STATUTORY INSTRUMENTS

2018 No. 171

ENVIRONMENTAL PROTECTION, ENGLAND

The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018

Made - - - - 7th February 2018
Coming into force - - 1st April 2018

The Secretary of State makes these Regulations in exercise of the powers conferred by section 88A of the Environmental Protection Act 1990(**1**).

A draft of these Regulations has been laid before Parliament in accordance with section 161(2ZC) of that Act(**2**) and approved by a resolution of each House of Parliament.

PROSPECTIVE

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018.

(2) These Regulations come into force on 1st April 2018.

Commencement Information
I1 Reg. 1 in force at 1.4.2018, see **reg. 1(2)**

Interpretation

2. In these Regulations—

"the EPA 1990" means the Environmental Protection Act 1990;

(**1**) 1990 c.43. Section 88A was inserted by section 154(2) of the Anti-social Behaviour, Crime and Policing Act 2014 (c.12).
(**2**) Section 161(2ZB) and (2ZC) was inserted by section 154(3) of the Anti-social Behaviour, Crime and Policing Act 2014.

"the RUCS Regulations 2013" means the Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013(**3**);

"adjudicator" means a person who holds office as an adjudicator for the purposes of these Regulations in accordance with regulation 18(1);

"fixed penalty" is to be read in accordance with regulation 6(1) to (3);

"fixed penalty payment period" is to be read in accordance with regulation 6(4) and (5);

"penalty notice" has the meaning given in regulation 4(2).

Commencement Information
I2 Reg. 2 in force at 1.4.2018, see **reg. 1(2)**

"Litter authority"

3. In these Regulations, a "litter authority" means—

(a) a district council in England;

(b) a county council in England for an area for which there is no district council;

(c) the Council of the Isles of Scilly.

Commencement Information
I3 Reg. 3 in force at 1.4.2018, see **reg. 1(2)**

PART 2

Penalties and enforcement

Penalty notices

4.—(1) A litter authority may give a penalty notice to a person who is the keeper of a vehicle if the condition in paragraph (3) is met.

(2) A penalty notice is a written notice requiring the person to pay a fixed penalty (see regulation 6).

(3) The condition is that the litter authority has reason to believe that a littering offence has been committed in respect of the vehicle on the authority's land.

(4) The authority's land is the land in respect of which the litter authority is under a duty under section 89(1) of the EPA 1990 (duty to keep land clear of litter etc.).

(5) A penalty notice must not be given—

(a) after the end of the period of 35 days beginning with the day on which the littering offence in question occurred,

(b) if a notice under section 88(1) of the EPA 1990 (which relates to fixed penalty notices for leaving litter) has been given to a person in respect of the same offence (whether or not the person is the vehicle's keeper), or

(**3**) S.I. 2013/1783, to which there are amendments not relevant to these Regulations.

(c) if a prosecution has been brought against a person under section 87 of the EPA 1990 (offence of littering) in respect of the same offence (whether or not the person is the vehicle's keeper and whether or not the prosecution has concluded or was successful).

(6) A litter authority may cancel a penalty notice at any time by informing the recipient in writing.

(7) Part 3 (exemptions) sets out circumstances in which a person is not liable to pay a fixed penalty.

Commencement Information
I4 Reg. 4 in force at 1.4.2018, see **reg. 1(2)**

Content of penalty notices

5.—(1) A penalty notice must state—

(a) the circumstances alleged to constitute the littering offence in question, including the registration mark (if known) of the vehicle concerned,

(b) the fixed penalty payment period,

(c) the amount of the fixed penalty if paid within that period (see regulation 6(1) and (2));

(d) that the amount of the fixed penalty increases by 100% if not paid within that period (see regulation 6(3)),

(e) that the litter authority may recover any fixed penalty not paid within the fixed penalty payment period in court (see regulation 7),

(f) any lesser amount (see regulation 6(6)),

(g) the date by which the lesser amount must be paid in order for it to be treated as discharging the liability to pay the fixed penalty,

(h) the name and address of the person to whom the fixed penalty must be paid and the permissible methods of payment,

(i) that the person to whom the notice is addressed has a right to make representations to the litter authority (see regulation 14),

(j) the grounds on which, and the manner in which, representations may be made and the date by which they must be made (see regulation 14), and

(k) in general terms, the form and manner in which an appeal to an adjudicator may be made.

(2) In paragraph (1)(a), "registration mark" has the meaning given by section 23 of the Vehicle Excise and Registration Act 1994(**4**).

Commencement Information
I5 Reg. 5 in force at 1.4.2018, see **reg. 1(2)**

Penalty amount and payment

6.—(1) The amount of a fixed penalty is the amount specified by the litter authority under section 88(6A)(a) of the EPA 1990 (which relates to fixed penalty notices for leaving litter)(**5**).

(**4**) 1994 c.22.
(**5**) Section 88(6A) was inserted by section 19(2) of the Clean Neighbourhoods and Environment Act 2005 (c.16).

(2) But if no amount is specified by the litter authority under that provision, the amount of the fixed penalty is £100.

(3) If a fixed penalty is not paid in full within the fixed penalty payment period, the amount of the fixed penalty increases by 100% with effect from the day after the last day of the fixed penalty payment period.

(4) The fixed penalty payment period is (except in the circumstances described in paragraph (5)) —

(a) in a case where the person does not make any representations under regulation 14, the period of 28 days beginning with the day on which the penalty notice is given, or

(b) in a case where the person makes representations and the litter authority gives a notice of rejection (see regulation 15(3) to (5)) to the person, the period of 28 days beginning with the day on which the litter authority gives the notice of rejection.

(5) Where the person makes an appeal to an adjudicator under regulation 16, the fixed penalty payment period is—

(a) the period of 28 days beginning with the day on which that appeal is dismissed or withdrawn, or

(b) if a recommendation is made that the penalty notice is cancelled and the litter authority refuses to accept the recommendation (see regulations 16(7) and 17(3)), the period of 28 days beginning with the day on which the person is informed of the refusal under regulation 17(3).

(6) An authority may make provision for treating the amount in paragraph (1) or (2) as having been paid in full if a lesser amount is paid within the following period.

(7) The period is the period of 14 days beginning with the day on which the penalty notice is given.

(8) The lesser amount must not be less than £50.

(9) A fixed penalty is taken to be paid when it is received by the litter authority.

Commencement Information

I6 Reg. 6 in force at 1.4.2018, see **reg. 1(2)**

Recovery of unpaid amounts

7.—(1) This regulation applies where a litter authority has given a person a penalty notice and the person has not paid the fixed penalty in full within the fixed penalty payment period.

(2) The litter authority may recover any unpaid amount of the fixed penalty (being the increased amount referred to in regulation 6(3)) and any related costs awarded by an adjudicator—

(a) as a civil debt, or

(b) as if payable under a county court order, if the county court so orders.

(3) In paragraph (2), "costs awarded by an adjudicator" means the costs and expenses which are required to be paid to the litter authority under an order under paragraph 13 of the Schedule to the RUCS Regulations 2013 as it applies to these Regulations by virtue of regulation 19.

Commencement Information

I7 Reg. 7 in force at 1.4.2018, see **reg. 1(2)**

Further provision about giving notices

8.—(1) This regulation applies to the giving of notices under these Regulations by a litter authority to any person.

(2) A notice may be given to the person by—

(a) handing it to the person,

(b) leaving it at the person's proper address,

(c) sending it by post to the person at that address, or

(d) sending it to the person by electronic means in accordance with paragraph (9).

(3) Unless the contrary is proved—

(a) a notice sent by first class post to an address in the United Kingdom is to be treated as having been given on the second working day after the day on which it was posted;

(b) a notice sent by first class post to an address outside the United Kingdom is to be treated as having been given on the fifth working day after the day on which it was posted;

(c) a notice sent by electronic means is to be treated as having been given on the working day immediately following the day on which it was sent.

(4) A notice to a body corporate may be given to a director or to the secretary or clerk of that body.

(5) A notice to a partnership may be given to a partner or a person who has the control or management of the partnership business.

(6) For the purposes of this regulation and of section 7 of the Interpretation Act 1978 (service of documents by post)(**6**) in its application to this regulation, the proper address of a person is—

(a) in the case of a body corporate or a director, secretary or clerk of a body corporate, the address of the body's registered or principal office;

(b) in the case of a partnership, partner or person having the control or management of the partnership business, the address of the partnership's principal office;

(c) in any other case, the person's last known address.

(7) Where a company registered outside the United Kingdom, or a partnership carrying on business outside the United Kingdom, has a principal office within the United Kingdom, its principal office is that office.

(8) If a person has informed the litter authority in writing of an address in the United Kingdom, other than the person's proper address within the meaning of paragraph (6), as the one at which the person or someone on the person's behalf will accept notices of the same description as a notice under these Regulations, that address is treated for the purposes of this regulation and section 7 of the Interpretation Act 1978 as the person's proper address.

(9) A notice may be sent to a person by electronic means only if—

(a) the person has informed the litter authority that notices of that description may be given to the person by being sent to an electronic address and in an electronic form specified for that purpose, and

(b) the notice is sent to that address in that form.

(10) In this regulation—

"electronic address" means any number or address used for the purposes of sending or receiving documents or information by electronic means;

"working day" means a day other than—

(**6**) 1978 c.30.