)” there shall be substituted “regulation 26”;
- (b) in paragraph 2(3), for “regulation 7(1) of 10(1) (as the case may be)” there shall be substituted “regulation 26”;
- (c) in paragraph 4(1) for “regulation 4(5) or 8(5), whichever is appropriate in the circumstances” there shall be substituted “regulation 24(5)”.

(4) Subject to the provisions of that Schedule as so modified, an adjudicator may regulate his own procedure.

PART 7

FINANCIAL PROVISIONS

Modification of section 55 of the Road Traffic Regulation Act 1984

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

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

“(1) An enforcement authority which is a London authority shall keep an account—

- (a) of their income and expenditure (otherwise than as an enforcement authority) in respect of designated parking places;
- (b) of their income and expenditure in connection with their functions as an enforcement authority in relation to parking contraventions within paragraph 2 of Schedule 7 to the 2004 Act (contraventions in relation to parking places); and
- (c) of their income and expenditure as an enforcement authority in relation to parking contraventions within paragraph 3 of Schedule 7 to the 2004 Act (other parking contraventions).

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

- (a) of their income and expenditure in respect of any designated parking places in their area which are not in a civil enforcement area;
- (b) of their income and expenditure (otherwise than as an enforcement authority) in respect of designated parking places in their area which are in a civil enforcement area; and

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

- (c) of their income and expenditure in connection with their functions as an enforcement authority in relation to parking contraventions within paragraph 4 of Schedule 7 to the 2004 Act (parking contraventions outside London)."
- (3) For subsection (3A) there shall be substituted—
 - "(3A) Transport for London, the council of each London borough and the Common Council of the City of London shall, after each financial year—
 - (a) send copies of the account kept under subsection (1) to the Mayor of London and the Secretary of State; and
 - (b) report to the Mayor of London on any action taken by them, pursuant to subsection (2) or (3) above, in respect of any deficit or surplus in their account for the year."
- (4) After subsection (3A) there shall be inserted—
 - "(3AA) A local authority which is not a London authority but is an enforcement authority shall after the end of each financial year send a copy of the account kept under subsection (1A) to the Secretary of State."
- (5) In subsection (3B)—
 - (a) for "The report under subsection (3A) above" there shall be substituted "A report under subsection (3A) or (3AA) above";
 - (b) for "the end of" there shall be substituted "the conclusion of the audit of the accounts of the body concerned for".
- (6) In subsection (10) after "in this section—" 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 Part 6 of the 2004 Act (see paragraphs 1(2), 2(5) and 8(5) of Schedule 8) and references to the functions of an authority as an enforcement authority are to their functions under that Part of that Act;”.

Surpluses to be carried forward

30. 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 27.

Signed by authority of the Lord Chancellor

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

2007

Signed by authority of the Secretary of State

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

2007

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

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

Contents of a penalty charge notice served under regulation 10

2. A penalty charge notice given under regulation 10 must state—
 - (a) the matters specified in paragraphs 1(a) to (c), (e), (f) and (h) to (j);
 - (b) the grounds on which the enforcement authority believes that a penalty charge is payable;
 - (c) that if the penalty charge is paid before the end of the applicable period, the penalty charge will be reduced by the amount of any applicable discount;
 - (d) that the penalty charge notice is being served by post either—
 - (i) on the basis of a record produced by an approved device; or
 - (ii) as the case may be, 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; and
 - (e) where the penalty charge notice is served by virtue of regulation 10(1)(a) (evidence produced by an approved device) the effect of paragraph 4.
3. For the purposes of paragraph 2(c) the “applicable period” is—
 - (a) in the case of penalty charge notice served by virtue of regulation 10(1)(a) (evidence produced by an approved device), 21 days beginning with the date of service of the notice;
 - (b) in the case of a penalty charge notice served by virtue of regulation 10(1)(b) (civil enforcement officer prevented from serving a penalty charge notice), 14 days beginning with the date of service of the notice.
- 4.—(1) The recipient of a penalty charge notice given under regulation 10 may, by notice in writing to the enforcement authority, request it—
 - (a) to make available at one of its offices specified by him, free of charge and at a time during normal office hours so specified, for viewing by him or by his representative, the

(b) to provide him, free of charge, with such still images from that record as, in the authority's opinion, establish the contravention.

(2) Where the recipient of the penalty charge notice makes a request under paragraph (1), the enforcement authority shall comply with the request within a reasonable time.

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. 2007/0000), 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 regulations 13 and 14*), and the service of documents by post (*regulation 3*).

Part 2 relates to penalty charges. *Regulation 4* enables a penalty charge to be imposed for specified types of parking contravention. A penalty charge is payable by the owner of the vehicle concerned (*regulation 5(1)*), except in the circumstances specified in *regulation 5(2) to (4)* (vehicle hired from a vehicle hiring firm under a vehicle hiring agreement). In accordance with *regulation 6*, a penalty charge is not to be imposed except on the basis 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. 2007/0000)*) or information given by a civil enforcement officer as to conduct observed by him. *Regulation 7* provides that a penalty charge is not to be payable for a parking contravention where the contravention is the subject of criminal proceedings or a fixed penalty notice has been given under the Road Traffic Offenders Act 1988; but, if a penalty charge is in fact paid in either of those circumstances, it must be refunded by the enforcement authority. *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 for serving one in accordance with *regulation 9*, and for the time limit within which a notice may be 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 when 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 their functions relating to adjudicators (and, in Greater London, the function of setting the levels of charges under Schedule 9 to the Traffic Management Act 2004) 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 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)*.

Part 6 is made under powers conferred by section 101B of the Road Traffic Regulation Act 1984 and provides for the making of representations and appeals against charges for the removal, storage and disposal of a vehicle removed under that Act. *Regulation 24* specifies the persons to whom the regulation applies, requires such persons to be informed of their right to make representations and to appeal to an adjudicator, confers on such persons a right to make representations and specifies the form of such representations and the basis on which they may be made. *Regulation 25* specifies the duties of an enforcement authority in relation to representations received by it under *regulation 24* and *regulation 26* confers a right to appeal to an adjudicator where the enforcement authority rejects representations made to it under *regulation 24*. *Regulation 27* creates an offence of making false or reckless representations under *regulation 25 or 26* and, in accordance with *regulation 28*, the provisions of the Schedule to the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 are applied with modifications to proceedings before adjudicators under *Part 6* of these Regulations.

In *Part 7*, *regulation 28* 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 29* 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.