
STATUTORY INSTRUMENTS

2013 No. 1783

**The Road User Charging Schemes (Penalty Charges,
Adjudication and Enforcement) (England) Regulations 2013**

PART 6

POWERS IN RESPECT OF MOTOR VEHICLES

Authorised persons

21.—(1) In these Regulations a reference to an authorised person is to a person authorised by a charging authority for the purpose of Part 6.

(2) An authorised person may be a charging authority, an employee of a charging authority, a constable or any other person authorised in writing by a charging authority to act as an authorised person.

(3) An authorised person who is about to exercise, is in the course of exercising or has exercised, any power conferred under these Regulations must, if so requested, produce that person's authority.

Power to examine motor vehicles

22.—(1) A charging scheme may confer powers on an authorised person to examine a motor vehicle whilst on a road for the purpose of ascertaining—

- (a) whether any document required by a charging scheme to be displayed while the motor vehicle is on a designated road is so displayed;
- (b) whether any equipment required by a charging scheme to be carried in or fitted to the motor vehicle while it is on such a road—
 - (i) is so carried or fitted;
 - (ii) is in proper working order;
 - (iii) has been interfered with, or its functioning has been interfered with, with intent to avoid payment of, or to avoid any person being identified as having failed to pay, a road user charge imposed by the charging scheme; or
- (c) whether any conditions relating to the use of any such equipment are satisfied.

Power to enter motor vehicles

23.—(1) A charging scheme may confer powers on an authorised person to enter a motor vehicle whilst on a road where the authorised person has reasonable grounds for suspecting that—

- (a) any equipment required by a charging scheme to be carried in or fitted to the motor vehicle while it is on a road designated by the charging scheme and in respect of which road user charges have been imposed has been interfered with, or its functioning has been interfered with, by a person who intends to avoid payment of, or being identified as having failed to pay, a road user charge imposed by the charging scheme; or

- (b) there is in the motor vehicle a false document which has been made or used by a person who intends to avoid payment of, or being identified as having failed to pay, such a road user charge.

(2) The power conferred by paragraph (1) must not be exercised by an authorised person who is not a constable except in the presence of a constable.

Power of seizure

24.—(1) A charging scheme may confer powers on an authorised person to seize anything (if necessary by detaching it from a motor vehicle) and detain it as evidence of the commission of an offence under section 173(5) or (6) of the Transport Act 2000(1) (acts done with intent to avoid a road user charge).

(2) The power conferred by paragraph (1) must not be exercised by an authorised person who is not a constable except in the presence of a constable.

Power to immobilise motor vehicles

25.—(1) Provided—

- (a) none of the circumstances in paragraph (2) apply; and
- (b) the conditions in paragraph (3) apply;

a charging scheme may provide for an authorised person to immobilise a motor vehicle in accordance with paragraphs (4) and (5).

(2) The circumstances are that—

- (a) a current disabled person's badge or a current recognised badge is displayed on the motor vehicle;
- (b) the motor vehicle appears to the authorised person to have been abandoned;
- (c) the motor vehicle is a public service vehicle being used for the carriage of passengers;
- (d) the motor vehicle is being used for the purpose of the removal of any obstruction to traffic, the maintenance, improvement or reconstruction of a public road, or the laying, erection, alteration, repair or cleaning in or near a road of any traffic sign or sewer or of any main, pipe or apparatus for the supply of gas, water or electricity, or of any telegraph or telephone wires, cables, posts or supports; or
- (e) the motor vehicle is being used by a universal service provider (within the meaning of the Postal Services Act 2000)(2) in relation to the provision of a universal postal service (within the meaning of that Act) and each side of the vehicle is clearly marked with the name of the universal service provider concerned.

(3) The conditions are that—

- (a) the charging authority has imposed at least three penalty charges of the type described in regulation 4(1) in respect of the motor vehicle which have not been paid;
- (b) the charging authority has been unable to serve a penalty charge notice in respect of the unpaid penalty charges because the motor vehicle—
 - (i) was not registered under the Vehicle Excise and Registration Act 1994(3); or
 - (ii) was so registered but without inclusion in the registered particulars of the correct name or address of the keeper of the motor vehicle;

(1) 2000 c.38. Section 173(5)(a) was amended by the Local Transport Act 2008 (c.26) section 115(1).

(2) 2000 c.26.

(3) 1994 c.22.

- (c) a period of 14 days, beginning with the date on which the third unpaid penalty charge was imposed, has elapsed; and
 - (d) the motor vehicle is stationary on a road.
- (4) An authorised person, or a person acting under the direction of the authorised person may—
- (a) fix an immobilisation device to the motor vehicle whilst on a road while it remains in the place where it is found; or
 - (b) move it, or require or arrange for it to be moved, to another place on that road or another road and fit an immobilisation device to the motor vehicle in that other place.
- (5) When an immobilisation device is fixed to a motor vehicle in accordance with this regulation, the person fitting the device is also to fix to the motor vehicle an immobilisation notice—
- (a) indicating that the device has been fixed to the motor vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device;
 - (b) stating the reason why the device has been fixed to the motor vehicle;
 - (c) stating that the motor vehicle may only be released from the device by or under the direction of an authorised person;
 - (d) stating that the notice or the device must not be removed or interfered with except by or on the authority of an authorised person; and
 - (e) specifying the steps to be taken to secure the motor vehicle’s release including—
 - (i) giving contact information (including a telephone number) which may be used in order to request that the motor vehicle be released from the immobilisation device;
 - (ii) the amount of—
 - (aa) the penalty charges of the type described in regulation 4(1);
 - (bb) if applicable, the road user charges payable under the charging scheme; and
 - (cc) such penalty charge as is imposed by the charging scheme for the release of the motor vehicle,that are to be paid before the release of the motor vehicle; and
 - (iii) the person to whom, and the means by which the charges described in subparagraph (ii) are to be paid.
- (6) In this regulation—
- (a) “disabled person’s badge” is a badge issued by local authorities for motor vehicles driven by or used for the carriage of disabled persons pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970(4);
 - (b) “recognised badge” has the same meaning as in section 21A(1) of the Chronically Sick and Disabled Persons Act 1970(5); and
 - (c) “third unpaid penalty charge” means the third unpaid penalty charge in sequence beginning with the earliest in time.

(4) 1970 c.44; section 21 was amended by the Disabled Persons’ Parking Badges Act 2013 (c.4) sections 1(1) to (5), 2(1) to (4), 4(1) to (4), 5(1) and (2) and 6, the Local Government Act 1972 (c.70) section 272(1) and Schedule 30, the Transport Act 1982 (c.49) section 68, the Road Traffic Regulation Act 1984 (c.27) section 146 and Schedule 13, the Local Government Act 1985 (c.51) section 8 and Schedule 5 paragraph 1, the Road Traffic Act 1991 (c.40) sections 35(2) to (5) and 83 and Schedule 8, the Traffic Management Act 2004 (c.18) section 94(1) to (4), the Disability Discrimination Act 2005 (c.13) section 19(1), Schedule 1 Part 2 paragraph 41 and the Tribunals, Courts and Enforcement Act 2007 (c.15) section 48(1) and Schedule 8 paragraph 2.

(5) Section 21A inserted by the Disability Discrimination Act 2005 (c.13) section 9.

Release of immobilised motor vehicles

26.—(1) A motor vehicle to which an immobilisation device has been fitted in accordance with regulation 25 may only be released from that device by or under the direction of an authorised person.

(2) Subject to paragraph (1), such a motor vehicle must be released from the immobilisation device on payment in any manner specified in the immobilisation notice fixed to the motor vehicle under regulation 25(5) of the charges mentioned in regulation 25(5)(e)(ii).

(3) The person who takes control of a motor vehicle following its release pursuant to paragraph (2) must be given a notice by the authorised person releasing it in accordance with regulation 32(2).

Power to remove motor vehicles

27.—(1) A charging scheme may provide for an authorised person, where—

- (a) an immobilisation device has been fixed to a motor vehicle in accordance with regulation 25 and any of the charges described in regulation 25(5)(e)(ii) remain unpaid; or
- (b) irrespective of whether the motor vehicle has been immobilised—
 - (i) none of the circumstances in regulation 25(2) apply; and
 - (ii) the conditions in regulation 25(3) apply,

to remove a motor vehicle and deliver it to a custodian for storage.

(2) A motor vehicle removed by virtue of paragraph (1) may be driven, towed or removed by an authorised person by such means as are reasonable in the circumstances and any necessary steps may be taken in relation to the motor vehicle in order to facilitate its removal.

(3) The contents of a motor vehicle removed by virtue of this regulation may be removed by an authorised person, or a person acting under the authorised person's direction, from the motor vehicle where—

- (a) it is reasonable to do so to facilitate removal of the motor vehicle;
- (b) there is good reason for storing them at a different place from the motor vehicle; or
- (c) their condition requires them to be disposed of without delay.

Disposal of removed motor vehicles and contents

28.—(1) Subject to the provisions of this regulation, the custodian to whom a motor vehicle is delivered in accordance with regulation 27(1) may store it and dispose of it or its contents by selling them or dealing with them as scrap, as the custodian thinks fit.

(2) Where the keeper of a motor vehicle has been identified and has disclaimed all rights of ownership of the motor vehicle or its contents, they may be disposed of by the custodian pursuant to this regulation at any time.

(3) In a case not falling within paragraph (2), a motor vehicle or its contents must not be disposed of pursuant to this regulation—

- (a) within the period of 28 days beginning with the date on which the motor vehicle was removed in accordance with regulation 27(1); and
- (b) until the custodian has made such inquiries as appear to the custodian to be practicable to ascertain the identity of the keeper of the motor vehicle and either—
 - (i) the custodian has failed to ascertain the name and address of the keeper; or
 - (ii) the keeper has failed to comply with a notice complying with paragraph (4).

(4) A notice under paragraph (3)(b)(ii) is a notice addressed to the keeper of the motor vehicle in question which—

- (a) states—
 - (i) the registration mark and make of the motor vehicle;
 - (ii) the place from which the motor vehicle was removed;
 - (iii) the place to which the motor vehicle has been removed;
 - (iv) the amount of—
 - (aa) the unpaid penalty charges of the type described in regulation 4(1);
 - (bb) if applicable, the unpaid road user charges payable under the charging scheme;
 - (cc) such penalty charges as are imposed by the charging scheme in respect of removal, storage and release from storage and (if the motor vehicle is disposed of) disposal,that are payable in respect of the motor vehicle;
 - (v) the steps to be taken to obtain possession of the motor vehicle in accordance with regulation 30;
 - (vi) that unless the motor vehicle is removed by the keeper or a person authorised in writing by the keeper on or before the date specified under paragraph (b), the custodian intends to dispose of it; and
- (b) requires the keeper of the motor vehicle, or a person authorised by the keeper in writing, to remove the motor vehicle from the custody of the custodian within 28 days of the date on which the notice was served.

(5) The custodian is entitled to treat the keeper of the motor vehicle, or a person authorised by the keeper in writing, as the person entitled to its contents unless and to the extent that some other person satisfies the custodian of their claim to all or part of them.

(6) Where there is more than one claim to the motor vehicle or its contents, the custodian must determine which person is entitled to the motor vehicle or its contents on the basis of the evidence provided.

Recovery of penalty charges and road user charges in relation to removed motor vehicles

29.—(1) Where a motor vehicle has been removed and delivered into the custody of a custodian under regulation 27(1) the charging authority or the custodian may (whether or not any claim is made under regulation 30 or 31) recover from the person who was the keeper of the motor vehicle when it was removed all the penalty charges and road user charges mentioned in regulation 28(4)(a)(iv) that remain unpaid in respect of the motor vehicle.

(2) Where, by virtue of paragraph (1), any sum is recoverable in respect of a motor vehicle by a charging authority or a custodian, the charging authority or the custodian is entitled to retain custody of it until that sum is paid or the vehicle is disposed of in accordance with these Regulations.

Taking possession of a removed motor vehicle

30.—(1) A person may take possession of a motor vehicle (with its contents) which has been removed and delivered to a custodian and has not been disposed of under regulation 28, if the conditions specified in paragraph (2) are satisfied.

- (2) The conditions are that—
 - (a) the person wanting to take possession of the motor vehicle satisfies the custodian that that person is the keeper of the motor vehicle or is authorised by the keeper to take possession of the motor vehicle; and

- (b) all the penalty charges and road user charges mentioned in regulation 28(4)(a)(iv) that remain unpaid in respect of the motor vehicle are paid to the charging authority or the custodian.
- (3) The person taking possession of a motor vehicle pursuant to paragraph (2) must be given a notice by the custodian in accordance with regulation 35(2).

Claim by the keeper of a motor vehicle after its disposal

31.—(1) If, after a motor vehicle has been disposed of by a custodian pursuant to regulation 28, a person claims to have been the keeper of the motor vehicle at the time when it was disposed of and the conditions specified in paragraph (2) are fulfilled, there is payable to that person by the custodian a sum calculated in accordance with paragraph (3).

(2) The conditions are that—

- (a) the person claiming satisfies the custodian that such person was the keeper of the motor vehicle at the time it was disposed of; and
- (b) the claim is made within the period of one year beginning with the date on which the motor vehicle was disposed of.

(3) The sum payable under paragraph (1) is calculated by deducting from the proceeds of sale of the motor vehicle any of the sums payable under regulation 28(4)(a)(iv) that remain unpaid with respect to the motor vehicle.