

PATROL Adjudication Joint Committee
21st November 2012
Item 7 Appendix 1

Department for
Transport

The Road User Charging Scheme (Enforcement)(England) Regulations

Consultation Document (DfT-2012-18)

November 2012

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Executive Summary

What the consultation is about

The Future of Transport, published in July 2004, set out a long-term strategy for a modern, efficient and sustainable transport system backed up by sustained high levels of investment over 15 years. Effective management of the road network is a key part of this. The introduction of free-flow charging, to replace schemes operated with barriers and booths, is one way of managing congestion on the road network.

This document seeks views on a proposal to provide for the fair and effective enforcement of road user charging schemes in accordance with the Transport Act 2000 (“TA 2000”). The provisions contained in the proposal will be implemented by regulations made under the TA 2000, the Road User Charging Schemes (Enforcement) (England) Regulations (“Regulations”).

The Transport Act 2000 provides powers for ‘the appropriate national authority’ (in England, the Secretary of State) and the Lord Chancellor to make regulations providing a national legislative framework for the civil enforcement of a charging scheme. The regulations will allow enforcement actions such as the issuing of penalty charge notices, the examination of vehicles and equipment and the immobilisation, removal, storage and disposal of vehicles. Provisions will also cover arrangements for pursuing debt through the courts and adjudication.

A copy of the draft Regulations is set out in Annex A.

How to respond

The consultation period will run from 5 November 2012 until 28 January 2013. We consider that the consultation is of interest specifically to local transport authorities.

Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at www.dft.gov.uk/consultations/dft-2012-18

You are invited to respond using the online questionnaire.

Alternatively consultation responses can be emailed directly to ERC@dft.gsi.gov.uk.

If you require alternative formats (Braille, audio CD, etc) please contact Karen.Wilkinson@dft.gsi.gov.uk

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

A list of those consulted is attached at Annex C. If you have any suggestions of others who may wish to be involved in this process please contact us.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance

with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The proposal

The Department is seeking views on a proposal to enable charging authorities (as defined in Part III TA 2000) to take civil enforcement action against drivers who fail to pay a road user charge under a scheme established under the Transport Act 2000. The provisions contained in the proposal would be put into effect by regulations made under Part III TA 2000.

The proposals relate only to the enforcement of road user charging schemes made by traffic authorities under Part III TA 2000*. They would not apply to the enforcement of road tolls levied under any other legislation.

1. How the Regulations work

1.1 It is important to appreciate that how the civil enforcement of road user charges will operate in a particular case is likely to depend on the way in which a particular traffic authority wishes to operate its charging scheme. Traffic authorities wanting to introduce a road user charging scheme must do so by making a Charging Scheme Order (“CSO”) under Part III TA 2000.

1.2 Sections 171 to 172 of TA2000 set out the basic elements which must be included in a CSO – the roads to be charged, how the charges are defined, and the classes of motor vehicles that will be subject to a charge, the levels of road user charge and the duration of the scheme. These elements are for the traffic authority to determine.

* The Regulations will also apply to tolls to be levied on the yet to be built Mersey Gateway Bridge by virtue of Article 46 of the River Mersey (Mersey Gateway Bridge) Order 2011 (S.I. 2011/41)

2. Enforcement of Free-Flow Charging Schemes

2.1 One of the largest challenges in operating a barrier free or 'free-flow' operated road user charging scheme is gaining a high level of payment compliance when there is nothing to stop a vehicle and oblige road users to pay the road user charge at the booth. Without both physical barriers and the provision to enforce, there would be little to ensure that road users complied with the requirements of a charging scheme. Users would soon become aware that there was no enforcement for non-payment of the charges, and compliance would reduce rapidly.

2.2 Enforcement provisions are considered necessary in order to ensure that road users continue to pay the required road user charge under a barrier-free operation. Provision to enforce against non-payers would encourage road users to be compliant, and active enforcement would serve as a mechanism for increasing awareness of the requirements of the road user charging scheme.

2.3 Once the Regulations come into force, the charging authority, if it thought appropriate, would be able to include enforcement provisions in its CSO, drawing on any or all of the means of civil enforcement provided by the Regulations.

3. Imposition & Payment of Penalty Charges

3.1 Where a penalty charge becomes payable under a charging scheme, it is proposed that a charging authority may serve a penalty charge notice. The level of the penalty charge would be determined by the charging authority but could be no higher than those specified in the Regulations.

3.2 It is proposed that the maximum rates of penalty charges should be:

a) £60 where the penalty charge is paid in full within 14 days beginning with the day after the day on which the penalty charge notice was served;

b) £120 where the penalty charge notice is paid in full after the 14 days but before a charge certificate has been served; and

c) £180 where the penalty charge is paid in full after a charge certificate has been served.

3.3 The proposed maximum rates are in line with the current penalty charge rates for the London Congestion Charging Scheme.

3.4 A charging authority would specify within the CSO how the penalty charge rates will be communicated to road users. Where a penalty remains unpaid after a specified period the charging authority may issue a charge certificate. If the penalty continues to remain unpaid the charging authority would be permitted to recover the amount due through the county courts, including the Traffic Enforcement Centre at Northampton County Court.

4. Adjudication, Evidence and Hearings

4.1 The TA 2000 permits arrangements for the adjudication and enforcement of penalty charges to be specified in the Regulations with non-payment of a road user charge to be dealt with as a civil enforcement matter rather than as a criminal offence. It is proposed that outstanding charges and penalty charges will be recoverable as a civil debt.

4.2 To ensure consistency in the adjudication of appeals against the imposition of a penalty charge, it is proposed that all charging authorities

will use the same adjudication body, the Traffic and Penalty Tribunal Service†.

5. Powers exercised in Respect of Vehicles

5.1 Once the Regulations come into force, the charging authority, if it thought appropriate, would be able to include enforcement provisions within its CSO to allow for examination and entry of a vehicle, and to immobilise, remove, store or dispose of vehicles where there are three or more outstanding penalty charges.

5.2 The Regulations also specify the circumstances in which a registered keeper or keeper of a vehicle, that has been immobilised, removed, stored or disposed of, may make representations against such actions. It is proposed that the keeper or registered keeper must pay all outstanding charges before being permitted to make representations. The registered keeper or keeper would have 28 days to make such representations directly to the charging authority but those representations may be on only the grounds specified in the Regulations. Where the charging authority does not accept that a ground has been satisfied, the registered keeper or keeper would then have the option to appeal to an adjudicator against the charging authority's decision.

6. Road User Charging Schemes

6.1 The Highways Agency is leading on a project to introduce free-flow charging at the Dartford-Thurrock river crossing, which would improve traffic flow by removing the barriers and thereby remove the requirement for drivers to stop and pay the road user charge at the booths. Delivery is scheduled for October 2014, which means that Dartford would be the

† <http://www.trafficpenaltytribunal.gov.uk/site/index.php>

first TA2000 charging scheme to include enforcement provisions in its CSO.

6.2 A copy of the full public consultation on the Dartford Crossing CSO can be found at <http://www.highways.gov.uk/dartfordcsoconsultation>. However, it is important to note that the provisions within the Regulations will be available for any authority that operates a road user charging scheme under the Transport Act 2000.

7. The Impact of the Regulations

7.1 The Regulations would not lead directly to any costs or savings for business, public or civil organisations, regulators or consumers. The impact would only result when an individual charging authority draws on the provisions contained in the Regulations, by creating a new or varying an existing CSO. Therefore an Impact Assessment on the Regulations is not required. However, the Impact Assessment for 'Free-Flow' Road User Charging at the Dartford-Thurrock River Crossing will clearly illustrate the impacts of the Regulations if they were drawn upon by other road user charging schemes. A copy of the Impact Assessment can be found at <http://www.highways.gov.uk/dartfordcsoconsultation>.

Consultation Questions

You are invited to consider the following questions when responding to the consultation:

Q1. Do you agree, in principle, with this proposal to enable enforcement against drivers who do not pay the road user charge, for schemes that operate under the Transport Act 2000?

If not, could you say why?

Q2. Do the proposals to be put into effect by the Regulations provide a charging authority with sufficient powers to enforce a road user charging scheme?

If not, could you say why?

Q3. The proposals will enable a charging authority to immobilise, store or dispose of a vehicle when there are three or more outstanding penalty charges. Is this an appropriate number of outstanding charges before vehicle enforcement can take place?

If not, could you say why?

Q4. Do you agree with the proposed maximum penalty charge levels to be put into effect by the Regulations?

If not, could you say why?

Q5. Do the proposals to be put into effect by the Regulations provide a registered keeper or keeper with sufficient powers to appeal to an adjudicator against a charging authority's decision?

If not, could you say why?

Q6. A registered keeper or keeper must pay all charges before being permitted to make representation (or appealing) against the immobilisation, removal or disposal of the vehicle. Should the payment of a lesser amount be permitted to entitle the person to make representations?

If so, please indicate an adequate level of payment. (e.g. 50% of the outstanding charges)

Q7. Do you foresee any unintended consequences for traffic authorities of the proposals to be put into effect by the Regulations?

Please outline these consequences in more detail.

Please provide as much supporting evidence as possible with each of your responses to the above questions.

What will happen next

A summary of responses, including the next steps, will be published on the Departments website www.dft.gov.uk. Paper copies will be available if required.

Annex A Draft Regulations

STATUTORY INSTRUMENTS

2013 No. 0000

ROAD TRAFFIC, ENGLAND

The Road User Charging Schemes (Enforcement) (England) Regulations

<i>Made</i> - - - -	2012
<i>Laid before Parliament</i>	2012
<i>Coming into force</i> - -	2012

The Secretary of State for Transport, in exercise of the powers conferred by sections 163(2) and (3), 173(1) to (3), 174(1), (2) and (5), 175(1) and 197(1) and (5) of the Transport Act 2000(‡) and the Lord Chancellor, in exercise of the powers conferred by sections 173(4), 195(1)(b) to (d) and (2) and 197(1) and (5) of that Act make the following Regulations.

PART 1

Preliminary

Citation, commencement and application

- 1.—(1) These Regulations may be cited as the Road User Charging Schemes (Enforcement) (England) Regulations and come into force on .
- (2) These Regulations do not apply in Greater London.

Interpretation

2. In these Regulations—

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

“vehicle” means motor vehicle within the meaning given by section 185(1) of the Road Traffic Act 1988(**) excluding those vehicles described in section 189 of that Act as vehicles which are not to be treated as motor vehicles for the purposes of that Act.

(‡) 2000 c.38
(§) 1988 c.53

“registered keeper” means the person registered as the owner of a vehicle under section 21 of the Vehicle Excise and Registration Act 1994(††);

“Registration and Licensing Regulations” means the Road Vehicles (Registration and Licensing) Regulations 2002(‡‡)

“relevant vehicle” means a vehicle that, having used a road subject to a charging scheme, incurs a penalty charge under the charging scheme; and

“relevant time” means the time when a relevant vehicle used a road subject to a charging scheme and that use resulted in a penalty charge being incurred under the charging scheme.

PART 2

Penalty Charge

Imposition of penalty charge

3.—(1) A charging scheme may provide for the imposition of a penalty charge in respect of a vehicle where—

- (a) the vehicle has incurred a charge under the charging scheme; and
- (b) such charge has not been paid in full in accordance with the charging scheme.

(2) If a charging scheme so provides, a penalty charge shall be payable.

(3) If a charging scheme provides for the payment of a penalty charge, it shall specify whether that penalty charge is to be payable in addition to the charge payable under the charging scheme or instead of such charge.

Setting the rate of penalty charge

4.—(1) A charging scheme shall, subject to paragraph (2)—

- (a) specify the rates of penalty charges imposed; or
- (b) specify the manner in which the charging authority shall communicate such rates to users of the road or roads subject to the charging scheme.

(2) The maximum rates of penalty charges to be imposed are—

- (a) £60 where the penalty charge is paid in full within fourteen days beginning with the day after the day on which the penalty charge notice was served;
- (b) £120 where the penalty charge is paid in full after the expiry of such fourteen day period but before a charge certificate has been served; and
- (c) £180 where the penalty charge is paid in full after a charge certificate has been served in accordance with regulation 11.

Liability for penalty charge

5.—(1) Except in the circumstances described in paragraphs (2) to (5), where a relevant vehicle is registered under the Vehicle Excise and Registration Act 1994, the penalty charge shall be paid by the registered keeper.

(2) Where before the relevant time the registered keeper has notified the Secretary of State in accordance with regulation 21, 22, 23, 24 or 25 of the Registration and Licensing Regulations that there has been a change of registered keeper of the relevant vehicle, the penalty charge shall be paid by the keeper of the relevant vehicle at the relevant time.

(**) 1988 c.52
(††) 1994 c.22
(‡‡) S.I.2002/2742.

(3) Where at the relevant time the relevant vehicle was kept by a person who was a vehicle trader as defined by regulation 20(6) of the Registration and Licensing Regulations and that person was not the registered keeper, the penalty charge shall be paid by that person.

(4) Where at the relevant time—

- (a) the registered keeper of the relevant vehicle was a vehicle-hire firm;
- (b) the relevant vehicle was hired from such registered keeper under a vehicle hire agreement; and
- (c) the person who hired the relevant vehicle signed a document accepting liability for any penalty charges incurred under a charging scheme during the term of the vehicle hire agreement,

the penalty charge shall be paid by the person who hired the vehicle.

(5) Where at the relevant time a person was using the relevant vehicle without the consent of the registered keeper or keeper, the penalty charge shall be paid by the person who used without consent the relevant vehicle at the relevant time.

(6) Where a relevant vehicle is not registered under the Vehicle Excise and Registration Act 1994, the penalty charge shall be paid by the user of the relevant vehicle at the relevant time.

PART 3

Recovery of Penalty Charge

Penalty charge notice

6.—(1) Where a penalty charge becomes payable under a charging scheme, a charging authority may serve a notice (“a penalty charge notice”) on the person who, in accordance with regulation 5, is liable to pay the penalty charge.

(2) A penalty charge notice must state—

- (a) the amount of the penalty charge, subject to regulation 4(2), that is payable—
 - (i) where the penalty charge is paid in full within fourteen days beginning with the day after the day on which the penalty charge notice was served;
 - (ii) after the expiry of such fourteen day period but before a charge certificate has been served; and
 - (iii) after a charge certificate has been served.
- (b) the date and time, according to the charging authority, when the vehicle was used, on a road designated by the charging scheme as a road in respect of which a charge is payable, so as to cause the penalty charge to become payable;
- (c) the grounds on which the charging authority believes that a penalty charge is payable with respect to that vehicle;
- (d) the time and manner, in accordance with the charging scheme, in which the penalty charge must be paid;
- (e) that the person on whom the penalty charge notice is served may be entitled to make representations under regulation 7; and
- (f) the effect of service of a charge certificate under regulation 11.

Representations against a penalty charge notice

7.—(1) Where it appears to the person on whom the penalty charge notice is served (“the recipient”) that one or more grounds mentioned in paragraph (3) are satisfied, the recipient may make representations in writing to that effect to the charging authority.

(2) The charging authority may disregard any such representations which it receives 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 that—

- (a) the recipient is not the person who, in accordance with regulation 5, is liable to pay the penalty charge;
- (b) the charge incurred under the charging scheme, being a charge referred to in regulation 3(1)(a), was paid in accordance with the charging scheme;
- (c) no penalty charge is payable under the charging scheme;
- (d) at the relevant time the relevant vehicle was being used by a person without the consent of the person who, in accordance with regulation 5, is liable to pay the penalty charge; or
- (e) the penalty charge exceeds the amount applicable, under the charging scheme, in the circumstances of the case.

(4) Where representations are made in accordance with paragraph (3)(a) or (d), such representations must include, if known, the name and address of the person who, in accordance with regulation 5, is liable to pay the penalty charge.

(5) It shall be the duty of a charging authority to whom representations are made under this regulation to, within 56 days of receipt of the representations—

- (a) consider them and any supporting evidence provided; and
- (b) serve, on the person making such representations, a notice of its decision, including reasons, as to whether or not it accepts that one or more of the grounds has been established.

Acceptance of representations and cancellation of penalty charge notice

8.—(1) Where representations are made under regulation 7 and the charging authority accepts that a ground has been established it shall, within 28 days of receipt of the representations—

- (a) cancel the penalty charge notice; and
- (b) state in the notice served under regulation 7(5)(b) that the penalty charge notice has been cancelled.

(2) The cancellation of a penalty charge notice under this regulation shall not prevent the charging authority from serving, on the same person or another person, a penalty charge notice in respect of the use of the relevant vehicle at the relevant time.

Rejection of representations against penalty charge notice

9.—(1) Where representations are made under regulation 7 and the charging authority does not accept that a ground mentioned in regulation 7(3) has been established, the notice served under regulation 7(5)(b) (“the notice of rejection”) must—

- (a) state that the charging authority rejects the representations and accordingly the penalty charge remains payable;
- (b) state that a charge certificate may be served under regulation 11 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 charging authority’s decision;
- (c) state the amount, specified in accordance with regulation 4(1), of the reduced penalty charge if it is paid in full within fourteen days beginning with the date of service of the notice of rejection;
- (d) state that the person on whom the notice is served has a right of appeal to an adjudicator;
- (e) indicate the nature of an adjudicator’s power to award costs against any person appealing to him; and
- (f) 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 considers appropriate.

Adjudication by an adjudicator

10.—(1) Where a charging authority serves notice under regulation 7(5)(b) that it does not accept that a ground mentioned in regulation 7(3) on which representations were made 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, following consultation with the charging authority.

(2) An adjudicator may allow a longer period for an appeal under paragraph (1)(b) whether or not the period specified in paragraph (1)(a) has already expired.

(3) 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 7(3) and may give the charging authority concerned such directions as the adjudicator considers appropriate.

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

Charge certificates

11.—(1) Where a penalty charge notice is served on a person and the penalty charge to which it relates is not paid before the end of the relevant period specified in paragraph (3), the charging authority may serve on that person a document ("a charge certificate") to the effect that the penalty charge is increased to the sum, specified in the charging scheme, as applicable where a penalty charge is paid in full after a charge certificate has been served.

(2) A charging authority which has served a charge certificate on a person may cancel the charge certificate and serve or cancel such further charge certificates as it thinks fit.

(3) The relevant period referred to in paragraph (1) is the period of 28 days beginning—

- (a) where no representations are made under regulation 7, with the date on which the penalty charge notice is served;
- (b) where—
 - (i) such representations are made;
 - (ii) a notice of rejection, under regulation 9, is served by the charging authority; 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.

(4) Where an appeal against a notice of rejection is made but is withdrawn before the adjudicator gives notice of his decision, the relevant period is the period of 14 days beginning with the date on which the appeal is withdrawn.

Enforcement of charge certificate

12. Where a charge certificate has been served on any person and the increased penalty charge provided for in the certificate and, if applicable, the related charge referred to in regulation 3(1)(a) 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 may recover the increased penalty charge and, if applicable, the related charge referred to in regulation 3(1)(a) as if it or they, as the case may be, were payable under a county court order.

Enforcement by execution

13.—(1) Subject to paragraph (2)—

- (a) an unpaid penalty charge and, if applicable, the related charge referred to in regulation 3(1)(a) recoverable in accordance with regulation 12 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 28 as if it were payable under a county court order,

shall be treated for the purposes of enforcement by execution as if they were specified debts in the Enforcement of Road Traffic Debts Order 1993(§§) (“the 1993 Order”).

(2) For the purposes of the enforcement by execution of an unpaid penalty charge and, if applicable, the charge referred to in paragraph (1)(a) or the enforcement by execution of the payment of a sum referred to in paragraph (1)(b)—

- (a) any reference in the 1993 Order to “the authority” shall be a reference to a charging authority; and
- (b) the reference in article 3(1) of the 1993 Order to “the time for serving a statutory declaration” shall be a reference to the period of 35 days beginning with the date on which a charge certificate is served under regulation 11(1).

PART 4

Powers in Respect of Vehicles

Examining vehicles

14.—(1) A charging scheme may provide for the charging authority to designate in writing a person or persons to be empowered to examine vehicles in accordance with paragraph (2).

(2) A person so designated may examine a vehicle to ascertain whether—

- (a) any document required by the charging scheme to be displayed while the vehicle is on a road designated by the charging scheme, is so displayed;
- (b) any equipment required by a charging scheme to be carried in or fitted to the vehicle while it is on such a road—
 - (i) is so carried or fitted;
 - (ii) is in proper working order;
 - (iii) has been interfered with, or its functioning has been interfered with, with intent to avoid payment of, or to avoid any person being identified as having failed to pay, a charge imposed by the charging scheme; or
- (c) any conditions relating to the use of such equipment are satisfied.

Entering vehicles

15.—(1) A charging scheme may provide for the charging authority to designate in writing a person or persons to be empowered to enter vehicles in accordance with paragraph (2).

(2) A person so designated may, in the presence of a constable, enter a vehicle where that person has reasonable grounds for suspecting that—

- (a) any equipment required by a charging scheme to be carried in or fitted to the vehicle while it is on a road designated by the charging scheme has been interfered with, or its functioning has been interfered with, with intent to avoid payment of a charge or to avoid any person being identified as having failed to pay a charge imposed by the charging scheme; or
- (b) the vehicle contains or is displaying a false document which has been made or used with intent to avoid payment of, or to avoid any person being identified as having failed to pay, such a charge.

Power of seizure

16.—(1) A charging scheme may provide for the charging authority to designate in writing a person or persons to be empowered to seize, in the presence of a constable, anything, if necessary by detaching it from a vehicle, and to retain it as evidence of the commission of an offence under section 173(5) or (6) of the Transport Act 2000.

Immobilisation, removal, storage and disposal of vehicles

17.—(1) A charging scheme may provide for the charging authority to designate in writing a person or persons to be empowered to immobilise, remove, store and dispose of vehicles in accordance with this regulation.

(2) A person so designated may, where the conditions in paragraph (3) are met and subject to the provisions of this regulation, do any one or more of the following—

- (a) fit an immobilisation device to the vehicle or move it, or arrange for it to be moved, to another place on the same road or another road and fit an immobilisation device to the vehicle in that other place;
- (b) remove the vehicle or arrange for its removal to a place of storage;
- (c) store or arrange for the storage of the vehicle until it is disposed of; or
- (d) dispose of or arrange for the disposal of the vehicle in accordance with paragraph (6).

(3) The conditions are that the person designated under paragraph (1) has reason to believe that—

- (a) there are three or more unpaid penalty charges with respect to the vehicle; and
- (b) in respect of each of the penalty charges either no representation against the penalty charge has been made under regulation 7 or a representation has been made but has been rejected under regulation 9 or a representation followed by an appeal to an adjudicator under regulation 10 has been made but this has resulted in the penalty charge remaining to be paid.

(4) When an immobilisation device is fixed to a vehicle in accordance with this regulation, the person fitting the device shall also fix to the vehicle a notice—

- (a) indicating that the device has been fixed to the vehicle and warning that no attempt should be made to drive the vehicle until it has been released from the device;
- (b) indicating the reason why the device has been fixed to the vehicle;
- (c) specifying the steps to be taken to secure its release; and
- (d) giving contact information (including a telephone number) which may be used in order to request that the vehicle be released from the immobilisation device under paragraph (5)

(5) A vehicle to which an immobilisation device has been fixed in accordance with this regulation shall be released from that device by a person designated under paragraph (1) to immobilise vehicles if—

- (a) the charging authority is requested to do so; and
- (b) the conditions in regulation 18(2) have been met.

(6) Subject to the provisions of this regulation, the person designated under paragraph (1) may dispose of or arrange for the disposal of the vehicle and any contents of the vehicle by selling them or dealing with them as scrap.

(7) A vehicle or its contents shall not be disposed of until—

- (a) the expiry of 28 days beginning with the date on which the vehicle was removed; and
- (b) either—
 - (i) in the event that the vehicle carries a United Kingdom registration mark, the name and address of the registered keeper has been ascertained from records kept under the Vehicle Excise and Registration Act 1994 and the registered keeper has failed to act in accordance with a notice complying with paragraph (8); or
 - (ii) in the event that the vehicle does not carry a United Kingdom registration mark, such steps as appear practicable to the person disposing of the vehicle and any contents have been taken to ascertain the name and address of the keeper and either—

(aa) it has not been possible to ascertain the name and address of the keeper; or

(bb) the keeper has failed to act in accordance with a notice complying with paragraph (8).

(8) A notice under paragraph (7)(b)(i) or (7)(b)(ii)(bb) shall be a notice addressed to the registered keeper or keeper respectively, which states—

- (a) the outstanding penalty charges and if applicable, the charge payable under the charging scheme, in respect of the vehicle;
- (b) the registration mark and make of the vehicle;
- (c) the place from which the vehicle was removed;
- (d) the conditions to be satisfied before the release from storage of the vehicle and any contents in accordance with regulation 18; and
- (e) that unless the vehicle and any contents are removed by the registered keeper before the expiry of 28 days beginning with the date on which the notice was served, the vehicle and any contents may be disposed of.

(9) Where a vehicle has been removed and stored, the person designated under paragraph (1) or a person authorised by such person may recover from the registered keeper of the vehicle at the time it was removed—

- (a) all charges and penalty charges under the charging scheme in respect of the vehicle; and
- (b) such charges as may be prescribed by the charging scheme—
 - (i) for its removal;
 - (ii) for each complete day or part of a day on which it has been stored;
 - (iii) for its release from storage; and
 - (iv) for its disposal.

Taking possession of a removed vehicle

18.—(1) A person (the applicant) may take possession of a vehicle and any contents which have been removed and stored on satisfaction of the conditions specified in paragraph (2).

(2) The conditions are that—

- (a) satisfactory and verifiable proof of the applicant's name and address is provided;
- (b) the name and address of the registered keeper of the vehicle are provided if the applicant is not the registered keeper but is seeking to take possession acting on the authority of the registered keeper;
- (c) the applicant's status as the registered keeper or as a person acting on the authority of the registered keeper is proved;
- (d) all charges and penalty charges under the charging scheme in respect of the vehicle which were outstanding at the time the vehicle was removed are paid to the charging authority; and
- (e) all charges in respect of the removal, storage or release from storage of the vehicle are paid.

Claim by the registered keeper or keeper after disposal of a vehicle

19.—(1) Before the end of the period of one year beginning with the date of disposal of the vehicle, a person (the claimant) may claim from the person who disposed of the vehicle a sum calculated in accordance with paragraph (3).

(2) On receipt of such a claim, the person who disposed of the vehicle shall, if satisfied that the claimant's status as the registered keeper or keeper of the vehicle at the time of its disposal is proved, pay such sum to the claimant.

(3) The sum payable under paragraph (1) shall be calculated by deducting from the proceeds of disposal the total of—

- (a) the sums specified in regulation 17(9)(a), (b)(i) and (b)(ii) that would have been payable in respect of the vehicle had the registered keeper taken possession of it under regulation 18 immediately before it was disposed of; and

- (b) any charge in respect of the disposal of the vehicle.

PART 5

Representations and Appeals in relation to Powers exercised in Respect of Vehicles

Persons to whom Part 5 applies

20.—(1) This Part of these Regulations applies to a person (in this Part referred to as a “relevant person”), being the registered keeper or keeper of a vehicle which has been immobilised, removed, stored or disposed of under these Regulations, who—

- (a) has paid all outstanding charges and penalty charges under the scheme in respect of the vehicle and all charges for its immobilisation, removal, storage and disposal;
- (b) having made a claim under regulation 19, receives any sum in respect of the vehicle; or
- (c) having made a claim under regulation 19, is informed that the proceeds of its disposal do not exceed the amount of the penalty charges and other charges payable, in accordance with that regulation, in respect of the vehicle.

Representations in respect of immobilisation, removal, storage or disposal

21.—(1) A relevant person shall, at the time of the happening of an event referred to in paragraph 20(1)(a) to (c), be informed by notice in writing by or on behalf of the charging authority, of the right to make representations under this regulation and the right of appeal under regulation 24.

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

(3) The grounds are—

- (a) that in the particular circumstances of the case, the immobilisation, removal, storage or disposal was not authorised by the charging scheme;
- (b) that the charge, penalty charge or charge for the immobilisation, removal or storage of the vehicle paid to secure the release of the vehicle exceeded the amount applicable in the circumstances of the case;
- (c) in a case where the vehicle was removed, that—
 - (i) all outstanding penalty charges were incurred before the registered keeper or keeper, as the case may be, of the vehicle at the time of its removal had become the registered keeper or keeper of the vehicle;
- (d) that the relevant person is a vehicle-hire firm and—
 - (i) the vehicle in question was, at the time the outstanding penalty charges were incurred, hired from that firm under a hiring agreement; and
 - (ii) the person hiring it had signed a document accepting liability for any penalty charges incurred under a charging scheme during the term of the vehicle hire agreement;
- (e) that in respect of an outstanding penalty charge the registered keeper of the vehicle did not receive the penalty charge notice in question;
- (f) that the registered keeper of the vehicle made representations to the charging authority against any of the original penalty charges but did not receive a notice of rejection from the charging authority; or
- (g) that the registered keeper of the vehicle appealed to an adjudicator against a rejection of representations made to the charging authority in respect of any of the original penalty charges but had no response to the appeal.

(4) A charging authority may disregard any representation 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 the 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 28 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 including reasons of their decision as to whether or not they accept that one or more of the grounds has been established.

(6) Where a charging authority fails to comply with paragraph (5)—

- (a) it shall be deemed to have accepted that one or more of the grounds has been established and to have served notice to that effect under paragraph (5)(b); and
- (b) regulation 22 shall have effect as if it required any refund of charges to be made immediately after the end of that period.

Refund of charges

22.—(1) Where a charging authority serves notice under regulation 21(5)(b) that it accepts that one or more of the grounds has been established it shall when serving that notice or as soon as practicable thereafter refund to the registered keeper or keeper—

- (a) any penalty charges or other charges—
 - (i) paid to recover the vehicle after it had been removed from a road; or
 - (ii) deducted from the proceeds of disposal of the vehicle.

Rejection of representations

23.—(1) Where a charging authority serves notice under regulation 21(5)(b) that it does not accept that a ground has been established, that notice shall—

- (a) inform the relevant person of the right to appeal to an adjudicator under regulation 24;
- (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 considers appropriate.

Right to appeal to an adjudicator

24.—(1) Where a charging authority serves notice under regulation 21(5)(b) that it does not accept that one or more of the grounds on which representations were made under that regulation have been established, the relevant person 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 the notice; or
- (b) such longer period as an adjudicator may allow following consultation with the charging authority.

(2) An adjudicator may allow a longer period for an appeal under paragraph (1)(b) whether or not the period specified in paragraph (1)(a) has already expired.

(3) On an appeal under this regulation, the adjudicator shall consider the representations and any additional representations which are made on any grounds mentioned in regulation 21(3) and, if the adjudicator concludes—

- (a) that one or more of the representations have been established; and
- (b) that the charging authority would have been under the duty imposed by regulation 22 to refund any sum if they had served notice that they accepted that one or more of the grounds in question had been established,

the adjudicator shall direct the authority to make the necessary refund.

(4) It shall be the duty of a charging authority to whom such a direction is given to comply with it within 28 days of the date of the direction or within such other period as the adjudicator so directs.

PART 6

Adjudication and Appeals

Appointment of adjudicators

25.—(1) The Lord Chancellor shall appoint persons to act as road user penalty charging scheme adjudicators for the purpose of these Regulations.

(2) To be qualified for appointment as an adjudicator, a person must satisfy the judicial appointment eligibility condition within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007(***) on a five year basis.

(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 the appointment.

(5) Each adjudicator shall make an annual report to the Secretary of State for Transport on the discharge of their functions.

Procedure to be followed and administrative support

26.—(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, adjudicators may regulate their own procedure.

(3) The charging authority shall provide, or make arrangements for the provision of, accommodation, administrative staff and facilities for adjudicators, determine the places where they are to sit and shall designate a member of the administrative staff to perform the functions of the proper officer under the Schedule.

(4) The charging authority shall meet the expenses incurred under paragraph (3) and in remunerating adjudicators.

Evidence produced by a prescribed device

27.—(1) Evidence that a vehicle has incurred a charge under a scheme may be given by the production, in the same or in separate documents, of—

(a) a record produced by a prescribed device; and

(b) a certificate as to the circumstances in which the record was produced signed by a constable or by a person authorised to do so by the charging authority who installed the device.

(2) In paragraph (1)—

“prescribed device” means a camera or other device, including related equipment used to produce a record of a particular vehicle being used or kept on a road designated by a charging scheme and the date and time of such use or keeping.

(3) A document purporting to be a record or a certificate of the kind described in paragraph (1) shall be deemed to be such a record unless the contrary is proved.

Recovery of amounts payable under adjudication

28. Any amount payable under an adjudication shall be recoverable by the person to whom the amount is payable, as if it were payable under a county court order.

Service of notices and documents

29.—(1) This paragraph has effect in relation to any notice or other document required or authorised by Parts 3, 4 or 5 of these Regulations to be served on a person.

(2) Any notice or other document shall be regarded as having been served on a person if it is—

- (a) delivered to the person;
- (b) left at the person’s proper address;
- (c) sent by first class post to the person at that address; or
- (d) transmitted to the person by fax or other means of electronic data transmission in accordance with subparagraph (3).

(3) Where the charging authority has determined that it is unable to serve a penalty charge notice or other notice or document, on the person who, in accordance with regulation 5, is liable to pay the penalty charge, because it cannot ascertain the person’s address for service, service is deemed to have been effected, for the purposes of these Regulations, on the date of that determination.

(4) A document may be transmitted to a person by fax or other electronic data transmission where—

- (a) the person has indicated in writing, to the person sending the document, a willingness to regard a document as having been duly sent to him if it is transmitted to a specified fax telephone number or, as the case may be, a specified electronic address; and
- (b) the document is transmitted to that number or address.

Signed on behalf of the Secretary of State

Date

Name
Parliamentary Under Secretary of State
Department for Transport

Signed by authority of the Lord Chancellor

Date

Name
Parliamentary Under Secretary of State
Ministry of Justice

SCHEDULE

Procedure in Adjudication Proceedings

PART 1

Interpretation

Interpretation of Schedule

1.—(1) In this Schedule—

“appeal” means an appeal under regulation 10(1) or 24(1);

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

“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 provided under regulation 26(3) to perform the functions of the proper officer under this Schedule;

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

“working day” means any day except a Saturday, a Sunday, Good Friday, Christmas Day or a bank holiday in England by virtue of the Banking and Financial Dealings Act 1971(†††).

(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 7(1) or 21(1).

PART 2

Procedure Relating to Appeals

Initiating an appeal

2.—(1) An appeal shall be made by delivering a notice (in this Part referred to as 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 representations on one or more grounds specified in regulation 21(3) 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 10(1) or 24(1) the appellant must include in the notice of appeal a statement of the reasons on which the appellant 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 acknowledgment 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 7(1) or 23(1) as the case may be.

(†††) 1971 c.80.

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 subparagraph (2), the adjudicator may draw such inferences as appear proper to the adjudicator.

(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.

Right to require attendance

5.—(1) The adjudicator may require the attendance, at a time and place specified by the adjudicator, of any person as a witness at the hearing of an appeal and require that person 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 subparagraph (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 subparagraph (1) unless the person has been given at least 7 days notice of the hearing or, if less than 7 days, the person has accepted such notice and informed the adjudicator of such acceptance.

(4) A person shall not be bound to comply with a requirement under subparagraph (1) unless the person's necessary expenses of attendance are paid or reimbursed..

(5) No person shall be required to give any evidence or produce any documents under subparagraph (1) which could not be required to be given or produced 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 sides 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 purposes of disposing of an appeal.

(2) The proper officer shall fix the time, date and place of the hearing and, not less than 28 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 the proper officer thinks fit.

(3) The adjudicator may alter the time, date 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 the adjudicator 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 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 so to do.

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

(4) 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—

- (a) the registered keeper of the vehicle;
- (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 or her 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 to be adopted.

(2) Subject to the provisions of this paragraph, the adjudicator shall conduct the hearing of an appeal in such manner considered by the adjudicator most suitable to the clarification of the issues to be heard and generally to the just handling of the proceedings but the adjudicator shall so far as the adjudicator sees fit 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 the adjudicator 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 that party's absence.

Decisions on appeals

11.—(1) The adjudicator must give written reasons for the decision on an appeal.

(2) Where an appeal is disposed of at a hearing the adjudicator may give the decision and the reasons orally at the end of the hearing or may reserve the decision and give it and the reasons subsequently in writing.

(3) Upon the decision being given the proper officer shall—

- (a) as soon as practicable record the decision in the register, together with the adjudicator's reasons and any directions given; and
- (b) send a copy of the register entry to each party.

Review of adjudicator's decision

12.—(1) The adjudicator may, on the application of a party, review—

- (a) any interlocutory decision; or
- (b) any decision to determine that a notice of appeal does not accord with paragraph 2 or to dismiss or allow an appeal, or any decision as to costs, on one or more of the following grounds—
 - (i) the decision was wrongly made as the result of an administrative error;
 - (ii) a party who failed to appear or be represented at a hearing had good and sufficient reason for the failure to appear;
 - (iii) where the decision was 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 of or foreseen;
 - (iv) where the decision was made without a hearing, new evidence has become available since the decision was made, the existence of which could not reasonably have been known of or foreseen; or
 - (v) the interests of justice require such a review.

(2) An application under subparagraph (1) must—

- (a) be delivered to the proper officer within the period of 14 days beginning with the date on which the copy of the register entry is served on the parties; and
- (b) state the grounds in full.

(3) The parties shall have the opportunity to be heard on any application for review under subparagraph (1).

(4) Having reviewed the decision the adjudicator may direct that it be confirmed, that it be revoked or that it be varied.

(5) If, having reviewed a decision, the adjudicator directs that it be revoked, the adjudicator shall substitute a new decision or order a re-determination by himself or herself, the original adjudicator or a different adjudicator.

(6) Paragraph 11 shall apply to the confirmation, revocation or variation of a decision under this paragraph as it applies to a decision made on the disposal of an appeal.

Costs

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

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

(2) An order shall not be made under subparagraph (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 subparagraph (1) shall require the party against whom it was 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 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 the adjudicator to be necessary.

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

Miscellaneous powers of adjudicators

15.—(1) The adjudicator may—

- (a) extend the time appointed by or under this Schedule for the doing of 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 consents to an appeal being allowed, allow the appeal;
- (d) if both or all 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 on his own or her own motion or on the application of a party to the appeal.

Clerical errors

16. Clerical errors in any document recording a direction or decision of the adjudicator, or errors in such a document arising from a mistake or omission, may be corrected by the proper officer on the direction of the adjudicator.

PART 3

Service of Documents and Notices

Service of documents on the parties

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

(2) A document shall be regarded as having been served on that party if it is—

- (a) delivered to that party;
- (b) left at that party's proper address;
- (c) sent by first class post to that party at that address; or
- (d) transmitted to that party by fax or other means of electronic data transmission in accordance with subparagraph (3).

(3) A document may be transmitted to a party by fax or other electronic data transmission where—

- (a) the party has indicated in writing to the party sending the document that the indicating party is willing to regard a document as having been duly sent by the sending party if it is transmitted to a specified fax telephone number or a specified electronic address; and

(b) the document is transmitted to that number or address.

(4) In the case of a charging authority, an indication under subparagraph (3)(a) may be expressed to apply in relation to any appeal to which it is the respondent.

(5) Where the proper address includes a box number at a document exchange, the delivery of such a document may be effected by leaving the document addressed to that box number—

- (a) at that document exchange; or
- (b) at a document exchange which transmits documents every working day to that document exchange,

and any such document so left shall, unless the contrary is proved, be taken to have been delivered on the second working day after the day on which it was left.

(6) For the purposes of this Schedule, and of section 7 (references to service by post) of the Interpretation Act(###) (“the 1978 Act”) in its application to this paragraph—

- (a) the proper address of the appellant is the address for service specified pursuant to paragraph 2(2)(c) or, if no address is so specified, the address specified pursuant to paragraph 2(2)(b), and
- (b) the proper address of a charging authority in proceedings in which it is the respondent is such address as the charging authority may specify from time to time in a notice delivered to the proper officer as being the authority’s address for service in all such proceedings.

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

- (a) in the case of an individual, the individual’s 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;
- (c) in the case of an incorporated or unincorporated body, the registered or principal office of the body.

(8) A party may at any time, by notice in writing delivered to the proper officer, change its proper address for the purposes of this Schedule and section 7 of the 1978 Act.

(9) A party may, by notice in writing delivered to the other party and the proper officer, vary or revoke any indication given under subparagraph (3)(a).

(10) Unless the contrary is proved, a notice or document—

- (a) left at the proper address of a party shall be taken to have been delivered on the second working day after the day on which it was left;
- (b) sent by fax or other means of electronic data transmission shall be taken to have been delivered on the second working day after the day on which it was transmitted.

Delivery of documents to the proper officer

18.—(1) This paragraph has effect in relation to any notice or other document required or authorised by or under this Schedule to be delivered to the proper officer.

(2) Any such notice or document may be delivered to the proper officer by being transmitted to the proper officer by fax or other means of electronic data transmission, but only to a telephone number or, as the case may be, electronic address for the time being published by the proper officer for the purpose of receiving such notices or documents.

(3) Any notice or document so transmitted shall, unless the contrary is proved, be taken to have been delivered on the second working day after the day on which it was transmitted.

(4) 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 box number—

- (a) at that document exchange; or
- (b) at a document exchange which transmits documents every working day to that exchange,

and any such document so left shall be taken, unless the contrary is proved, to have been delivered on the second working day after the day on which it was 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.

PART 4

The Register

The register

19.—(1) The proper officer shall establish and maintain, in accordance with the following provisions of this paragraph, a register for the purpose of recording proceedings conducted under these Regulations.

(2) The register shall 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 shall be evidence of the entry and of the matters contained in it.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the civil enforcement of a charge imposed in respect of any motor vehicle by a charging scheme under Part III of the Transport Act 2000 (c.38), for the use or keeping of a motor vehicle on roads.

Part 1 (Regulations 1 and 2) deals with preliminary matters including defining words and terms used in the Regulations.

Part 2 (Regulations 3 to 5) permits, in Regulation 3, the charging authority to make provision, in a charging scheme, for the imposition of a penalty charge in the event that a vehicle incurs a charge under the scheme but that charge is not paid in full in accordance with the scheme. Under Regulation 4, the charging authority must state, in the charging scheme order, the level of penalty charge that applies subject to the maximum rates specified. Regulation 5 specifies that, subject to the small number of exceptions stated, the registered keeper of a vehicle, is liable for paying a penalty charge incurred by that vehicle.

Part 3 (Regulations 6 to 13) provides for the recovery of a penalty charge by permitting a charging authority to serve, in accordance with Regulation 6, a penalty charge notice on the relevant person. That person is entitled, under Regulation 7, to challenge the imposition of the penalty charge by making representation to the charging authority, which may accept the representations and cancel the penalty charge, under Regulation 8, or reject the representations under Regulation 9. Where the representations are rejected, the person may appeal, under Regulation 10, to an adjudicator who will consider the appeal in accordance with the procedure detailed in the Schedule.

Where a penalty charge remains unpaid after the relevant period specified in Regulation 11, the charging authority may issue a charge certificate under that regulation, after which, if the penalty charge continues to remain unpaid for the relevant period, Regulation 12 permits the charging authority to recover the amount due as if it were payable under a county court order. Any amount payable under a charge

certificate or an adjudication may, under Regulation 13, be enforced using bailiffs in accordance with the Enforcement of Road Traffic Debts Order 1993 (S.I. 1993/2073).

Under Part 4 (Regulations 14 to 19) a charging authority may provide, in the charging scheme, for a range of enforcement powers in respect of vehicles, including the power to examine and enter vehicles (Regulation 14 and 15 respectively) to ensure that any item, required by the charging scheme, to be carried, used or displayed in a vehicle is being properly carried, used or displayed. In the event that it is not, a power of seizure may be included, under Regulation 16, in a scheme order to permit the seizure of such an item.

Where three or more penalty charges remain unpaid in relation to a vehicle, that vehicle may be immobilised, removed, stored and disposed of to recover such charges, if powers under Regulation 17 are included in the relevant charging scheme order. Under Regulation 18, a person may take possession of a removed vehicle subject to proof of identity and ownership and payment of all outstanding charges. Regulation 19 allows a registered keeper or keeper to recover any excess monies following the disposal of the vehicle and payment of all outstanding charges within one year of such disposal.

Part 5 (Regulations 20 to 24) specifies the circumstances in which and the process by which a registered keeper or keeper of a vehicle, that has been immobilised, removed, stored or disposed of, may make representations to the charging authority against such actions. The charging authority may accept such representations and make an appropriate refund under Regulation 22 or reject such representations under Regulation 23, in which case the registered keeper or keeper may appeal to an adjudicator under Regulation 24.

Part 6 (Regulations 25 to 29) empowers the Lord Chancellor, under Regulation 25, to appoint adjudicators to act in relation to appeals made under these Regulations and provides that the procedure contained in the Schedule shall apply to such adjudications. Regulation 27 provides for evidential matters relevant to an adjudication, Regulation 28 provides for the recovery of amounts payable under an adjudication and Regulation 29 provides for the service of documents in relation to an adjudication.

The Schedule lays out the procedure that applies to an adjudication under these Regulations.

Annex B Consultation Principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available on the Better Regulation Executive website at <https://update.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator
Department for Transport
Zone 1/14 Great Minster House
London SW1P 4DR
Email consultation@dft.gsi.gov.uk

Consultation Principles

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
- departments will need to give more thought to how they engage with and consult with those who are affected;
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

Annex C List of those consulted

English Local Authorities
British Vehicle Rental and Leasing Association
Nexus
Transport for Greater Manchester
Merseyside Travel ITA
South Yorkshire Passenger Transport Executive
West Yorkshire Passenger Transport Executive
Aldwark Bridge Ltd
Clifton Suspension Bridge Trust
Dunham Bridge Company
Humber Bridge Board
Itchen Toll Bridge
Mersey Gateway
Severn River Crossing Plc
Shrewsbury Bridge
Tamar Bridge and Torpoint Ferry
Whitchurch Bridge
Whitney on Wye
Bournemouth-Swanage Motor Road Ferry Company
Dartmouth Land Company Ltd
Midland Expressway Limited
Traffic Enforcement Centre
Traffic Penalty Tribunal
British Parking Association
Civil Enforcement Agency