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DRAFT STATUTORY INSTRUMENTS

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**2022 No.**

The Civil Enforcement of Road Traffic Contraventions  
(Representations and Appeals) (England) Regulations 2022

PART 1

Preliminary

**Citation, commencement, extent and application**

1.—(1) These Regulations may be cited as the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022.

(2) These Regulations come into force at the same time as the Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022(1).

(3) These Regulations extend to England and Wales, and apply only in relation to England.

**Interpretation of Parts 1 to 5**

2.—(1) In this Part and Parts 2 to 5—

“the RTRA 1984” means the Road Traffic Regulation Act 1984;

“the TMA 2004” means the Traffic Management Act 2004.

“the 2022 General Regulations” means the Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022;

“appeal” means an appeal under regulation 7(1), 10(1) or 13(1);

“appellant”, in relation to an appeal or any process connected with such an appeal, means the person bringing the appeal;

“charge certificate” has the meaning given in regulation 2 of the 2022 General Regulations;

“enforcement notice” means—

(a) a notice to owner, or

(b) a regulation 10 penalty charge notice;

“fax” means the making of a facsimile copy of a document by the transmission of electronic signals;

“joint committee”, in relation to an enforcement authority, means the joint committee through which, in accordance with regulation 18 or 19 of the 2022 General Regulations, the authority exercises its functions relating to adjudicators;

“notice to owner” has the meaning given in regulation 20 of the 2022 General Regulations;

“owner” in relation to a vehicle, includes any person who, by virtue of regulation 6 of the 2022 General Regulations, is treated as the owner of the vehicle for the purposes of those Regulations;

“penalty charge” has the meaning given in regulation 2 of the 2022 General Regulations;

“penalty charge notice” has the meaning given in regulation 2 of the 2022 General Regulations;

“procedural impropriety” has the meaning given in paragraph (2);

“the proper officer” means a member of the administrative staff provided by the relevant enforcement authorities under section 81(4)(a) of the TMA 2004 who has been appointed to perform the functions of the proper officer under these Regulations;

“regulation 9 penalty charge notice” means a penalty charge notice given under regulation 9 of the 2022 General Regulations;

“regulation 10 penalty charge notice” has the meaning given in regulation 2 of the 2022 General Regulations;

“recipient” means the person on whom an enforcement notice is served;

“register” means the register required to be kept under regulation 17;

“relevant road traffic contravention” has the meaning given in regulation 2 of the 2022 General Regulations.

(2) A “procedural impropriety” means a failure by an enforcement authority to observe any requirement imposed on it by—

- (a) the TMA 2004,
- (b) the 2022 General Regulations, or
- (c) these Regulations,

in relation to the imposition or recovery of a penalty charge or other sum.

(3) For the purposes of paragraph (2) such a failure includes, in particular, the taking of any step, whether or not involving the service of any document, otherwise than—

- (a) in accordance with the conditions subject to which, or
- (b) at the time or during the period when,

it is authorised or required by the 2022 General Regulations or these Regulations to be taken.

## PART 2

### Information, representations and appeals in relation to penalty charge notices or enforcement notices

#### CHAPTER 1

Information to be included in regulation 9 penalty charge notices and enforcement notices

#### **Information about right to make representations or appeal to be included in regulation 9 penalty charge notices and enforcement notices**

3.—(1) A regulation 9 penalty charge notice must include the following information—

- (a) that a person on whom a notice to owner is served may, in accordance with these Regulations, make representations to the enforcement authority against the penalty charge and, if those representations are rejected, appeal to an adjudicator;

- (b) that if, before a notice to owner is served, representations against the penalty charge are received at such address as may be specified in the notice for the purpose those representations will be considered by the enforcement authority;
  - (c) that if a notice to owner is served despite the representations mentioned in subparagraph (b), representations against the penalty charge must be made to the enforcement authority in the form and manner and at the time specified in the notice to owner.
- (2) An enforcement notice must include the following information—
- (a) that—
    - (i) the recipient may make representations against the penalty charge in accordance with regulation 5 of these Regulations, but
    - (ii) any such representations made outside the period of 28 days beginning with the date on which the notice is served (“the payment period”) may be disregarded;
  - (b) the nature of the representations which may be made under regulation 5;
  - (c) the form in which representations must be made;
  - (d) the address to which representations must be sent, including, as appropriate—
    - (i) an email address,
    - (ii) a FAX telephone number,
    - (iii) the address of any website where representations may be submitted online (and the place on that website where the relevant facility may be accessed),as well as a postal address;
  - (e) that the recipient may appeal to an adjudicator against any decision of the enforcement authority not to accept representations which are made—
    - (i) within the payment period, or
    - (ii) outside that period but not disregarded by the authority;
  - (f) the form and manner in which an appeal may be made;
  - (g) where the enforcement notice is a regulation 10 penalty charge notice served under regulation 10(2)(a) of the 2022 General Regulations (an “approved device notice”), the effect of paragraphs (3) and (4).
- (3) The recipient (“R”) of an approved device notice may, by notice in writing, request that the enforcement authority—
- (a) makes available, at one of its offices specified by R, free of charge and at a time during normal office hours so specified, for viewing by R or R’s representative the record of the alleged relevant road traffic contravention produced by the approved device pursuant to which the penalty charge was imposed, or
  - (b) provides R, free of charge, with such still images from that record as, in the authority’s opinion, establish the alleged relevant road traffic contravention.
- (4) The enforcement authority must comply with any request under paragraph (3) within a reasonable time.

## CHAPTER 2

### Enforcement notices: representations and appeals

#### Application of Chapter 2

4. This Chapter applies where a person—
- (a) is served with a notice to owner, or

- (b) is served with a regulation 10 penalty charge notice and the penalty charge to which it relates has not been paid.

### **Representations against the enforcement notice**

5.—(1) The recipient may make representations against the enforcement notice to the enforcement authority which served it on the recipient.

(2) The representations must be—

- (a) made in the form determined by the enforcement authority, and
- (b) to either or both of the following effects—
  - (i) that in relation to the alleged contravention, one or more of the grounds specified in paragraph (4) apply;
  - (ii) 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 cancel the penalty charge and refund any sum paid to it on account of the penalty charge.

(3) In determining the form for making representations, the enforcement authority must act through the joint committee.

(4) The grounds mentioned in paragraph (2)(b)(i) are—

- (a) the alleged contravention did not occur;
- (b) the recipient—
  - (i) never was the owner of the vehicle in question,
  - (ii) had ceased to be its owner before the alleged contravention occurred, or
  - (iii) became its owner after the alleged contravention occurred;
- (c) at the time that the alleged contravention occurred, the vehicle in question was in the control of a person who did not have the consent of the owner;
- (d) 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 their liability in respect of any penalty charge notice served in respect of any relevant road traffic contravention involving the vehicle during the currency of the hiring agreement;
- (e) the penalty charge exceeded the amount applicable in the circumstances of the case;
- (f) there has been a procedural impropriety on the part of the enforcement authority;
- (g) the order which is alleged to have been contravened in relation to the vehicle concerned, except where it is an order to which Part 6 of Schedule 9 to the RTRA 1984 applies, is invalid;
- (h) if a regulation 10 penalty charge notice is served under regulation 10(2)(b) or (c) of the 2022 General Regulations, no person prevented a civil enforcement officer from—
  - (i) fixing a regulation 9 penalty charge notice to the vehicle concerned, or
  - (ii) handing such a notice to the owner or person in charge of the vehicle;
- (i) the enforcement notice should not have been served because—
  - (i) the penalty charge has already been paid in full, or
  - (ii) the penalty charge has been paid, reduced by the amount of any discount set in accordance with Schedule 9 to the TMA 2004, by the applicable date as specified in paragraph 1(3) of Schedule 3 to the 2022 General Regulations.

(5) Where a recipient relies on the ground specified in paragraph (4)(b)(ii), their representations must, if the information is known by the recipient, state the name and address of the person to whom the vehicle was disposed of.

(6) Where a recipient relies on the ground specified in paragraph 4(b)(iii), their representations must, if the information is known by the recipient, state the name and address of the person from whom the recipient acquired the vehicle.

(7) Where a recipient relies on the ground specified in paragraph (4)(d), their representations must state the name and address of the person to whom the vehicle was hired at the material time.

(8) In this regulation—

“alleged contravention” means the alleged relevant road traffic contravention in relation to which an enforcement notice is served;

“hiring agreement” and “vehicle-hire firm” have the same meanings as in section 66 of the Road Traffic Offenders Act 1988(2);

“the material time” means the time when the alleged contravention is said to have been committed.

### **Duties of an enforcement authority to which representations are made under regulation 5**

**6.—(1)** This regulation applies where an enforcement authority receives representations from a recipient under regulation 5.

(2) The enforcement authority may disregard any representations which it receives after the end of the period of 28 days beginning with the date on which the relevant enforcement notice is served.

(3) If the representations are—

- (a) made in accordance with regulation 5(2), and
- (b) not disregarded by the enforcement authority under paragraph (2),

the authority must, within the period of 56 days beginning with the date on which it receives the representations (“the 56-day period”), comply with the requirements specified in paragraph (4).

(4) The requirements mentioned in paragraph (3) are that enforcement authority must—

- (a) consider the representations and any supporting evidence which the recipient provides, and
- (b) serve on the recipient a notice of its decision (a “decision notice”) which states whether or not it accepts the representations made by the recipient.

(5) If the enforcement authority accepts the representations—

- (a) it must cancel the relevant enforcement notice,
- (b) its decision notice must state that the enforcement notice has been cancelled, and
- (c) when it serves the decision notice, it must refund any sum paid in relation to the relevant enforcement notice.

(6) If the enforcement authority does not accept the representations, its decision notice—

- (a) must—
  - (i) state that a charge certificate may be served on the recipient unless within the period of 28 days beginning with the date of service of the decision notice—
    - (aa) the penalty charge is paid, or
    - (bb) the recipient appeals to an adjudicator against the penalty charge,
  - (ii) indicate the nature of an adjudicator’s power to award costs, and

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(2) 1988 c. 53. The definition of “hiring agreement” in section 66(8) was amended by the Road Safety Act 2006 (c. 49).

- (iii) describe the form and manner in which an appeal to an adjudicator must be made, and
  - (b) may contain such other information as the enforcement authority considers appropriate.
- (7) If the enforcement authority fails to comply with the requirements specified in paragraph (4) within the 56-day period—
- (a) it is deemed for the purposes of these Regulations to have accepted the representations made by the recipient, and
  - (b) it must—
    - (i) cancel the relevant enforcement notice,
    - (ii) refund any sum paid in relation to it, and
    - (iii) serve a notice on the recipient informing the recipient that the enforcement notice has been cancelled because the enforcement authority failed to serve a decision notice in accordance with paragraph (4)(b).
- (8) The cancellation of an enforcement notice under this regulation does not prevent the enforcement authority from serving a new enforcement notice on another person in accordance with the 2022 General Regulations.

#### **Appeal to an adjudicator against a decision to reject a recipient's representations**

- 7.—(1) A recipient may appeal to an adjudicator against an enforcement authority's decision not to accept their representations.
- (2) An appeal under this regulation must be made within—
- (a) the period of 28 days beginning with the date of service of the decision notice under regulation 6(4)(b) which states that the enforcement authority does not accept the recipient's representations, or
  - (b) such longer period as the adjudicator may allow.
- (3) Parts 1 to 3 of Schedule 1 make further provision in connection with appeals (including procedural matters).
- (4) On an appeal under this regulation, the adjudicator must consider—
- (a) the representations made under regulation 5,
  - (b) any additional representations which are made by the appellant to an effect in regulation 5(2)(b), and
  - (c) any representations made to the adjudicator by the enforcement authority.
- (5) If the adjudicator concludes that a ground specified in regulation 5(4) applies, the adjudicator—
- (a) must allow the appeal, and
  - (b) may give such directions to the enforcement authority as the adjudicator considers appropriate for the purpose of giving effect to that decision.
- (6) An adjudicator may, in particular, give a direction under paragraph (5)(b) requiring any of the following—
- (a) where the relevant enforcement notice is a notice to owner, the cancellation of the penalty charge notice to which it relates;
  - (b) the cancellation of the enforcement notice;
  - (c) the refund of any sum paid to the enforcement authority in respect of the penalty charge.
- (7) An enforcement authority which is given a direction under paragraph (5)(b) must comply with it immediately.

- (8) If an adjudicator—
- (a) does not allow an appeal, but
  - (b) is satisfied that there are compelling reasons why, in the particular circumstances of the case, the enforcement notice should be cancelled,
- the adjudicator may recommend to the enforcement authority that it cancel the enforcement notice.
- (9) An enforcement authority to which a recommendation is made under paragraph (8) must—
- (a) consider afresh the cancellation of the enforcement notice taking full account of any observations by the adjudicator, and
  - (b) within the period of thirty-five days beginning with the date on which the recommendation is given (“the 35-day period”), notify the appellant and the adjudicator as to whether or not it accepts the adjudicator’s recommendation.
- (10) If the enforcement authority does not accept the adjudicator’s recommendation, the notification under paragraph (9)(b) must include the reasons for that decision.
- (11) No appeal to the adjudicator lies against the decision of the enforcement authority not to accept the adjudicator’s recommendation.
- (12) If the enforcement authority accepts the adjudicator’s recommendation, the authority must—
- (a) cancel the enforcement notice, as soon as is reasonably practicable, and
  - (b) refund to the appellant any sum paid in respect of the penalty charge.
- (13) If an enforcement authority fails to comply with paragraph (9) within the 35-day period, the authority—
- (a) is to be taken to have accepted the adjudicator’s recommendation, and
  - (b) must—
    - (i) cancel the enforcement notice, and
    - (ii) refund to the appellant any sum paid in respect of the penalty charge.

## PART 3

### Representations and appeals in relation to the immobilisation of vehicles

#### **Representations against immobilisation**

- 8.**—(1) This regulation applies where—
- (a) an immobilisation device is fixed, in accordance with regulation 13 of the 2022 General Regulations, to a vehicle found in a civil enforcement area, and
  - (b) a relevant person secures its release from the device on payment of an amount in accordance with regulation 15 of those Regulations.
- (2) For the purposes of this regulation, a relevant person is—
- (a) the owner of the vehicle to which the immobilisation device was fixed, or
  - (b) the person in charge of that vehicle.
- (3) The relevant person must be notified by the enforcement authority, or a person acting on behalf of the enforcement authority—
- (a) of their right to make representations to the enforcement authority in accordance with this regulation, including the effect of paragraphs (5) and (6),

- (b) that any representations made outside the period of 28 days beginning with the date on which the person is so notified may be disregarded,
  - (c) of the form in which representations must be made,
  - (d) the address to which representations must be sent, including, as appropriate—
    - (i) an email address,
    - (ii) a FAX telephone number,
    - (iii) the address of any website where representations may be submitted online (and the place on that website where the relevant facility may be accessed),as well as a postal address, and
  - (e) of their right to appeal to an adjudicator if those representations are not accepted.
- (4) A notice under paragraph (3) must be given, in writing, immediately upon release of the vehicle.
- (5) The relevant person may make representations to the enforcement authority to either or both of the following effects—
- (a) that one or more of the grounds specified in paragraph (6) apply, or
  - (b) whether or not any of those grounds apply, that 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.
- (6) The grounds mentioned in paragraph (5)(a) are—
- (a) the circumstances in which the vehicle had been permitted to remain at rest in the civil enforcement area were not circumstances in which a penalty charge was payable under regulation 5 of the 2022 General Regulations;
  - (b) 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) the place where the vehicle was at rest was not in a civil enforcement area;
  - (d) in accordance with regulation 14 of the 2022 General Regulations, there was in the circumstances of the case no power under those Regulations to immobilise the vehicle at the time at which it was immobilised or at all;
  - (e) the penalty charge or other charge paid to secure the release of the vehicle exceeded the amount applicable in the circumstances of the case;
  - (f) there has been a procedural impropriety on the part of the enforcement authority.
- (7) Representations under this regulation must be made in such form as may be specified by the enforcement authority.
- (8) In determining the form for making representations, the enforcement authority must act through the joint committee.

### **Duties of an enforcement authority to which representations are made under regulation 8**

9.—(1) This regulation applies where an enforcement authority receives representations under regulation 8.

(2) The enforcement authority may disregard any representations which it receives after the end of the period of 28 days beginning with the date on which the person making them (“R”) is informed under regulation 8(3) of their right to make representations under that regulation.

- (3) If the representations are—
  - (a) are made in accordance with regulation 8(5), and



(b) are not disregarded by the enforcement authority under paragraph (2), the authority must, within the period of 56 days beginning with the date on which the enforcement authority receives the representations (“the 56-day period”), comply with the requirement specified in paragraph (4).

- (4) The requirements mentioned in paragraph (3) are that the enforcement authority must—
- (a) consider the representations and any supporting evidence which R provides, and
  - (b) serve on R a notice of its decision (a “decision notice”) as to whether or not it accepts that—
    - (i) there are compelling reasons of the kind mentioned in regulation 8(5)(b), or
    - (ii) any of the grounds specified in regulation 8(6) apply.

(5) If the enforcement authority accepts that any of the grounds specified in regulation 8(6) apply, it must, when serving its decision notice, refund any sums that the person to whom the vehicle was released was required to pay under regulation 15 of the 2022 General Regulations.

- (6) If the enforcement authority—
- (a) accepts there are compelling reasons of a kind mentioned in regulation 8(5)(b), but
  - (b) if representations are also made that any of the grounds specified in regulation 8(6) apply, does not accept that any of the stated grounds apply,

the authority must refund the appropriate sums.

- (7) For the purposes of paragraph (6) “the appropriate sums” means—
- (a) any sums that the person to whom the vehicle was released was required to pay under regulation 15 of the 2022 General Regulations, or
  - (b) such of those sums as the enforcement authority considers appropriate.

(8) If the enforcement authority does not accept that there are compelling reasons of a kind mentioned in regulation 8(5)(b) or that any of the grounds specified in regulation 8(6) apply, the enforcement authority’s decision notice must—

- (a) inform R of the right to appeal to an adjudicator under regulation 10,
- (b) indicate the nature of an adjudicator’s power to award costs, and
- (c) describe the form and manner in which such an appeal is required to be made.

(9) If an enforcement authority fails to comply with the requirements specified in paragraph (4) within the 56-day period, it—

- (a) is to be deemed to have accepted the representations and to have served a decision notice to that effect, and
- (b) must refund any sums that the person to whom the vehicle was released was required to pay under regulation 15 of the 2022 General Regulations.

(10) Paragraphs (6), (8) and (9) do not require an enforcement authority to refund any sum to the extent (if any) to which it was properly paid.

### **Appeal to an adjudicator against enforcement authority’s decision to reject representations**

**10.—**(1) A person (“P”) may appeal to an adjudicator against an enforcement authority’s decision not to accept that—

- (a) any of the grounds specified in regulation 8(6) apply, or
  - (b) there are compelling reasons of the kind mentioned in regulation 8(5)(b).
- (2) An appeal under this regulation must be made within—

- (a) the period of 28 days beginning with the date of service of the decision notice under regulation 9(4)(b) informing P of P's right to appeal to an adjudicator under this regulation, or
  - (b) such longer period as the adjudicator may allow.
- (3) Parts 1 to 3 of Schedule 1 make further provision in connection with appeals (including procedural matters).
- (4) On an appeal under this regulation, the adjudicator must consider—
- (a) the representations made under regulation 8,
  - (b) any additional representations which are made by the appellant, and
  - (c) any representations made to the adjudicator by the enforcement authority.
- (5) If the adjudicator concludes that—
- (a) any of the grounds specified in regulation 8(6) apply, and
  - (b) the enforcement authority would have been under the duty imposed by regulation 9(5) to refund any sums if it had accepted that the ground in question applied,
- the adjudicator must direct the authority to refund the relevant sums.
- (6) An enforcement authority which is given a direction under paragraph (5) must comply with it immediately.
- (7) If the adjudicator—
- (a) does not give a direction under paragraph (5), but
  - (b) is satisfied that 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 should be refunded,
- the adjudicator may recommend that the enforcement authority make such a refund.
- (8) An enforcement authority to which a recommendation is made under paragraph (7) must—
- (a) consider afresh the making of a refund of those sums taking full account of any observations by the adjudicator, and
  - (b) within the period of thirty-five days beginning with the date on which the recommendation was given (“the 35-day period”), notify the appellant and the adjudicator as to whether or not it accepts the adjudicator’s recommendation.
- (9) If the enforcement authority does not accept the recommendation, the notification under paragraph (8)(b) must include the reasons for that decision.
- (10) No appeal to the adjudicator lies against a decision of the enforcement authority not to accept an adjudicator’s recommendation.
- (11) If the enforcement authority accepts the adjudicator’s recommendation it must make the recommended refund within the 35-day period.
- (12) If the enforcement authority fails to comply with the requirements in paragraph (8) within the 35-day period, the authority—
- (a) is to be deemed to have accepted the adjudicator’s recommendation, and
  - (b) must make the recommended refund.

## PART 4

### Representations and appeals in relation to removed vehicles

#### Representations about a removed vehicle

**11.**—(1) This regulation applies where, in relation to a vehicle found in a civil enforcement area for parking contraventions and removed under regulations made under section 99 of the RTRA 1984(3), a person (“P”)—

- (a) is required to pay an amount on recovery of the vehicle under section 101A(1) of that Act(4),
- (b) 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 amount of the relevant charges(5), or
- (d) is informed that the vehicle was disposed of without there being any proceeds of sale.

(2) P must, immediately upon the happening of the occurrence referred to in paragraph (1), be notified, in writing—

- (a) of their right to make representations to the enforcement authority in accordance with this regulation, including the effect of paragraphs (3) and (4),
- (b) that any representations made outside the period of 28 days beginning with the date on which the person is so notified may be disregarded,
- (c) of the form in which the representations must be made,
- (d) of the address to which representations must be sent, including, as appropriate—
  - (i) an email address,
  - (ii) a FAX telephone number,
  - (iii) the address of any website where representations may be submitted online (and the place on that website where the relevant facility may be accessed),as well as a postal address, and
- (e) of that person’s right to appeal to an adjudicator if those representations are not accepted.

(3) P may make representations to the enforcement authority to either or both of the following effects that—

- (a) one or more of the grounds specified in paragraph (4) apply, or
- (b) whether or not any of those grounds apply, there are compelling reasons why, in the particular circumstances of the case, the enforcement authority should—
  - (i) refund some or all of the amount that was paid to secure the release of the vehicle,
  - (ii) refund some or all of the amount that was deducted from the proceeds of sale of the vehicle in respect of the relevant charges, or
  - (iii) waive its right to recover all or any of the sums due to it on account of the removal or disposal of the vehicle.

(4) The grounds mentioned in paragraph (3)(a) are that—

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(3) The Regulations that currently apply in England are the Removal and Disposal of Vehicles Regulations 1986 (S.I. 1986/183).

(4) Section 101A was inserted by paragraph 3(2) of Schedule 11 to the TMA 2004.

(5) “The relevant charges” is defined, in the case of a vehicle found in a civil enforcement area for parking contraventions, in section 101A(3) of the RTRA 1984.

- (a) the circumstances in which the vehicle had been permitted to remain at rest in a civil enforcement area for parking contraventions were not circumstances in which a penalty charge was payable by virtue of regulation 5 of the 2022 General Regulations;
  - (b) a civil enforcement officer had not, in accordance with regulation 9 of the 2022 General Regulations, fixed a penalty charge notice to the vehicle or handed such a notice to the person appearing to that officer to be in charge of the vehicle, before the vehicle was removed;
  - (c) at the time the vehicle was removed, the power to remove the vehicle conferred by paragraph (2) of regulation 5C of the Removal and Disposal of Vehicles Regulations 1986<sup>(6)</sup> was, by virtue of paragraph (3) of that regulation, not exercisable;
  - (d) 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;
  - (e) that the place where the vehicle was at rest was not in a civil enforcement area for parking contraventions;
  - (f) 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;
  - (g) that there has been a procedural impropriety on the part of the enforcement authority.
- (5) Representations under this regulation must be made in such form as may be specified by the enforcement authority.
- (6) In determining the form for making representations, the enforcement authority must act through the joint committee.

### **Duties of an enforcement authority to which representations are made under regulation 11**

**12.**—(1) This regulation applies where an enforcement authority receives representations under regulation 11.

(2) The enforcement authority may disregard any representations which it receives after the end of the period of 28 days beginning with the date on which the person making them (“R”) is notified under regulation 11(2) of their right to make representations.

(3) If the representations—

- (a) are made in accordance with regulation 11(3), and
- (b) are not disregarded by the enforcement authority under paragraph (2),

the authority must, within the period of 56 days beginning with the date on which the enforcement authority receives the representations (“the 56-day period”), comply with the requirements specified in paragraph (4).

(4) The requirements are that the enforcement authority must—

- (a) consider the representations and any supporting evidence which R provides, and
- (b) serve on R a notice of its decision (a “decision notice”) as to whether or not it accepts that—
  - (i) there are compelling reasons of the kind referred to in regulation 11(3)(b), or
  - (ii) any of the grounds specified in regulation 11(4) apply.

(5) If the enforcement authority accepts that any of the grounds specified in regulation 11(4) apply, it must, when serving its decision notice—

- (a) refund any amount that was—

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(6) S.I. 1986/183. Regulation 5C was inserted by S.I. 2007/3484, it was amended by S.I. 2021/461.

- (i) paid by R to secure the release of the vehicle under section 101A(1) of the RTRA 1984, or
  - (ii) deducted from the proceeds of sale of the vehicle in respect of the relevant charges in accordance with section 101A(2) of that Act, and
- (b) inform R that it has waived the right to recover any sum which might otherwise have been due to it by way of a penalty charge or on account of the removal, storage or disposal of the vehicle.
- (6) Paragraph (7) applies where the enforcement authority—
  - (a) accepts that there are compelling reasons of a kind mentioned in regulation 11(3)(b), but
  - (b) if the representations include any of the grounds specified in regulation 11(4), it does not accept that any of the stated grounds apply.
- (7) Where this paragraph applies, the enforcement authority must, when serving its decision notice—
  - (a) refund the relevant amount, and
  - (b) inform R that it has waived the right to recover any sum which might otherwise have been due to it by way of a penalty charge or on account of the removal, storage or disposal of the vehicle.
- (8) For the purposes of paragraph (7) “the relevant amount” means—
  - (a) where R was required to pay an amount to secure the release of the vehicle under section 101A(1) of the RTRA 1984—
    - (i) that amount, or
    - (ii) so much of that amount as the enforcement authority considers appropriate in the circumstances of the case;
  - (b) where an amount was deducted from the proceeds of sale of the vehicle in respect of the relevant charges in accordance with section 101A(2) of the RTRA 1984—
    - (i) the amount so deducted, or
    - (ii) so much of that amount as the enforcement authority considers appropriate in the circumstances of the case.
- (9) Paragraphs (5) and (7) do not require an enforcement authority to refund any sum to the extent (if any) to which it was properly paid or deducted.
- (10) An authority which has waived its right to recover a sum loses its right to do so.
- (11) Where an authority does not accept that there are any compelling reasons of a kind mentioned in regulation 11(3)(b), or that any of the grounds specified in regulation 11(4) apply, its decision notice must—
  - (a) inform R of R’s right to appeal to an adjudicator under regulation 13,
  - (b) indicate the nature of an adjudicator’s power to award costs, and
  - (c) describe in general terms the form and manner in which such an appeal is required to be made.
- (12) Where an enforcement authority fails to comply with the requirements in paragraph (4) before the end of the 56-day period, the authority—
  - (a) is to be deemed to have accepted the representations and served a decision notice to that effect, and
  - (b) must refund—

- (i) the relevant charges that R was required to pay under section 101A(1) of the RTRA 1984, or
- (ii) the amount that was deducted from the proceeds of sale of the vehicle in respect of the relevant charges in accordance with section 101A(2) of that Act.

### **Appeal to an adjudicator against enforcement authority's decision to reject representations**

**13.**—(1) A person (“P”) may appeal to an adjudicator against an enforcement authority’s decision not to accept that—

- (a) there are compelling reasons of a kind mentioned in regulation 11(3)(b), or
- (b) any of the grounds specified in regulation 11(4) apply.

(2) An appeal under this regulation must be made within—

- (a) the period of 28 days beginning with date of service of the decision notice under regulation 12(4)(b) informing P of P’s right to appeal under this regulation, or
- (b) such longer period as the adjudicator may allow.

(3) Parts 1 to 3 of Schedule 1 make further provision in connection with appeals (including procedural matters).

(4) On an appeal under this regulation, the adjudicator must consider—

- (a) the representations made by the appellant under regulation 11(3), and
- (b) any additional representations that are made by the appellant.

(5) If the adjudicator concludes that—

- (a) any of the grounds specified in regulation 11(4) apply, and
- (b) the enforcement authority would have been under the duty imposed by regulation 12(5) to refund any sum if it had served a notice that it accepted that the ground in question applied,

the adjudicator must direct the authority to refund that sum.

(6) An enforcement authority which is given a direction under paragraph (5)—

- (a) must comply with the direction immediately, and
- (b) ceases to have any right to recover any sum which might otherwise have been due to it by way of a penalty charge or on account of the removal, storage or disposal of the vehicle.

(7) If the adjudicator—

- (a) does not make a direction under paragraph (5), but
- (b) is satisfied that there are compelling reasons why, in the particular circumstances of the case, some or all of the relevant charges paid to secure the release of the vehicle, or of the amount deducted from the proceeds of sale in respect of the relevant charges, should be refunded,

the adjudicator may recommend that the enforcement authority make such a refund.

(8) An enforcement authority to which a recommendation is made under paragraph (7) must—

- (a) consider afresh the making of a refund of those sums taking full account of any observations by the adjudicator, and
- (b) within the period of 35 days beginning with the date on which the recommendation was given (“the 35-day period”), notify the appellant and the adjudicator as to whether or not it accepts the adjudicator’s recommendation.

(9) If the enforcement authority does not accept the recommendation, the notification under paragraph (8)(b) must include the reasons for that decision.

(10) No appeal to the adjudicator lies against the decision of the enforcement authority not to accept the adjudicator's recommendation.

(11) If the enforcement authority accepts the adjudicator's recommendation it must make the recommended refund within the 35-day period.

(12) If the enforcement authority fails to comply with the requirements of paragraph (8) within the 35-day period, the authority—

- (a) is to be deemed have accepted the adjudicator's recommendation, and
- (b) must make the recommended refund.

## PART 5

### Miscellaneous provisions

#### **Proceedings in connection with invalid notices**

14. Part 4 of Schedule 1 contains provision for, and in connection with, the referral to an adjudicator of a case in which an order of a county court is deemed to have been revoked under regulation 23 of the 2022 General Regulations.

#### **Procedure of adjudicators**

15. An adjudicator may regulate their own procedure, subject to the provisions of Schedule 1.

#### **Recovery of sums payable**

16.—(1) Any amount which is payable under any provision of these Regulations requiring an enforcement authority to refund any sum is, if a county court so orders, to be recoverable by the person to whom the amount is payable as if it were payable under a county court order.

(2) Paragraph (1) does not apply to a penalty charge which remains payable following an appeal under regulation 7.

#### **The register**

17.—(1) The proper officer must establish and maintain a register for the purpose of recording proceedings conducted under these Regulations.

(2) The register must be kept open for inspection by any person without charge at all reasonable hours at the principal office of the adjudicators.

(3) The register may be kept in electronic form.

(4) If the register is kept in electronic form, the duty to allow inspection is to be treated as a duty to allow inspection of a reproduction in legible form of the recording of the entry the inspection of which is being sought.

(5) A document purporting to be certified by the proper officer to be a true copy of any entry of a decision in a register is to be evidence of the entry and of the matters contained in it.

#### **False representations**

18.—(1) A person who—

- (a) makes any representation under Part 2 or 3, or any provision of Schedule 1 so far as it relates to an appeal under regulation 7(1) or 10(1), that is false in a material particular, and



(b) does so recklessly or knowing it to be false,  
commits an offence.

(2) A person who is guilty of an offence under paragraph (1) is liable on summary conviction to a fine.

## PART 6

### Consequential, savings and transitional provisions

#### CHAPTER 1

##### Revocation of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 and related provisions

#### **Revocation of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007**

**19.** The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007(7) are revoked.

#### **Interpretation of Chapter**

**20.**—(1) In this Chapter—

“the 2007 Appeals Regulations” means the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations, as they were in force immediately before the commencement date;

“the 2007 General Regulations” means the Civil Enforcement of Parking Contraventions (England) General Regulations 2007(8), as they were in force immediately before the commencement date;

“the saved 2007 General Regulations” means the Civil Enforcement of Parking Contraventions (England) General Regulations 2007, as those Regulations continue to have effect by virtue of regulation 33 of the 2022 General Regulations;

“the commencement date” means the day on which these Regulations come into force;

“owner”, in relation to a vehicle, has the meaning given by the 2007 General Regulations;

(2) This Chapter is without prejudice to section 16 of the Interpretation Act 1978.

#### **Saving and transitional provisions: representations and appeals in relation to penalty charges for parking contraventions occurring before the commencement date**

**21.**—(1) Parts 2 and 5 of, and the Schedule to, the 2007 Appeals Regulations continue to have effect, on and after the commencement date, for the purposes of, and in connection with—

(a) any representations made to an enforcement authority—

(i) against an existing penalty charge notice, or

(ii) under regulation 4 of the 2007 Appeals Regulations,  
before the commencement date;

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(7) [S.I. 2007/3482](#).

(8) [S.I. 2007/3483](#). The Regulations were revoked, with savings, by the 2022 General Regulations.



- (b) any appeal to an adjudicator under regulation 7 of the 2007 Appeals Regulations made before that date;
  - (c) any transitional charge case.
- (2) For the purposes of paragraph (1)(c), a “transitional charge case” is a case—
- (a) where—
    - (i) the person on whom an existing penalty charge notice was served had not, before the commencement date, made representations against the notice to the enforcement authority which served it, and
    - (ii) a notice to owner had not been served on that person by the authority before that date,
  - (b) where—
    - (i) the person on whom an existing enforcement notice was served had, before the commencement date, made no representations against the notice under regulation 4 of the 2007 Appeals Regulations, and
    - (ii) a charge certificate had not been served on that person under regulation 21 of the 2007 General Regulations before that date by the enforcement authority which served the existing enforcement notice,
  - (c) where a person is served with a new penalty charge notice, or
  - (d) where a person is served with a new enforcement notice.
- (3) In this regulation—
- “existing penalty charge notice” means a penalty charge notice served under regulation 9 or 9A of the 2007 General Regulations before the commencement date;
- “existing enforcement notice” means—
- (a) a penalty charge notice served under regulation 10 of the 2007 General Regulations before the commencement date, or
  - (b) a notice to owner served under regulation 19 of those Regulations before that date;
- “new penalty charge notice” means a penalty charge notice served under regulation 9 or 9A of the saved 2007 General Regulations on or after the commencement date;
- “new enforcement notice” means—
- (a) a penalty charge notice served under regulation 10 of the saved 2007 General Regulations on or after the commencement date, or
  - (b) a notice to owner served under regulation 19 of the saved 2007 General Regulations on or after that date.

**Savings and transitional provisions: representations and appeals against immobilisation of vehicles before the commencement date**

- 22.**—(1) Parts 3 and 5 of, and the Schedule to, the 2007 Appeals Regulations continue to have effect, on and after the commencement date, for the purposes of, and in connection with—
- (a) any representations made to an enforcement authority under regulation 8 of the 2007 Appeals Regulations before the commencement date;
  - (b) any appeal to an adjudicator under regulation 10 of the 2007 Appeals Regulations made before that date;
  - (c) any transitional immobilisation case.
- (2) For the purposes of paragraph (1)(c), a “transitional immobilisation case” is a case—
- (a) where, before the commencement date—

- (i) an immobilisation device was fixed to a vehicle in accordance with regulation 12 of the General Regulations,
  - (ii) the owner or the person in charge of the vehicle (“P”) secures the release of the vehicle from the device on payment of an amount in accordance with regulation 14 of the 2007 General Regulations, and
  - (iii) P had not delivered a notice of appeal to the proper officer under the 2007 Appeals Regulations or such a notice had not been delivered on P’s behalf,
- (b) where—
- (i) an immobilisation device was fixed, before the commencement date, to a vehicle in accordance with regulation 12 of the General Regulations, and
  - (ii) the owner or the person in charge of the vehicle secures the release of the vehicle from the device, on or after that date, on payment of an amount in accordance with regulation 14 of the saved 2007 General Regulations, or
- (c) where—
- (i) an immobilisation device is fixed, on or after the commencement date, to a vehicle under regulation 12 of the saved General Regulations, and
  - (ii) the owner or the person in charge of the vehicle secures the release of the vehicle from the device on payment of an amount in accordance with regulation 14 of the saved 2007 General Regulations.

(3) For the purposes of paragraph (2)(a)(iii) “notice of appeal” and “proper officer” have the meanings they had for the purposes of Schedule 1 to the 2007 Appeals Regulations.

**Savings and transitional provisions: representations and appeals in connection with removal of vehicles before the commencement date**

**23.**—(1) Parts 4 and 5 of, and the Schedule to, the 2007 Appeals Regulations continue to have effect, on and after the commencement date, for the purposes of, and in connection with—

- (a) any representations made to an enforcement authority under regulation 11 of the 2007 Appeals Regulations before the commencement date;
  - (b) any appeal to an adjudicator under regulation 13 of the 2007 Appeals Regulations made before that date;
  - (c) any transitional removal case.
- (2) For the purposes of paragraph (1)(c), a “transitional removal case” is a case—
- (a) where, before the commencement date—
    - (i) a person (“P”)—
      - (aa) is required to pay an amount on recovery of a relevant vehicle under section 101A of the RTRA 1984,
      - (bb) receives a sum in respect of such a vehicle under section 101A(2) of that Act,
      - (cc) is informed that the proceeds of sale of such a vehicle did not exceed the amount of the relevant charges<sup>(9)</sup>, or
      - (dd) is informed that such a vehicle was disposed of without there being any proceeds of sale, and

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<sup>(9)</sup> “The relevant charges” is defined, in the case of a vehicle in a civil enforcement area for parking contraventions, in section 101A(3) of the RTRA 1984.

- (ii) P had not delivered a notice of appeal to the proper officer under the 2007 Appeals Regulations or such a notice had not been delivered on P's behalf, or
- (b) where, on or after the commencement date, a person—
  - (i) is required to pay an amount on recovery of a relevant vehicle under section 101A of the RTRA 1984,
  - (ii) receives a sum in respect of such a vehicle under section 101A(2) of that Act,
  - (iii) is informed that the proceeds of sale of such a vehicle did not exceed the amount of the relevant charges, or
  - (iv) is informed that such a vehicle was disposed of without there being any proceeds of sale.
- (3) For the purposes of paragraph (2)(a)(ii) “notice of appeal” and “proper officer” have the meanings they had for the purposes of Schedule 1 to the 2007 Appeals Regulations.
- (4) In this regulation—
  - “the RTRA 1984” means the Road Traffic Regulation Act 1984;
  - “relevant vehicle” means a vehicle which, before the commencement date, was—
    - (a) found in a civil enforcement area for parking contraventions, and
    - (b) removed under regulations made under section 99 of the RTRA 1984.

#### **Savings and transitional provisions: invalid notice cases**

24.—(1) Part 5 of, and the Schedule to, the 2007 Appeals Regulations continue to have effect, on and after the commencement date, for the purposes of any case which was referred to an adjudicator under paragraph 19 of the Schedule to those Regulations before the commencement date.

(2) Part 5 of, and the Schedule to, the 2007 Appeals Regulations continue to have effect for the purposes of, and in connection with any transitional invalid notice case.

(3) For the purposes of paragraph (2), a “transitional invalid notice case” is—

- (a) a case—
  - (i) where, before the commencement date, an order of a county court was deemed under regulation 23 of the 2007 General Regulations to have been revoked following the making of a witness statement,
  - (ii) which the enforcement authority had not referred to the adjudicator for directions under paragraph 19 of the Schedule to the 2007 Appeals Regulations before that date, and
  - (iii) where any time limit for making such a referral had not expired before that date, or
- (b) a case where, on or after the commencement date, an order of a county court is deemed under regulation 23 of the saved 2007 General Regulations to have been revoked following the making of a witness statement.

## CHAPTER 2

### Other consequential provisions

#### **Consequential amendments**

25. Schedule 2 contains amendments in consequence of these Regulations.

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**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022 No. 576*

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Date

*Name*  
Lord Chancellor  
Ministry of Justice