

Draft Regulations laid before Parliament under section 134(5) of the Road Traffic Regulation Act 1984 and section 89(5) of the Traffic Management Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2022 No. 0000

ROAD TRAFFIC, ENGLAND

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

Made - - - - 2022

Coming into force in accordance with regulation 1(2)

The Lord Chancellor makes these Regulations in exercise of the powers conferred by section 101B of the Road Traffic Regulation Act 1984(1) (“the RTRA 1984”) and by sections 80 and 89(1) and (3) of the Traffic Management Act 2004(2) (“the TMA 2004”).

In accordance with section 134(5) of the RTRA 1984 and section 89(5) of the TMA 2004, a draft of these Regulations has been laid before, and approved by, a resolution of each House of Parliament.

PART 1

Preliminary

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022.

(2) These Regulations come into force at the same time as the Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022(3).

(3) These Regulations extend to England and Wales, and apply only in relation to England.

(1) 1984 c. 27. Section 101B was inserted by paragraph 3(1) of Schedule 11 to the Traffic Management Act 2004 (c. 18), and was amended by S.I. 2007/1756. Section 134(5) was amended by S.I. 2007/1756.
(2) 2004 c. 18.
(3) S.I. 2022/71.

Interpretation of Parts 1 to 5

2.—(1) In this Part and Parts 2 to 5—

“the RTRA 1984” means the Road Traffic Regulation Act 1984;

“the TMA 2004” means the Traffic Management Act 2004.

“the 2022 General Regulations” means the Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022;

“appeal” means an appeal under regulation 7(1), 10(1) or 13(1);

“appellant”, in relation to an appeal or any process connected with such an appeal, means the person bringing the appeal;

“charge certificate” has the meaning given in regulation 2 of the 2022 General Regulations;

“enforcement notice” means—

(a) a notice to owner, or

(b) a regulation 10 penalty charge notice;

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

“joint committee”, in relation to an enforcement authority, means the joint committee through which, in accordance with regulation 18 or 19 of the 2022 General Regulations, the authority exercises its functions relating to adjudicators;

“notice to owner” has the meaning given in regulation 20 of the 2022 General Regulations;

“owner” in relation to a vehicle, includes any person who, by virtue of regulation 6 of the 2022 General Regulations, is treated as the owner of the vehicle for the purposes of those Regulations;

“penalty charge” has the meaning given in regulation 2 of the 2022 General Regulations;

“penalty charge notice” has the meaning given in regulation 2 of the 2022 General Regulations;

“procedural impropriety” has the meaning given in paragraph (2);

“the proper officer” means a member of the administrative staff provided by the relevant enforcement authorities under section 81(4)(a) of the TMA 2004 who has been appointed to perform the functions of the proper officer under these Regulations;

“regulation 9 penalty charge notice” means a penalty charge notice given under regulation 9 of the 2022 General Regulations;

“regulation 10 penalty charge notice” has the meaning given in regulation 2 of the 2022 General Regulations;

“recipient” means the person on whom an enforcement notice is served;

“register” means the register required to be kept under regulation 17;

“relevant road traffic contravention” has the meaning given in regulation 2 of the 2022 General Regulations.

(2) A “procedural impropriety” means a failure by an enforcement authority to observe any requirement imposed on it by—

(a) the TMA 2004,

(b) the 2022 General Regulations, or

(c) these Regulations,

in relation to the imposition or recovery of a penalty charge or other sum.

(3) For the purposes of paragraph (2) such a failure includes, in particular, the taking of any step, whether or not involving the service of any document, otherwise than—

- (a) in accordance with the conditions subject to which, or
- (b) at the time or during the period when,

it is authorised or required by the 2022 General Regulations or these Regulations to be taken.

PART 2

Information, representations and appeals in relation to penalty charge notices or enforcement notices

CHAPTER 1

Information to be included in regulation 9 penalty charge notices and enforcement notices

Information about right to make representations or appeal to be included in regulation 9 penalty charge notices and enforcement notices

- 3.—(1) A regulation 9 penalty charge notice must include the following information—
- (a) that a person on whom a notice to owner is served may, in accordance with these Regulations, make representations to the enforcement authority against the penalty charge and, if those representations are rejected, appeal to an adjudicator;
 - (b) that if, before a notice to owner is served, representations against the penalty charge are received at such address as may be specified in the notice for the purpose those representations will be considered by the enforcement authority;
 - (c) that if a notice to owner is served despite the representations mentioned in subparagraph (b), representations against the penalty charge must be made to the enforcement authority in the form and manner and at the time specified in the notice to owner.
- (2) An enforcement notice must include the following information—
- (a) that—
 - (i) the recipient may make representations against the penalty charge in accordance with regulation 5 of these Regulations, but
 - (ii) any such representations made outside the period of 28 days beginning with the date on which the notice is served (“the payment period”) may be disregarded;
 - (b) the nature of the representations which may be made under regulation 5;
 - (c) the form in which representations must be made;
 - (d) the address to which representations must be sent, including, as appropriate—
 - (i) an email address,
 - (ii) a FAX telephone number,
 - (iii) the address of any website where representations may be submitted online (and the place on that website where the relevant facility may be accessed),as well as a postal address;
 - (e) that the recipient may appeal to an adjudicator against any decision of the enforcement authority not to accept representations which are made—
 - (i) within the payment period, or
 - (ii) outside that period but not disregarded by the authority;

- (f) the form and manner in which an appeal may be made;
 - (g) where the enforcement notice is a regulation 10 penalty charge notice served under regulation 10(2)(a) of the 2022 General Regulations (an “approved device notice”), the effect of paragraphs (3) and (4).
- (3) The recipient (“R”) of an approved device notice may, by notice in writing, request that the enforcement authority—
- (a) makes available, at one of its offices specified by R, free of charge and at a time during normal office hours so specified, for viewing by R or R’s representative the record of the alleged relevant road traffic contravention produced by the approved device pursuant to which the penalty charge was imposed, or
 - (b) provides R, free of charge, with such still images from that record as, in the authority’s opinion, establish the alleged relevant road traffic contravention.
- (4) The enforcement authority must comply with any request under paragraph (3) within a reasonable time.

CHAPTER 2

Enforcement notices: representations and appeals

Application of Chapter 2

4. This Chapter applies where a person—
- (a) is served with a notice to owner, or
 - (b) is served with a regulation 10 penalty charge notice and the penalty charge to which it relates has not been paid.

Representations against the enforcement notice

- 5.—(1) The recipient may make representations against the enforcement notice to the enforcement authority which served it on the recipient.
- (2) The representations must be—
- (a) made in the form determined by the enforcement authority, and
 - (b) to either or both of the following effects—
 - (i) that in relation to the alleged contravention, one or more of the grounds specified in paragraph (4) apply;
 - (ii) that, whether or not any of those grounds apply, there are compelling reasons why, in the particular circumstances of the case, the enforcement authority should cancel the penalty charge and refund any sum paid to it on account of the penalty charge.
- (3) In determining the form for making representations, the enforcement authority must act through the joint committee.
- (4) The grounds mentioned in paragraph (2)(b)(i) are—
- (a) the alleged contravention did not occur;
 - (b) the recipient—
 - (i) never was the owner of the vehicle in question,
 - (ii) had ceased to be its owner before the alleged contravention occurred, or
 - (iii) became its owner after the alleged contravention occurred;

- (c) at the time that the alleged contravention occurred, the vehicle in question was in the control of a person who did not have the consent of the owner;
 - (d) the recipient is a vehicle-hire firm and—
 - (i) the vehicle in question was at the material time hired from that firm under a hiring agreement, and
 - (ii) the person hiring it had signed a statement of liability acknowledging their liability in respect of any penalty charge notice served in respect of any relevant road traffic contravention involving the vehicle during the currency of the hiring agreement;
 - (e) the penalty charge exceeded the amount applicable in the circumstances of the case;
 - (f) there has been a procedural impropriety on the part of the enforcement authority;
 - (g) the order which is alleged to have been contravened in relation to the vehicle concerned, except where it is an order to which Part 6 of Schedule 9 to the RTRA 1984 applies, is invalid;
 - (h) if a regulation 10 penalty charge notice is served under regulation 10(2)(b) or (c) of the 2022 General Regulations, no person prevented a civil enforcement officer from—
 - (i) fixing a regulation 9 penalty charge notice to the vehicle concerned, or
 - (ii) handing such a notice to the owner or person in charge of the vehicle;
 - (i) the enforcement notice should not have been served because—
 - (i) the penalty charge has already been paid in full, or
 - (ii) the penalty charge has been paid, reduced by the amount of any discount set in accordance with Schedule 9 to the TMA 2004, by the applicable date as specified in paragraph 1(3) of Schedule 3 to the 2022 General Regulations.
- (5) Where a recipient relies on the ground specified in paragraph (4)(b)(ii), their representations must, if the information is known by the recipient, state the name and address of the person to whom the vehicle was disposed of.
- (6) Where a recipient relies on the ground specified in paragraph 4(b)(iii), their representations must, if the information is known by the recipient, state the name and address of the person from whom the recipient acquired the vehicle.
- (7) Where a recipient relies on the ground specified in paragraph (4)(d), their representations must state the name and address of the person to whom the vehicle was hired at the material time.
- (8) In this regulation—
- “alleged contravention” means the alleged relevant road traffic contravention in relation to which an enforcement notice is served;
- “hiring agreement” and “vehicle-hire firm” have the same meanings as in section 66 of the Road Traffic Offenders Act 1988(4);
- “the material time” means the time when the alleged contravention is said to have been committed.

Duties of an enforcement authority to which representations are made under regulation 5

6.—(1) This regulation applies where an enforcement authority receives representations from a recipient under regulation 5.

(2) The enforcement authority may disregard any representations which it receives after the end of the period of 28 days beginning with the date on which the relevant enforcement notice is served.

(4) 1988 c. 53. The definition of “hiring agreement” in section 66(8) was amended by the Road Safety Act 2006 (c. 49).