

DRAFT STATUTORY INSTRUMENTS

2022 No.

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

PART 3

Representations and appeals in relation to the immobilisation of vehicles

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.