
STATUTORY INSTRUMENTS

2001 No. 2313

The Road User Charging (Enforcement and Adjudication) (London) Regulations 2001

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001 and shall come into force on 30th July 2001.

Interpretation

2.—(1) In these Regulations—

“the 1999 Act” means the Greater London Authority Act 1999;

“adjudicator” means a road user charging adjudicator appointed in accordance with regulation 3;

“Charges and Penalty Charges Regulations” means the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001(1);

“hiring agreement” has the same meaning as in section 66 of the Road Traffic Offenders Act 1988(2);

“penalty charge notice” has the meaning given in regulation 12;

“person liable” in relation to a vehicle means the registered keeper of that vehicle or the person who is liable, in accordance with the Charges and Penalty Charges Regulations, to pay a charge or penalty charge imposed by a charging scheme;

“relevant person” in Part III has the meaning given in regulation 9;

“vehicle” means a motor vehicle; and

“vehicle-hire firm” has the same meaning as in section 66 of the Road Traffic Offenders Act 1988.

(2) In determining for the purposes of any provision of these Regulations whether a charge or penalty charge has been paid before the end of a particular period, it shall be taken to be paid when it is received by the charging authority.

(1) S.I. 2001/2285.

(2) 1988 c. 53.

PART II

ADJUDICATORS

Appointment of adjudicators

3.—(1) The Lord Chancellor shall appoint persons to act as road user charging adjudicators for the purposes of these Regulations.

(2) To be qualified for appointment as an adjudicator, a person must have a five year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990⁽³⁾).

(3) Each adjudicator shall be appointed for such period as the Lord Chancellor may specify.

(4) Each adjudicator shall hold and vacate office in accordance with the terms of his appointment.

Administrative support and defrayal of expenses

4.—(1) The Authority shall provide, or make arrangements for the provision of, accommodation and administrative staff and facilities for adjudicators and determine the places where they are to sit.

(2) The expenses incurred by the Authority under paragraph (1) and on remunerating adjudicators shall be defrayed—

(a) in a year in which only one charging scheme is for the time being in force in Greater London by the charging authority for that scheme;

(b) where two or more charging schemes are in force, by the charging authorities for those schemes in such proportions as they may agree or, in default of agreement as may be determined by an arbitrator nominated by the Chartered Institute of Arbitrators on the application of any charging authority.

(3) Where the Authority is satisfied that there has been, or is likely to be, a failure on the part of the charging authorities to agree on the proportions in which the expenses recoverable by the Authority are to be defrayed under paragraph (2)(b), it may give the charging authorities such directions as it considers appropriate to require them to refer the matter to arbitration under that paragraph.

Procedure to be followed by adjudicators

5.—(1) The Schedule to these Regulations shall have effect as to the procedure to be followed in relation to proceedings before adjudicators.

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

Evidence produced by a prescribed device

6.—(1) Evidence of a fact relevant to Schedule 23 proceedings may be given by the production of—

(a) a record produced by a prescribed device, and

(b) (in the same or another document) a certificate as to the circumstances in which the record was produced signed by a constable or by a person authorised in that behalf by the charging authority who installed the device by means of which the evidence was produced.

(2) In paragraph (1)—

(3) 1990 c. 41; section 71 has been amended by the Access to Justice Act 1999 (c. 22), paragraphs 4 and 9 of Schedule 6 and Part II of Schedule 15.

“Schedule 23 proceedings” means proceedings for an offence under Schedule 23 to the 1999 Act or proceedings before an adjudicator in relation to failure to comply with the provisions of a charging scheme; and

“prescribed device” means a camera or other device designed to produce a record—

- (a) of the presence of a particular vehicle which is being used or kept on a road in a charging area in respect of which charges are imposed; and
- (b) of the date and time at which it is present,

and includes any equipment used in conjunction with the camera or other device for the purpose of producing such a record.

(3) A document purporting to be a record of the kind mentioned in paragraph (1) or to be a certificate signed as mentioned in that paragraph shall be deemed to be such a record, or to be so signed, unless the contrary is proved.

Recovery of amounts payable under an adjudication

7. Any amount which is payable under an adjudication of an adjudicator shall, if a county court so orders, be recoverable by the person to whom the amount is payable, as if it were payable under a county court order.

Reports by adjudicators

8. Each adjudicator shall make an annual report to the Secretary of State for Transport, Local Government and the Regions on the discharge of his functions.

PART III

REPRESENTATIONS AND APPEALS IN RELATION TO THE REMOVAL OR IMMOBILISATION OF VEHICLES

Persons to whom Part III applies

9. This part of these Regulations applies to a person (in this Part referred to as a “relevant person”) who—

- (a) pays or causes to be paid a penalty charge to secure the release of a vehicle from an immobilisation device in accordance with a charging scheme and the Charges and Penalty Charges Regulations;
- (b) pays or causes to be paid a penalty charge to recover a vehicle after it has been removed from a road in a charging area in accordance with a charging scheme and the Charges and Penalty Charges Regulations;
- (c) receives any sum after a vehicle has been sold or destroyed in accordance with a charging scheme and the Charges and Penalty Charges Regulations; or
- (d) is informed that the proceeds of its disposal do not exceed the amount of the penalty charges payable in respect of the vehicle in accordance with a charging scheme and the Charges and Penalty Charges Regulations.

Right to make representations

10.—(1) A relevant person shall, on the happening of an event such as is referred to in paragraph (a), (b), (c) or (d) of regulation 9, thereupon be informed by notice in writing, by or on

behalf of the charging authority, of his right to make representations under this regulation and his right of appeal under regulation 11.

(2) A relevant person may make representations in writing to the charging authority on one or more of the grounds mentioned in paragraph (3).

(3) The grounds are—

- (a) that in the particular circumstances of the case, the immobilisation, removal or disposal of the vehicle was not authorised by the charging scheme or the Charges and Penalty Charges Regulations;
- (b) in a case where an immobilisation device was fitted to the vehicle or the vehicle was removed on the ground that the vehicle was being used or kept on a road in contravention of the charging scheme, that the vehicle was on that occasion being used or kept on the road by a person who was in control of the vehicle without the consent of the person liable;
- (c) that the penalty charge paid to secure the release or recovery of the vehicle exceeded the amount applicable in the circumstances of the case;
- (d) in a case where an immobilisation device was fitted to the vehicle or the vehicle was removed on the ground that a penalty charge previously incurred in relation to it had not been paid, that the relevant person was not the person liable at the time at which that penalty charge had been incurred; or
- (e) that the relevant person is a vehicle-hire firm and—
 - (i) the vehicle in question was at the time the device was fitted to it or the vehicle was removed 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 incurred in respect of the vehicle during the currency of the hiring agreement.

(4) A charging authority may disregard any representations received by them after the end of the period of 28 days beginning with the date on which the relevant person is informed in accordance with paragraph (1) of his right to make representations.

(5) It shall be the duty of a charging authority to whom representations are duly made under this regulation, before the end of the period of 56 days beginning with the day on which they receive the representations—

- (a) to consider them and any supporting evidence which the person making them provides; and
- (b) to serve on that person a notice of their decision as to whether or not they accept that the ground in question has been established.

(6) Where a charging authority serve notice under paragraph (5)(b) that they accept that a ground has been established they shall (when serving that notice or as soon as practicable thereafter) refund any penalty charge or charges—

- (a) paid to secure the release of the vehicle from an immobilisation device;
- (b) paid to recover the vehicle after it had been removed from a road;
- (c) deducted from the proceeds of sale of the vehicle,

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

(7) Where a charging authority serve notice under paragraph (5)(b) that they do not accept that a ground has been established, that notice shall—

- (a) inform the relevant person of his right to appeal to an adjudicator under regulation 11;
- (b) indicate the nature of the adjudicator's power to award costs against any person appealing to him under that regulation;

- (c) describe in general terms the form and manner in which such an appeal is required to be made; and
 - (d) provide such other information as the charging authority consider appropriate.
- (8) Where a charging authority fail to comply with paragraph (5) before the end of the period of 56 days there mentioned—
- (a) they shall be deemed to have accepted that the ground in question has been established and to have served notice to that effect under paragraph (6); and
 - (b) paragraph (6) shall have effect as if they required any refund to be made immediately after the end of that period.
- (9) Any notice required to be served under this regulation may be served personally or by post or in such form as is agreed between the charging authority and the relevant person.
- (10) Where the person on whom any document is required to be served by paragraph (5) is a body corporate, the document is duly served if it is sent by post or any such form as is agreed to the secretary or clerk to that body.

Right to appeal to an adjudicator

- 11.**—(1) Where a charging authority serve notice under regulation 10(5)(b) that they do not accept that a ground on which representations were made under that regulation has been established, the person making those representations may appeal to an adjudicator against the authority’s decision, before—
- (a) the end of the period of 28 days beginning with the date of service of the notice; or
 - (b) such longer period as an adjudicator may allow following consultation with the charging authority.
- (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 on any of the grounds mentioned in regulation 10(3) and, if he concludes—
- (a) that any of the representations are justified; and
 - (b) that the charging authority would have been under the duty imposed by regulation 10(6) to refund any sum if they had served notice that they accepted that the ground in question had been established,
- he shall direct the authority to make the necessary refund.
- (3) It shall be the duty of a charging authority to whom such a direction is given to comply with it.

PART IV

RECOVERY OF PENALTY CHARGES

Penalty charge notices

- 12.**—(1) Where a charge with respect to a vehicle under a charging scheme has not been paid by the time by which it is required by the scheme to be paid, the charging authority may serve a notice (“a penalty charge notice”).
- (2) A penalty charge notice shall be served on the registered keeper of the vehicle unless, in accordance with the Charges and Penalty Charges Regulations, the penalty charge to which it relates is payable by another person, in which case the penalty charge notice shall be served on that other person.

- (3) A penalty charge notice must state—
- (a) the amount of the penalty charge to which it relates;
 - (b) the date and time at which the charging authority claim that the vehicle was used or kept on a road in a charging area in circumstances in which, by virtue of a charging scheme, a charge was payable in respect of the vehicle;
 - (c) the grounds on which the charging authority believe that the penalty charge is payable with respect to the vehicle;
 - (d) that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice;
 - (e) if the charging scheme provides for the penalty charge to be reduced if it is paid by a specified time, the amount of the reduced charge and the last date for receipt of payment at the reduced level;
 - (f) the address to which payment of the penalty charge must be sent;
 - (g) that the person on whom the notice is served (“the recipient”) may be entitled to make representations under regulation 13; and
 - (h) the effect of regulation 16.

Representations against penalty charge notice

13.—(1) Where it appears to the recipient that one or other of the grounds mentioned in paragraph (3) are satisfied, he may make representations to that effect to the charging authority who served the penalty charge notice on him.

(2) The charging authority may disregard any such representations which are received by them after the end of the period of 28 days beginning with the date on which the penalty charge notice was served.

- (3) The grounds are—
- (a) that the recipient—
 - (i) never was the registered keeper in relation to the vehicle in question;
 - (ii) had ceased to be the person liable before the date on which the vehicle was used or kept on a road in a charging area; or
 - (iii) became the person liable after that date;
 - (b) that the charge payable for the use or keeping of the vehicle on a road on the occasion in question was paid at the time and in the manner required by the charging scheme;
 - (c) that in the circumstances of the case no penalty charge is payable;
 - (d) that the vehicle had been used or kept, or permitted to be used or kept, on a road by a person who was in control of the vehicle without the consent of the registered keeper;
 - (e) that the penalty charge exceeded the amount applicable in the circumstances of the case;
 - (f) 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 imposed in relation to the vehicle during the currency of the hiring agreement.

(4) Where the ground mentioned in paragraph (3)(a)(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).

(5) Where the ground mentioned in paragraph (3)(a)(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).

(6) It shall be the duty of a charging authority to whom representations are duly made under this regulation—

- (a) to consider them and any supporting evidence which the person making them provides; and
- (b) to serve on that person notice of their decision as to whether or not they accept that the ground in question has been established.

Cancellation of penalty charge notice

14.—(1) Where representations are made under regulation 13 and the charging authority concerned accept that the ground in question has been established they shall—

- (a) cancel the penalty charge notice; and
- (b) state in the notice served under regulation 13(6) that the penalty charge notice has been cancelled.

(2) The cancellation of a penalty charge notice under this regulation shall not be taken to prevent the charging authority concerned from serving a fresh penalty charge notice on the same or another person.

Rejection of representations against penalty charge notice

15.—(1) Where any representations are made under regulation 13 but the charging authority concerned do not accept that a ground has been established, the notice served under regulation 13(6) (“the notice of rejection”) must—

- (a) state that a charge certificate may be served under regulation 17 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 may contain such other information as the charging authority consider appropriate.

Adjudication by an adjudicator

16.—(1) Where a charging authority serve notice under regulation 13(6) that they do not accept that a ground on which representations were made under that regulation has been established, the person making those representations may appeal to an adjudicator against the charging authority’s decision 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.

(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 on any of the grounds mentioned in regulation 13(3) and may give the charging authority concerned such directions as he considers appropriate.

(3) It shall be the duty of any charging authority to whom a direction is given under paragraph (2) to comply with it.

Charge certificates

17.—(1) Where a penalty charge notice is served on any person and the penalty charge to which it relates is not paid before the end of the relevant period, the charging 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 such proportion as may be specified in the charging scheme under which it was incurred.

(2) The relevant period, in relation to a penalty charge notice, is the period of 28 days beginning—

- (a) where no representations are made under regulation 13, with the date on which the penalty charge notice is served;
- (b) where—
 - (i) such representations are made;
 - (ii) a notice of rejection is served by the charging 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 against a notice of rejection, with the date on which notice of the adjudicator’s decision is served on the appellant.

(3) Where an appeal against a notice of rejection is made but is withdrawn before the adjudicator gives notice of his decision, the relevant period in relation to a penalty charge notice is the period of 14 days beginning with the date on which the appeal is withdrawn.

Enforcement of charge certificate

18. 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 charging authority concerned may, if a county court so orders, recover the increased charge as if it were payable under a county court order.

Invalid notices

19.—(1) This regulation applies where—

- (a) a county court makes an order under regulation 18;
- (b) the person against whom it is made makes a statutory declaration complying with paragraph (2); and
- (c) that declaration is, before the end of the period of 21 days beginning with the date on which notice of the county court’s order is served on him, served on the county court which made the order.

(2) The statutory declaration must state that the person making it—

- (a) did not receive the penalty charge notice in question;

(b) made representations to the charging authority concerned under regulation 13 but did not receive a notice of rejection from that authority; or

(c) appealed to an adjudicator under regulation 16 against the rejection by that authority of representations made by him under regulation 13 but had no response to the appeal.

(3) Paragraph (4) applies where it appears to a district judge, on the application of a person on whom a charge certificate has been served, that it would be unreasonable in the circumstances of his case to insist on him serving his statutory declaration within the period of 21 days allowed for by paragraph (1).

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

(5) Where a statutory declaration is served under paragraph (1)(c)—

(a) the order of the court shall be deemed to have been revoked;

(b) the charge certificate shall be deemed to have been cancelled;

(c) in the case of a declaration under paragraph (2)(a), the penalty charge notice 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 declaration on the person making it and on the charging authority concerned.

(6) Service of a declaration under paragraph (2)(a) shall not be taken to prevent the charging authority from serving a fresh penalty charge notice on the same or another person.

(7) Where a declaration has been served under paragraph (2)(b) or (c), the charging authority shall refer the case to the adjudicator who may give such directions as he considers appropriate.

Enforcement by execution

20.—(1) Subject to paragraph (2),

(a) an unpaid penalty charge which is recoverable in accordance with regulation 18 as if it were payable under a county court order; and

(b) a sum to be paid by a person (other than a charging authority) under an adjudication of an adjudicator which is recoverable in accordance with regulation 7 as if it were payable under a county court order,

shall be treated for purposes of enforcement by execution as if they were specified debts in the Enforcement of Road Traffic Debts Order 1993(4) (“the 1993 Order”).

(2) For the purposes of the enforcement of payment of an unpaid penalty charge and a sum referred to in paragraph 1(b), any reference in the 1993 Order to “the authority” shall be a reference to a charging authority.

Service by post

21. Any penalty charge notice, charge certificate or other notice under these Regulations may be served by post (or in such other form as is agreed between the person to be served and the charging authority) and, 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.

26th June 2001

Irvine of Lairg, C.