

2001 No. 2313

**LONDON GOVERNMENT
ROAD TRAFFIC**

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

<i>Made</i> - - - - -	<i>26th June 2001</i>
<i>Laid before Parliament</i>	<i>27th June 2001</i>
<i>Coming into force</i> - -	<i>30th July 2001</i>

The Lord Chancellor, in exercise of the powers conferred on him by paragraphs 12(3), 28 and 30 of Schedule 23 to the Greater London Authority Act 1999(a) and by section 420(1) of that Act, and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001 and shall come into force on 30th July 2001.

Interpretation

2.—(1) In these Regulations—

“the 1999 Act” means the Greater London Authority Act 1999;

“adjudicator” means a road user charging adjudicator appointed in accordance with regulation 3;

“Charges and Penalty Charges Regulations” means the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001(b);

“hiring agreement” has the same meaning as in section 66 of the Road Traffic Offenders Act 1988(c);

“penalty charge notice” has the meaning given in regulation 12;

“person liable” in relation to a vehicle means the registered keeper of that vehicle or the person who is liable, in accordance with the Charges and Penalty Charges Regulations, to pay a charge or penalty charge imposed by a charging scheme;

(a) 1999 c. 29; relevant amendments to Schedule 23 to the Greater London Authority Act 1999 were made by Schedule 13 to the Transport Act 2000 (c. 38).

(b) S.I. 2001/2285.

(c) 1988 c. 53.

“relevant person” in Part III has the meaning given in regulation 9;
“vehicle” means a motor vehicle; and
“vehicle-hire firm” has the same meaning as in section 66 of the Road Traffic Offenders Act 1988.

(2) In determining for the purposes of any provision of these Regulations whether a charge or penalty charge has been paid before the end of a particular period, it shall be taken to be paid when it is received by the charging authority.

PART II

ADJUDICATORS

Appointment of adjudicators

3.—(1) The Lord Chancellor shall appoint persons to act as road user charging adjudicators for the purposes of these Regulations.

(2) To be qualified for appointment as an adjudicator, a person must have a five year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990(a)).

(3) Each adjudicator shall be appointed for such period as the Lord Chancellor may specify.

(4) Each adjudicator shall hold and vacate office in accordance with the terms of his appointment.

Administrative support and defrayal of expenses

4.—(1) The Authority shall provide, or make arrangements for the provision of, accommodation and administrative staff and facilities for adjudicators and determine the places where they are to sit.

(2) The expenses incurred by the Authority under paragraph (1) and on remunerating adjudicators shall be defrayed—

- (a) in a year in which only one charging scheme is for the time being in force in Greater London by the charging authority for that scheme;
- (b) where two or more charging schemes are in force, by the charging authorities for those schemes in such proportions as they may agree or, in default of agreement as may be determined by an arbitrator nominated by the Chartered Institute of Arbitrators on the application of any charging authority.

(3) Where the Authority is satisfied that there has been, or is likely to be, a failure on the part of the charging authorities to agree on the proportions in which the expenses recoverable by the Authority are to be defrayed under paragraph (2)(b), it may give the charging authorities such directions as it considers appropriate to require them to refer the matter to arbitration under that paragraph.

Procedure to be followed by adjudicators

5.—(1) The Schedule to these Regulations shall have effect as to the procedure to be followed in relation to proceedings before adjudicators.

(2) Subject to the provisions of that Schedule, an adjudicator may regulate his own procedure.

Evidence produced by a prescribed device

6.—(1) Evidence of a fact relevant to Schedule 23 proceedings may be given by the production of—

- (a) a record produced by a prescribed device, and

(a) 1990 c. 41; section 71 has been amended by the Access to Justice Act 1999 (c. 22), paragraphs 4 and 9 of Schedule 6 and Part II of Schedule 15.

- (b) (in the same or another document) a certificate as to the circumstances in which the record was produced signed by a constable or by a person authorised in that behalf by the charging authority who installed the device by means of which the evidence was produced.

(2) In paragraph (1)—

“Schedule 23 proceedings” means proceedings for an offence under Schedule 23 to the 1999 Act or proceedings before an adjudicator in relation to failure to comply with the provisions of a charging scheme; and

“prescribed device” means a camera or other device designed to produce a record—

- (a) of the presence of a particular vehicle which is being used or kept on a road in a charging area in respect of which charges are imposed; and

- (b) of the date and time at which it is present,

and includes any equipment used in conjunction with the camera or other device for the purpose of producing such a record.

(3) A document purporting to be a record of the kind mentioned in paragraph (1) or to be a certificate signed as mentioned in that paragraph shall be deemed to be such a record, or to be so signed, unless the contrary is proved.

Recovery of amounts payable under an adjudication

7. Any amount which is payable under an adjudication of an adjudicator shall, if a county court so orders, be recoverable by the person to whom the amount is payable, as if it were payable under a county court order.

Reports by adjudicators

8. Each adjudicator shall make an annual report to the Secretary of State for Transport, Local Government and the Regions on the discharge of his functions.

PART III

REPRESENTATIONS AND APPEALS IN RELATION TO THE REMOVAL OR IMMOBILISATION OF VEHICLES

Persons to whom Part III applies

9. This part of these Regulations applies to a person (in this Part referred to as a “relevant person”) who—

- (a) pays or causes to be paid a penalty charge to secure the release of a vehicle from an immobilisation device in accordance with a charging scheme and the Charges and Penalty Charges Regulations;
- (b) pays or causes to be paid a penalty charge to recover a vehicle after it has been removed from a road in a charging area in accordance with a charging scheme and the Charges and Penalty Charges Regulations;
- (c) receives any sum after a vehicle has been sold or destroyed in accordance with a charging scheme and the Charges and Penalty Charges Regulations; or
- (d) is informed that the proceeds of its disposal do not exceed the amount of the penalty charges payable in respect of the vehicle in accordance with a charging scheme and the Charges and Penalty Charges Regulations.

Right to make representations

10.—(1) A relevant person shall, on the happening of an event such as is referred to in paragraph (a), (b), (c) or (d) of regulation 9, thereupon be informed by notice in writing, by or on behalf of the charging authority, of his right to make representations under this regulation and his right of appeal under regulation 11.

(2) A relevant person may make representations in writing to the charging authority on one or more of the grounds mentioned in paragraph (3).

- (3) The grounds are—
- (a) that in the particular circumstances of the case, the immobilisation, removal or disposal of the vehicle was not authorised by the charging scheme or the Charges and Penalty Charges Regulations;
 - (b) in a case where an immobilisation device was fitted to the vehicle or the vehicle was removed on the ground that the vehicle was being used or kept on a road in contravention of the charging scheme, that the vehicle was on that occasion being used or kept on the road by a person who was in control of the vehicle without the consent of the person liable;
 - (c) that the penalty charge paid to secure the release or recovery of the vehicle exceeded the amount applicable in the circumstances of the case;
 - (d) in a case where an immobilisation device was fitted to the vehicle or the vehicle was removed on the ground that a penalty charge previously incurred in relation to it had not been paid, that the relevant person was not the person liable at the time at which that penalty charge had been incurred; or
 - (e) that the relevant person is a vehicle-hire firm and—
 - (i) the vehicle in question was at the time the device was fitted to it or the vehicle was removed 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 incurred in respect of the vehicle during the currency of the hiring agreement.
- (4) A charging authority may disregard any representations received by them after the end of the period of 28 days beginning with the date on which the relevant person is informed in accordance with paragraph (1) of his right to make representations.
- (5) It shall be the duty of a charging authority to whom representations are duly made under this regulation, before the end of the period of 56 days beginning with the day on which they receive the representations—
- (a) to consider them and any supporting evidence which the person making them provides; and
 - (b) to serve on that person a notice of their decision as to whether or not they accept that the ground in question has been established.
- (6) Where a charging authority serve notice under paragraph (5)(b) that they accept that a ground has been established they shall (when serving that notice or as soon as practicable thereafter) refund any penalty charge or charges—
- (a) paid to secure the release of the vehicle from an immobilisation device;
 - (b) paid to recover the vehicle after it had been removed from a road;
 - (c) deducted from the proceeds of sale of the vehicle,
- except to the extent (if any) to which those sums were properly paid or deducted.
- (7) Where a charging authority serve notice under paragraph (5)(b) that they do not accept that a ground has been established, that notice shall—
- (a) inform the relevant person of his right to appeal to an adjudicator under regulation 11;
 - (b) indicate the nature of the adjudicator's power to award costs against any person appealing to him under that regulation;
 - (c) describe in general terms the form and manner in which such an appeal is required to be made; and
 - (d) provide such other information as the charging authority consider appropriate.
- (8) Where a charging authority fail to comply with paragraph (5) before the end of the period of 56 days there mentioned—
- (a) they shall be deemed to have accepted that the ground in question has been established and to have served notice to that effect under paragraph (6); and
 - (b) paragraph (6) shall have effect as if they required any refund to be made immediately after the end of that period.
- (9) Any notice required to be served under this regulation may be served personally or by post or in such form as is agreed between the charging authority and the relevant person.

(10) Where the person on whom any document is required to be served by paragraph (5) is a body corporate, the document is duly served if it is sent by post or any such form as is agreed to the secretary or clerk to that body.

Right to appeal to an adjudicator

11.—(1) Where a charging authority serve notice under regulation 10(5)(b) 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 authority's decision, before—

- (a) the end of the period of 28 days beginning with the date of service of the notice; or
- (b) such longer period as an adjudicator may allow following consultation with the charging authority.

(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 10(3) and, if he concludes—

- (a) that any of the representations are justified; and
- (b) that the charging authority would have been under the duty imposed by regulation 10(6) to refund any sum if they had served notice that they accepted that the ground in question had been established,

he shall direct the authority to make the necessary refund.

(3) It shall be the duty of a charging authority to whom such a direction is given to comply with it.

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(a) (“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.

(a) S.I. 1993/2073, amended by S.I. 2001/1386.

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.

26th June 2001

Irvine of Lairg ,C.

PROCEDURE IN ADJUDICATION PROCEEDINGS

PART I

INTERPRETATION

Interpretation of Schedule

1.—(1) In this Schedule—

“appeal” means an appeal under regulation 11(1) or 16(1);

“document exchange” means a document exchange providing a system of delivery of documents by reference to numbered boxes at document exchanges (DX);

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

“hearing” means an oral hearing;

“proper officer” means a member of the administrative staff appointed under regulation 4(1) to perform the functions of the proper officer under this Schedule; and

“register” means the register required to be kept under paragraph 21.

(2) In this Schedule in relation to an appeal or any process connected with an appeal—

“appellant” means the person bringing the appeal;

“disputed decision” means the decision appealed against;

“the charging authority” means the charging authority who made the disputed decision; and

“the original representations” means the representations to the charging authority under regulation 10 or 13.

PART II

PROCEDURE RELATING TO APPEALS

Initiating an appeal

2.—(1) An appeal shall be made by delivering a notice of appeal to the proper officer.

(2) A notice of appeal—

(a) must state the name and address of the appellant;

(b) may specify some other address as being the address at which the appellant wishes documents to be sent to him in connection with the appeal;

(c) must state the date and any reference number of the decision and the name of the charging authority; and

(d) may include any representation which the appellant desires to make in addition to the original representations.

(3) If the notice of appeal is delivered to the proper officer later than the time limit specified in regulation 11 or 16 (as the case may be), the appellant must include in the notice a statement of the reasons on which he relies for justifying the delay, and the adjudicator shall treat any such statement of reasons for delay as a request for extending that time limit.

(4) The appellant or his authorised representative shall sign the notice of appeal.

Action upon receipt of notice of appeal and copy of such notice

3.—(1) Upon receiving a notice of appeal the proper officer shall—

(a) send an acknowledgement of its receipt to the appellant;

(b) enter particulars of it in the register; and

(c) send to the charging authority a copy of the notice of appeal and any directions extending the time limit for appealing.

(2) Upon receipt of a copy of the notice of appeal sent under this paragraph, the charging authority shall within 7 days deliver to the proper officer a copy of—

(a) the original representations;

(b) the relevant penalty charge notice (if any); and

(c) the notice served under regulation 10 or 13 as the case may be.

Further representations

4.—(1) Any party may deliver representations to the proper officer at any time before the appeal is determined.

(2) The adjudicator may invite a party to deliver to the proper officer at any time representations dealing with any matter relating to an appeal within such time and in such manner as may be specified.

(3) Where a party fails to respond to an invitation under sub-paragraph (2), the adjudicator may (without prejudice to any other power he may have) draw such inferences as appear to him proper.

(4) Any representations delivered under this paragraph shall be signed by, or by the authorised representative of, the party in question.

(5) Where the appellant delivers representations to the proper officer under this paragraph, the proper officer shall send a copy of the representations to the charging authority.

(6) Where the charging authority deliver representations to the proper officer under this paragraph, they shall at the same time send a copy of the representations to the appellant.

(7) This paragraph is without prejudice to the powers of an adjudicator under paragraph 8.

Right to make representations

5.—(1) The adjudicator may require the attendance of any person (including a party to the proceedings) as a witness, at a time and place specified by him, at the hearing of an appeal and require him to answer any questions or produce any documents in his custody or control which relate to any matter in the proceedings.

(2) A person in respect of whom a requirement has been made under sub-paragraph (1) may apply to the adjudicator to vary or set aside the requirement.

(3) A person shall not be bound to comply with a requirement under sub-paragraph (1) unless he has been given at least 7 days' notice of the hearing or, if less than 7 days, he has informed the adjudicator that he accepts such notice as he has been given.

(4) A person shall not be bound to comply with a requirement under sub-paragraph (1) unless the necessary expenses of his attendance are paid or tendered to him.

(5) No person shall be required to give any evidence or produce any documents under sub-paragraph (1) which he could not be required to give or produce in the trial of an action in a court of law.

Disposal of an appeal without a hearing

6.—(1) Subject to the provisions of this paragraph, the adjudicator may dispose of an appeal without a hearing.

(2) The adjudicator shall not dispose of an appeal without a hearing if either party has requested a hearing unless—

- (a) the party who made the request withdraws the request before notice of a hearing has been sent to the other party under paragraph 7;
- (b) both parties have subsequently consented to the appeal being disposed of without a hearing; or
- (c) the party requesting the hearing having been sent a notice of the hearing of an appeal in accordance with paragraph 7, fails to attend or be represented at the hearing.

(3) The adjudicator shall not dispose of an appeal without a hearing until after the expiration of 4 weeks beginning with the day on which an acknowledgement is sent in accordance with paragraph 3 unless both parties consent to the disposal taking place on an earlier date.

Notice of time and place of hearing

7.—(1) This paragraph shall have effect where a hearing is to be held for the purpose of disposing of an appeal.

(2) The proper officer shall fix the time and place of the hearing and, not less than 21 days before the date so fixed (or such shorter time as the parties agree), notify each party in writing or in such other manner as he thinks fit.

(3) The adjudicator may alter the time and place of any hearing and the proper officer shall, not less than 7 days before the date on which the hearing is then to be held (or such shorter time as the parties agree), notify each party of the altered time and place in writing or in such other manner as he thinks fit.

(4) This paragraph applies to an adjourned hearing but, if the time and place of the adjourned hearing are announced before the adjournment, no further notice shall be required.

Admission to a hearing

8.—(1) Subject to the provisions of this paragraph, a hearing shall be held in public.

(2) The adjudicator may direct that the whole or any part of a hearing be held in private if he is satisfied that by reason of—

- (a) the likelihood of disclosure of intimate personal or financial circumstances;
- (b) the likelihood of disclosure of commercially sensitive information or information obtained in confidence; or
- (c) exceptional circumstances not falling within paragraphs (a) or (b);

it is just and reasonable for him so to do.

(3) Where the hearing is in private the adjudicator may admit such persons as he considers appropriate.

(4) Notwithstanding the foregoing provisions of this paragraph, a representative of the Council on Tribunals may be present in his capacity as such notwithstanding that the hearing, or part of a hearing is not in public and such a person shall not be excluded under sub-paragraph (5).

(5) Without prejudice to any other powers he may have, an adjudicator may exclude from the hearing of an appeal, or part of it, any person whose conduct has disrupted or is likely, in the opinion of the adjudicator, to disrupt the hearing.

Appearances at a hearing

9.—(1) The following persons shall be entitled to appear at a hearing relating to an application—

- (a) the registered keeper;
- (b) a person who has duly made representations in respect of the appeal; and
- (c) the charging authority.

(2) Any other person may appear at a hearing at the discretion of the adjudicator.

(3) Any person entitled or permitted to appear at a hearing may do so on his own behalf or be represented by counsel, a solicitor or, at the discretion of the adjudicator, by any other person.

Procedure at a hearing

10.—(1) At the beginning of the hearing of an appeal the adjudicator shall explain the order of proceedings which he proposes to adopt.

(2) Subject to the provisions of this paragraph, the adjudicator shall conduct the hearing of an appeal in such manner as he considers most suitable to the clarification of the issues before him and generally to the just handling of the proceedings; he shall so far as appears to him appropriate seek to avoid formality in the proceedings.

(3) At the hearing of an appeal—

- (a) the parties shall be entitled to give evidence, to call witnesses and to address the adjudicator both on the evidence and generally on the subject matter of the appeal;
- (b) the adjudicator may receive evidence of any fact which appears to him to be relevant notwithstanding that such evidence would be inadmissible in proceedings before a court of law.

(4) Without prejudice to paragraph 6(2)(c), where a party who has been sent a notice of the hearing of an appeal or has otherwise been notified of the hearing in accordance with paragraph 7 fails to attend the hearing, the adjudicator may dispose of the appeal in his absence.

Decisions on appeals

11.—(1) Where an appeal is disposed of at a hearing, the decision of the adjudicator may be given orally at the end of the hearing or reserved.

(2) Where an appeal has been disposed of whether at a hearing or otherwise, the decision shall be recorded forthwith in the register with (save in the case of a decision by consent) a statement of the reasons for the decision and the proper officer shall send a copy of the entry to each party.

Review of adjudicator's decision

12.—(1) An adjudicator shall have power on the application of a party, to review and revoke or vary any decision to dismiss or allow an appeal or any decision as to costs on the grounds (in any such case) that—

- (a) the decision was wrongly made as a result of an error on the part of his administrative staff;
- (b) a party who had failed to appear or to be represented at a hearing had good and sufficient reason for his failure to appear;
- (c) where the decision has been made after a hearing, new evidence has become available since the conclusion of the hearing the existence of which could not reasonably have been known or foreseen; or

(d) such a review is required in the interests of justice.

(2) An adjudicator shall have power, on the application of a party, to review and revoke or vary any interlocutory decision.

(3) An application under this paragraph shall be made to the proper officer within 14 days after the date on which the decision was sent to the parties, and must state the grounds in full.

(4) The parties shall have the opportunity to be heard on any application for review under this paragraph; and if, having reviewed the decision, the adjudicator directs the decision to be set aside, he shall substitute such decision as he thinks fit or order a re-determination by either the same or a different adjudicator.

(5) Paragraph 11 applies to a decision under sub-paragraph (1) as it applies to a decision made on the disposal of an appeal.

Costs

13.—(1) An adjudicator shall not normally make an order awarding costs and expenses, but may, subject to paragraph (2) make such an order—

- (a) against a party (including an appellant who has withdrawn his appeal or a charging authority who have consented to an appeal being allowed) if he is of the opinion that that party has acted frivolously or vexatiously or that his conduct in making, pursuing or resisting an appeal was wholly unreasonable; or
- (b) against a charging authority where he considers that the disputed decision was wholly unreasonable.

(2) An order shall not be made under sub-paragraph (1) against a party unless that party has been given an opportunity of making representations against the making of the order.

(3) An order under sub-paragraph (1) shall require the party against whom it is made to pay to the other party a specified sum in respect of the costs and expenses incurred by that other party in connection with the proceedings.

Consolidation of proceedings

14.—(1) Where there are pending two or more appeals and at any time it appears to an adjudicator that—

- (a) some common question of law or fact arises in both or all appeals; or
- (b) for some other reason it is desirable to make an order under this paragraph,

the adjudicator may order that all of the appeals or those specified in the order shall be considered together and may give such consequential directions as may appear to him to be necessary.

(2) An order shall not be made under this paragraph unless all parties concerned have been given an opportunity of making representations against the making of the order.

Miscellaneous powers of adjudicators

15.—(1) An adjudicator may, if he thinks fit—

- (a) extend the time appointed by or under this Schedule for doing any act notwithstanding that the time appointed has expired;
- (b) if an appellant at any time gives notice of the withdrawal of his appeal, dismiss the proceedings;
- (c) if a charging authority consent to an appeal being allowed, allow the appeal without a hearing;
- (d) if both or all of the parties agree in writing on the terms of a decision to be made by an adjudicator, decide accordingly; or
- (e) adjourn a hearing.

(2) An adjudicator may exercise the powers conferred by this Schedule (other than paragraph 12) or by regulation 11(1)(b) or 16(1)(b) on his own motion or on the application of a party.

Clerical errors

16. Unintentional errors or slips in any document recording a direction or decision of an adjudicator may be corrected by the proper officer on the direction of the adjudicator.

Service of documents

17.—(1) This paragraph has effect in relation to any notice or other document required or authorised by this Schedule to be sent to a party to an appeal.

- (2) Any such document shall be regarded as having been sent to that party if it is—
 - (a) delivered to him;

- (b) left at his proper address;
- (c) sent by post to him at that address; or
- (d) transmitted to him by FAX or other means of electronic data transmission in accordance with sub-paragraphs (3), (4) and (5).

(3) A document may be transmitted by FAX where the party has indicated in writing to the proper officer that he is willing to regard a document as having been duly sent to him if it is transmitted to a specified FAX number and the document is transmitted to that number.

(4) In the case of a charging authority, an indication under sub-paragraph (3) can be expressed to apply to any appeal to which they are a respondent.

(5) Sub-paragraphs (3) and (4) shall apply with appropriate modification to a transmission of electronic data other than by FAX as it applies to a transmission by FAX.

(6) Where the proper address includes a numbered box number at a document exchange, delivery of a document may be effected by leaving the document addressed to that numbered box at that document exchange or at a document exchange which transmits documents on every business day to that exchange.

(7) Any document which is left at a document exchange in accordance with sub-paragraph (6) shall, unless the contrary is proved, be deemed to have been delivered on the second business day after the day on which it is left.

(8) For the purposes of this Schedule and of section 7 of the Interpretation Act 1978(a) in its application to this paragraph—

- (a) the proper address of the appellant is the address specified in his notice of appeal pursuant to paragraph 2(2)(b) or, if no such address is so specified, the address specified pursuant to paragraph 2(2)(a); and
- (b) the proper address of a charging authority in proceedings to which they are the respondent is such address as the charging authority from time to time specify in a notice delivered to the proper officer as their proper address in all such proceedings.

(9) If no address for service has been specified, the proper address for the purposes of this Schedule and of section 7 of the Interpretation Act 1978 shall be—

- (a) in the case of an individual, his usual or last known address;
- (b) in the case of a partnership, the principal or last known place of business of the partnership within the United Kingdom; or
- (c) in the case of an incorporated or unincorporated body, the registered or principal office of the body.

(10) An appellant may at any time by notice to the proper officer change his proper address for service for the purposes of this Schedule and of section 7 of the Interpretation Act 1978.

(11) A party may by notice in writing delivered to the proper officer vary or revoke any indication given by him under sub-paragraph (3).

Delivery of documents to proper officer

18.—(1) This paragraph has effect in relation to any notice or other document required or authorised to be delivered to the proper officer and is without prejudice to paragraph 4(3).

(2) Any such document may be transmitted to him by FAX or other means of electronic data transmission.

(3) Where the address of the proper officer includes a box number at a document exchange, the delivery of such a document may be effected by leaving the document addressed to that numbered box at that document exchange or at another document exchange which transmits documents on every business day to that exchange.

(4) Any document which is left at a document exchange in accordance with sub-paragraph (3) shall, unless the contrary is proved, be deemed to have been delivered on the second business day after the day on which it is left.

(5) Paragraphs 2(4) and 4(4)—

- (a) shall in the case of a document transmitted by FAX, be satisfied if a copy of the signature of the relevant person appears on the transmitted copy; and
- (b) shall not apply in relation to a document transmitted by other means of electronic data transmission.

(a) 1978 c. 30.

PART III

REFERENCES TO AN ADJUDICATOR UNDER REGULATION 19(7)

Interpretation of Part III of Schedule

19.—(1) This Part of this Schedule has effect for the purpose of specifying the procedure where an order of a county court is deemed to have been revoked under regulation 19(5) and the charging authority have referred the case to an adjudicator under regulation 19(7).

(2) In relation to a case so referred, for the purposes of this Part of this Schedule, a relevant person is the person against whom the county court order has been made.

Procedure for references under regulation 19(7)

20.—(1) Where a case has been referred to an adjudicator under regulation 19(7)—

- (a) the proper officer shall enter particulars of the case in the register;
- (b) without prejudice to his powers under regulation 19(7), the adjudicator shall give directions as to the conduct of the proceedings unless he decides that no such directions are necessary.

(2) An adjudicator may in particular—

- (a) if it appears to him that an appeal has been made by the relevant person in relation to the subject matter of the case, direct that the case proceed as an appeal; or
- (b) if it appears to him that an appeal has been made by the relevant person in relation to the subject matter of the case and that the appeal has been dismissed, direct that the case proceed as an application under paragraph 12 to review that decision.

(3) Where an adjudicator gives a direction under sub-paragraph (2)(a), Part II of this Schedule shall apply to the proceedings as if paragraphs 2 and 3 of this Schedule were omitted.

PART IV

THE REGISTER

The register

21.—(1) The proper officer shall keep a register of all appeals and of the decisions made on them.

(2) The register—

- (a) shall be kept at the principal office of the proper officer;
- (b) shall be open to the inspection of any person without charge at all reasonable hours; and
- (c) may be kept electronically.

(3) A document purporting to be certified by the proper officer to be a true copy of any entry in the register shall be evidence of the entry and of matters stated therein.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the procedures for the enforcement and adjudication of road user charging schemes in Greater London under Schedule 23 to the Greater London Authority Act 1999. In particular, the Regulations cover requirements relating to the notification, adjudication and enforcement of penalty charges, the determination of disputes, appeals against determinations, the appointment of persons to hear any such appeals and the admissibility of evidence in proceedings under Schedule 23.

These Regulations should be read in conjunction with the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001 (S.I. 2001/2285) (copies of which are obtainable from the Stationery Office).

Regulation 3 relates to the appointment of adjudicators who hear appeals. They are to be appointed by the Lord Chancellor.

Regulation 4 explains the arrangements for administrative support and defrayal of expenses by the Greater London Authority.

Regulation 5 and the Schedule provide for the procedure in adjudication proceedings.

Regulation 6 specifies that evidence of a relevant fact may be given by the production of a record produced by a prescribed device and a certificate in the appropriate form.

Regulation 7 provides that amounts payable under an adjudication shall, if a county court so orders, be recoverable by the person to whom the amount is payable, as if it were payable under a county court order.

Regulation 8 provides for each adjudicator to make an annual report to the Secretary of State for Transport, Local Government and the Regions.

Part III (regulations 9 to 11) relates to the right to make representations and appeals in relation to the removal or immobilisation of vehicles.

Part IV (regulations 12 to 21) specifies the steps which can be taken by a charging authority when a penalty charge has not been paid. There is provision for representations to be made against penalty charge notices and in specified circumstances for cancellation of penalty charge notices, rejection of representations against penalty charge notices, appeals to an adjudicator, service of charge certificates and a procedure for resolving disputes about invalid notices.

£3.00

© Crown copyright 2001

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1218 7/2001 635774 19585

ISBN 0-11-029628-1



9 780110 296289