
STATUTORY INSTRUMENTS

2001 No. 2313

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

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.