
STATUTORY INSTRUMENTS

2013 No. 1783

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

PART 7

**REPRESENTATIONS AND APPEALS IN RELATION TO
POWERS EXERCISED IN RESPECT OF MOTOR VEHICLES**

Right to make representations in respect of the immobilisation of a motor vehicle

- 32.**—(1) This regulation applies to the keeper or person in charge of a motor vehicle where—
- (a) in accordance with regulation 25 an immobilisation device has been fixed to the motor vehicle; and
 - (b) the keeper or person in charge of the motor vehicle secures the release of the motor vehicle through the payment of an amount in accordance with regulation 26(2).
- (2) A person to whom paragraph (1) applies must immediately upon the release of the motor vehicle be given notice in writing—
- (a) of their right to make representations to the charging authority in accordance with this regulation;
 - (b) that the charging authority may disregard any such representations received by it more than 28 days after the notice is served; and
 - (c) of their right to appeal to an adjudicator if the representations are not accepted,
- and that notice must include a statement of the effect of paragraphs (3) and (4).
- (3) A person to whom paragraph (1) applies may make representations to the effect—
- (a) that one or more of the grounds specified in paragraph (4) apply; or
 - (b) that, whether or not any of those grounds apply, there are compelling reasons why, in the particular circumstances of the case, the charging authority should refund some or all of the amount paid to secure the release of the motor vehicle from the immobilisation device,
- and any such representations must be in such form as may be specified by the charging authority.
- (4) The grounds referred to in paragraph (3)(a) are that—
- (a) the circumstances in which the motor vehicle was used or kept on the designated road were not circumstances in which a penalty charge became payable under the charging scheme;
 - (b) there was in the circumstances of the case no power under these regulations or the charging scheme to immobilise the motor vehicle at the time at which it was immobilised or at all;
 - (c) the penalty charge paid to secure the release of the motor vehicle exceeded the amount applicable in the circumstances of the case;
 - (d) there has been a procedural impropriety on the part of the charging authority.

Duty of charging authority to which representations in respect of immobilisation are made

33.—(1) A charging authority may disregard any representation received by it after the end of the period of 28 days beginning with the date on which the person making them is notified under regulation 32(2) of the right to make representations.

(2) Subject to paragraph (1) it is the duty of a charging authority, if representations are made to it in accordance with regulation 32(3), within the period of 56 days beginning with the date on which it receives 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 its decision as to whether it accepts that—
 - (i) a ground specified in regulation 32(4) applies; or
 - (ii) 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 motor vehicle from the immobilisation device should be refunded.

(3) Where a charging authority serves notice under paragraph (2)(b) that it accepts that a ground specified in regulation 32(4) has been established, or that there are compelling reasons for making a refund, it must as soon as reasonably practicable refund any sums that the person to whom the motor vehicle was released was required to pay under regulation 26(2), except to the extent (if any) to which those sums were properly paid.

(4) Where a charging authority serves notice under paragraph (2)(b) that it does not accept that a ground specified in regulation 32(4) has been established or that there are compelling reasons for making a refund, that notice (a “notice of rejection”) must—

- (a) inform the person on whom it is served of the right to appeal to an adjudicator under regulation 34;
- (b) indicate the nature of the 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.

(5) The notice of rejection issued under paragraph (4) may contain such other information as the charging authority considers appropriate.

(6) Where a charging authority fails to comply with paragraph (2) within the period of 56 days mentioned there—

- (a) it is deemed to have accepted the representations made under regulation 32(3) and to have served notice to that effect under paragraph (2)(b); and
- (b) it must as soon as reasonably practicable after the end of that period refund all such sums as are mentioned in paragraph (3).

Appeals to an adjudicator in relation to decisions under regulation 33

34.—(1) Where a charging authority serves a notice of rejection under regulation 33(4) in relation to representations made under regulation 32(3) the person making those representations may, within—

- (a) the period of 28 days beginning with the date of service of that notice of rejection; or
- (b) such longer period as an adjudicator may allow,

appeal to an adjudicator against the charging authority’s decision.

(2) An appeal pursuant to this regulation must be made by delivering a notice of appeal to the proper officer.

(3) If the notice of appeal is delivered to the proper officer after the period described in paragraph (1)(a) and the appellant includes a statement of reasons for the delay the proper officer may at the proper officer's discretion allow the appeal to proceed.

(4) On an appeal under this regulation, the adjudicator must consider the representations in question and any additional representations which are made by the appellant together with any representations made to the adjudicator by the charging authority.

(5) If the adjudicator concludes—

(a) that any of the grounds referred to in regulation 32(4) apply; and

(b) that the charging authority would have been under the duty imposed by regulation 33(3) to refund any sum if it had served notice that it accepted that the ground in question applied,

the adjudicator must direct the charging authority to refund that sum.

(6) It is the duty of a charging authority to which a direction is given under paragraph (5) to comply with it as soon as reasonably practicable.

(7) If the adjudicator gives no direction under paragraph (5) but 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 motor vehicle should be refunded, the adjudicator may recommend to the charging authority in writing that it makes such a refund.

(8) It is the duty of a charging authority to which a recommendation is made under paragraph (7) to consider afresh the making of a refund of those sums taking full account of any observations by the adjudicator and, within the period of 35 days beginning with the date on which the recommendation is received to notify the appellant and the adjudicator as to whether or not it accepts the adjudicator's recommendation.

(9) If the charging authority notifies the appellant and the adjudicator that it does not accept the adjudicator's recommendation it must at the same time inform them of the reasons for its decision.

(10) No appeal to the adjudicator lies against the decision of the charging authority under paragraph (9).

(11) If the charging authority accepts the adjudicator's recommendation it must make the recommended refund as soon as reasonably practicable.

(12) If the charging authority fails to comply with the requirements of paragraph (8) within the 35 day period, the charging authority is to be taken to have accepted the adjudicator's recommendation and must make the recommended refund as soon as reasonably practicable after the end of that period.

Right to make representations in respect of the removal and disposal of a motor vehicle

35.—(1) This regulation applies to a person where, as respects a motor vehicle that has been removed under regulation 27(1)—

(a) the person is required to pay an amount to take possession of the motor vehicle under regulation 30(2)(b);

(b) the person receives a sum in respect of the motor vehicle under regulation 31(3);

(c) the person is informed that the proceeds of sale of the motor vehicle did not exceed the aggregate amount of the penalty charges and any road user charges under the charging scheme due to the charging authority under regulation 28(4)(a)(iv); or

(d) the person is informed that the motor vehicle was disposed of without there being any proceeds of sale.

(2) A person to whom paragraph (1) applies must immediately upon the happening of an occurrence referred to in paragraph (1), be notified in writing—

- (a) of their right to make representations to the charging authority in accordance with this regulation;
 - (b) that the charging authority may disregard any such representations received by it more than 28 days after such notice was served;
 - (c) of their right to appeal to an adjudicator if the representations are not accepted,
- and that notice must include a statement of the effect of paragraphs (3) and (4).

(3) A person to whom paragraph (1) applies may make representations to the effect—

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

and any such representations must be in such form as may be specified by the charging authority.

(4) The grounds referred to in paragraph (3)(a) are—

- (a) that the circumstances in which the motor vehicle was used or kept on the designated road were not circumstances in which a penalty charge became payable under the charging scheme;
- (b) that there was in the circumstances of the case no power under these Regulations or the charging scheme to remove or dispose of the motor vehicle;
- (c) that the penalty charge paid to take possession of the motor vehicle exceeded the amount applicable in the circumstances of the case;
- (d) that there has been a procedural impropriety on the part of the charging authority.

Duty of charging authority to which representations in respect of removal etc are made

36.—(1) A charging authority may disregard any representation received by it after the end of the period of 28 days beginning with the date on which the person making them is notified under regulation 35(2) of the right to make representations.

(2) Subject to paragraph (1) it is the duty of a charging authority, if representations are made to it in accordance with regulation 35(3), within 56 days beginning with the date on which it receives 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 its decision as to whether it accepts that—
 - (i) a ground specified in regulation 35(4) applies; or
 - (ii) there are compelling reasons why, in the particular circumstances of the case, some or all of the sums paid to take possession of the motor vehicle or deducted from the proceeds of sale should be refunded.

(3) Where a charging authority serves notice under paragraph (2)(b) that it accepts that a ground specified in regulation 35(4) has been established or that there are compelling reasons for making a refund it must (when serving that notice) refund any sums that—

- (a) the person taking possession of the motor vehicle was required to pay under regulation 30(2)(b), or

- (b) were deducted from the proceeds of sale of the motor vehicle in accordance with regulation 31(3)

except to the extent (if any) to which those sums were properly paid or deducted.

(4) Where a charging authority serves notice under paragraph (2)(b) that it does not accept that a ground specified in regulation 35(4) has been established or that there are compelling reasons for making a refund, that notice (a “notice of rejection”) must—

- (a) inform the person on whom it is served of the right to appeal to an adjudicator under regulation 37;
- (b) indicate the nature of the 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.

(5) The notice of rejection issued under paragraph (4) may contain such other information as the charging authority considers appropriate.

(6) Where a charging authority fails to comply with paragraph (2) within the period of 56 days mentioned there—

- (a) it is deemed to have accepted the representations made under regulation 35(3) and to have served notice to that effect under paragraph (2)(b); and
- (b) it must as soon as reasonably practicable after the end of that period refund all such sums as are mentioned in paragraph (3).

Appeals to adjudicator in relation to decisions under regulation 36

37.—(1) Where a charging authority serves a notice of rejection under regulation 36(4) in relation to representations made under regulation 35(3) the person making those representations may, within—

- (a) the period of 28 days beginning with the date of service of that notice of rejection; or
- (b) such longer period as an adjudicator may allow,

appeal to an adjudicator against the charging authority’s decision.

(2) An appeal pursuant to this regulation must be made by delivering a notice of appeal to the proper officer.

(3) If the notice of appeal is delivered to the proper officer after the period described in paragraph (1)(a) and the appellant includes a statement of reasons for the delay the proper officer may at the proper officer’s discretion allow the appeal to proceed.

(4) On an appeal under this regulation, the adjudicator must consider the representations in question and any additional representations which are made by the appellant together with any representations made to the adjudicator by the charging authority.

(5) If the adjudicator concludes—

- (a) that any of the grounds referred to in regulation 35(4) apply; and
- (b) that the charging authority would have been under the duty imposed by regulation 36(3) to refund any sum if it had served notice that it accepted that the ground in question applied,

the adjudicator must direct the charging authority to refund that sum.

(6) It is the duty of a charging authority to which a direction is given under paragraph (5) to comply with it as soon as reasonably practicable.

(7) If the adjudicator gives no direction under paragraph (5) but 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 motor vehicle or deducted from the proceeds of sale should be refunded, the adjudicator may recommend to the charging authority in writing that it makes such a refund.

(8) It is the duty of a charging authority to which a recommendation is made under paragraph (7) to consider afresh the making of a refund of those sums taking full account of any observations by the adjudicator and, within the period of 35 days beginning with the date on which the recommendation is received to notify the appellant and the adjudicator as to whether or not it accepts the adjudicator's recommendation.

(9) If the charging authority notifies the appellant and the adjudicator that it does not accept the adjudicator's recommendation it must at the same time inform them of the reasons for its decision.

(10) No appeal to the adjudicator lies against the decision of the charging authority under paragraph (9).

(11) If the charging authority accepts the adjudicator's recommendation it must make the recommended refund as soon as reasonably practicable.

(12) If the charging authority fails to comply with the requirements of paragraph (8) within the 35 day period, the charging authority is to be taken to have accepted the adjudicator's recommendation and must make the recommended refund as soon as reasonably practicable after the end of that period.