
DRAFT STATUTORY INSTRUMENTS

2022 No.

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

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(1);
- “the material time” means the time when the alleged contravention is said to have been committed.

(1) 1988 c. 53. The definition of “hiring agreement” in section 66(8) was amended by the Road Safety Act 2006 (c. 49).

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
 - (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.