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STATUTORY INSTRUMENTS

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**2001 No. 2313**

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

**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(1) (“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.