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STATUTORY INSTRUMENTS

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**2009 No. 000**

**Road traffic, England**

**The Workplace Parking Levy (England) Regulations 2009**

<i>Made</i> - - - -	***2009
<i>Laid before Parliament</i>	***2009
<i>Coming into force</i> - -	***2009

The Secretary of State for Transport, in exercise of the powers conferred by sections 178(2), 184(2), 189(1) to (3) and 197(1) of the Transport Act 2000(a), and the Lord Chancellor, in exercise of the powers conferred on him by sections 189(4), 195(1) and 197(1) of that Act, together make the following Regulations:

**PART 1**

**PRELIMINARY**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Workplace Parking Levy (England) Regulations 2009 and come into force on [ ] 2009.

(2) These Regulations apply in England except Greater London.

**Interpretation**

2. In these Regulations—

“charge certificate” has the meaning given in regulation 13(1);

“chargee” has the meaning given in regulation 8(4);

“licensing authority” means—

(a) in relation to a local licensing scheme made or proposed to be made by one local traffic authority, the authority by which the licensing scheme is or is proposed to be made,

(b) in relation to a joint local licensing scheme—

(i) the local traffic authorities by which the licensing scheme is or is proposed to be made, or

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(a) 2000 c.38. By virtue of section 198(1) the Secretary of State is the appropriate national authority in relation to licensing schemes relating only to England.

- (ii) where an arrangement has been made for any function under a joint scheme to be discharged by one of those authorities, the authority on whom the function has been conferred by the arrangement;

“licence charge” means the charge for the grant of a licence;

“licensed premises”, in the case of any licence, means the premises in respect of which the licence is granted;

“notice of rejection” means a notice served under regulation 11(1);

“penalty charge” means a charge imposed under regulation 5;

“penalty charge notice” means a notice served under regulation 8.

## PART 2

### LICENSING SCHEMES AND LICENCE CHARGES

#### **Exemption of licensing scheme orders from confirmation requirement**

3.—(1) Section 184(1) of the Transport Act 2000 (confirmation of licensing schemes) does not apply to a licensing scheme order if—

- (a) the order varies a licensing scheme, and
- (b) its sole purpose is to provide for licence charges to be increased in line with increases in the retail prices index.

(2) In this regulation “retail prices index” means the general index of retail prices (for all items) published by the Statistics Board.

#### **Liability to pay licence charge**

4.—(1) This paragraph applies where the occupier of any premises has—

- (a) entered into arrangements with another person (P) for the provision by P of a parking place at those premises (whether or not for P’s own use), and
- (b) provided the licensing authority with evidence of those arrangements.

(2) Where paragraph (1) applies, the licence charge imposed in respect of those premises by a licensing scheme must be paid by P.

## PART 3

### PENALTY CHARGES

#### *Imposition of penalty charges*

#### **Imposition of penalty charges**

5.—(1) A licensing scheme may provide for the imposition of a penalty charge in any of the following circumstances—

- (a) where a person is providing a workplace parking place at any premises in the area covered by a licensing scheme and there is no licence in force in respect of those premises;
- (b) where a person is providing a workplace parking place at licensed premises in circumstances where the maximum number of vehicles (excluding exempt vehicles) parked at those premises exceeds the maximum number specified in the licence;

- (c) if a condition in a licence (other than a condition as to the maximum number of vehicles which may be parked at licensed premises) has been contravened.
- (2) Where a licensing scheme provides for the imposition of a penalty charge it must specify the period within which the charge must be paid and may specify different periods for different circumstances.
- (3) A licensing scheme may not specify a period within which the penalty charge must be paid of less than 28 days from the date on which the penalty charge notice is served.

### **Rates of penalty charges**

**6.**—(1) A licensing scheme which provides for penalty charges must specify the amount of the penalty charge and may specify different amounts in different circumstances.

(2) A licensing scheme may provide for the amount of the penalty charge to be reduced if it is paid before the expiry of a specified period.

### **Liability to pay penalty charges**

**7.**—(1) This paragraph applies where the occupier of any premises has—

- (a) entered into arrangements with another person (P) for the provision by P of a parking place at those premises (whether or not for P's own use), and
- (b) provided the licensing authority with evidence of those arrangements.

(2) Where paragraph (1) applies, any penalty charge imposed in respect of those premises must be paid by P.

### *Enforcement of penalty charges*

### **Penalty charge notices**

**8.**—(1) Where a licensing authority believes that a penalty charge is payable under the terms of a licensing scheme, the authority may serve a notice (“a penalty charge notice”).

(2) A penalty charge notice must be served on the person liable to pay the penalty charge.

(3) A penalty charge notice must state—

- (a) the amount of the penalty charge to which it relates;
- (b) all the circumstances in which, by virtue of the licensing scheme, a penalty charge is payable and the date and time at which each of those circumstances occurred;
- (c) the time, in accordance with the licensing scheme under which it is imposed, and the manner in which the penalty charge must be paid;
- (d) if the licensing scheme so provides, the amount of the reduced penalty charge if it is duly paid in the time specified in the notice;
- (e) the grounds on which the chargee may make representations under regulation 9;
- (f) the amount of the increased penalty charge if, before the end of the relevant period determined under regulation 13—
  - (i) the penalty charge is not paid, or
  - (ii) no representations are made under regulation 9, and
- (g) the address to which payment of the penalty charge must be sent.

(4) In this regulation and regulations 9 to 16 “chargee” means—

- (a) the person on whom the penalty charge notice is served; or
- (b) where it is alleged that the penalty charge notice was sent but never received, the person to whom the licensing authority sent that notice.

### **Representations against penalty charge notices**

**9.**—(1) Where it appears that any of the grounds mentioned in paragraph (2) are satisfied, the chargee may make representations in writing to that effect to the licensing authority who served the penalty charge notice.

(2) The grounds are that—

- (a) the circumstances stated in the penalty charge notice—
  - (i) did not occur, or
  - (ii) did not occur at the date or time or in the manner specified in the notice;
- (b) the penalty charge exceeded the amount applicable in the circumstances of the case.

(3) The licensing authority may disregard any representations which are received by them after the end of the period of 28 days beginning with the date on which the penalty charge notice is served.

(4) It is the duty of a licensing authority to whom representations are duly made under this regulation—

- (a) to consider them and any supporting evidence which is provided with them, and
- (b) to serve on the chargee notice of their decision as to whether or not they accept that the ground in question has been established.

### **Cancellation of penalty charge notices**

**10.**—(1) Where representations are made under regulation 9 and the licensing authority accept that the ground in question has been established they shall—

- (a) cancel the penalty charge notice; and
- (b) state in the notice served under regulation 9(4)(b) that the notice has been cancelled.

(2) The cancellation of a penalty charge notice does not prevent the licensing authority from serving a fresh penalty charge notice on the chargee or another person.

### **Rejection of representations against penalty charge notices**

**11.**—(1) Where representations are made under regulation 9 and the licensing authority decide that none of the grounds in regulation 9(2) has been established, the notice served under regulation 9(4)(b) must be a notice of rejection stating that—

- (a) a charge certificate may be served under regulation 13 unless—
  - (i) the penalty charge is paid, or
  - (ii) the chargee appeals against the licensing authority's decision, and
- (b) the chargee has a right of appeal to a county court and specifying the period within which an appeal must be made.

(2) A notice of rejection may contain such other information as the licensing authority think appropriate.

### **Appeals**

**12.**—(1) Where a licensing authority have served a notice of rejection, the chargee may appeal to a county court against the licensing authority's decision.

(2) An appeal under this regulation—

- (a) is a re-hearing of the licensing authority's decision to impose a charge, and
- (b) may be determined having regard to matters of which the licensing authority was unaware.

(3) On an appeal the court may either—

- (a) quash the notice of rejection and substitute its own decision for that of the licensing authority under regulation 9(4), or
- (b) dismiss the appeal.

(4) If the court makes an order under paragraph (3)(a), the penalty charge notice to which the notice of rejection relates is cancelled but the cancellation does not prevent the licensing authority from serving a fresh penalty charge notice on the chargee or another person if that is consistent with the decision which the court has substituted.

### **Charge certificates**

**13.**—(1) Where a chargee has not paid the penalty charge specified in a penalty charge notice before the end of the relevant period, the licensing authority may serve on the chargee a statement (a “charge certificate”) to the effect that the penalty charge is increased to such an amount as is provided in the licensing scheme.

(2) The licensing authority may—

- (a) cancel a charge certificate, and
- (b) if they think fit, serve a further charge certificate.

(3) For the purposes of paragraph (1), the relevant period in relation to a penalty charge notice is—

- (a) where no representations are made, the period specified in the licensing scheme within which the penalty charge must be paid;
- (b) where—
  - (i) representations are made,
  - (ii) a notice of rejection is served, and
  - (iii) no appeal against the notice of rejection is made,the period of 28 days beginning with the date on which the notice of rejection is served;
- (c) where an appeal against a notice of rejection is dismissed, the period of 28 days beginning with the date of service of the order dismissing the appeal.
- (d) where an appeal against a notice of rejection is made but is withdrawn before a county court makes an order under regulation 12(3), the period of 14 days beginning with the date on which the appeal is withdrawn.

### **Payment of increased penalty charge**

**14.** The chargee must pay the increased penalty charge specified in the charge certificate before the end of the period of 14 days beginning with the date on which the certificate is served.

### **Recovery of unpaid penalty charges**

**15.** The licensing authority may, if a county court so orders, recover a penalty charge as if it were payable under a county court order—

- (a) in a case where the authority has served a charge certificate, if the chargee has not paid the increased penalty charge provided for in the charge certificate before the end of the period specified in regulation 14, or
- (b) in a case where the authority has not served a charge certificate, if the chargee has not paid the penalty charge specified in the penalty charge notice before the end of the relevant period specified in regulation 13(3).

### **Invalid notices**

**16.**—(1) This regulation applies where—

- (a) a county court makes an order under regulation 15,
  - (b) the chargee makes a statutory declaration complying with paragraph (2), and
  - (c) that declaration is, before the end of the period of 21 days beginning with the date on which notice of the order is served on the chargee, served on the county court which made the order.
- (2) The statutory declaration must state that the chargee—
- (a) did not receive the penalty charge notice in question,
  - (b) made representations to the licensing authority but did not receive a notice of rejection, or
  - (c) appealed to the county court under regulation 12 but had no response to the appeal.
- (3) This paragraph applies where it appears to a district judge, on the application of a chargee, that it would be unreasonable in the circumstances of the case to insist on service of the statutory declaration within the period of 21 days specified in paragraph (1).
- (4) Where paragraph (3) applies, the district judge may allow such longer period for service of the statutory declaration as is considered appropriate.
- (5) Where a statutory declaration is served under paragraph (1)—
- (a) the order of the court is deemed to have been revoked;
  - (b) the charge certificate (if any) is deemed to have been cancelled;
  - (c) in the case of a declaration made under paragraph (2)(a), the penalty charge notice is deemed to have been cancelled; and
  - (d) the district judge must serve written notice of the effect of service of the declaration on the chargee and on the licensing authority concerned.
- (6) Service of a declaration made under paragraph (2)(a) does not prevent the licensing authority from serving a fresh penalty charge notice on the chargee or another person.

**Service of notices etc**

**17.—**(1) Any penalty charge notice, charge certificate or other notice, (“a relevant notice”) to be served by the licensing authority under these Regulations may be served by—

- (a) first class (but not second class) post, and where the person to be served is a body corporate, is duly served if it is sent by first class post to the secretary or clerk of that body, or
  - (b) fax or by other means of electronic data transmission where—
    - (i) the person to be served has indicated in writing to the licensing authority that he is willing to regard a relevant notice 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
    - (ii) the relevant notice is transmitted to that number or address.
- (2) Service of a relevant notice—
- (a) contained in a letter sent by first class post which has been properly addressed, pre-paid and posted shall, unless the contrary is proved, be taken to have been effected on the second working day after the day of posting; or
  - (b) sent by fax or other means of electronic transmission shall, unless the contrary is proved, be taken to have been effected on the first working day after the day on which it was transmitted.
- (3) In paragraph (2), “working day” means any day except—
- (a) a Saturday or a Sunday;
  - (b) New Year’s Day;
  - (c) Good Friday;

- (d) Christmas Day;
- (e) any other day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(a)

Signed by authority of the Secretary of State for Transport

Date *Name*  
Minister/Parliamentary Under Secretary of State,  
Department for Transport

Signed by authority of the Lord Chancellor

Date *Name*  
Parliamentary Secretary,  
Ministry of Justice

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(a) c. 80.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision in relation to licensing schemes under Chapter 2 of Part 3 of the Transport Act 2000 (the workplace parking levy). Part 2 of the Regulations makes provision about general issues concerning schemes and charges and Part 3 makes specific provision about penalty charges for breach of licensing requirements.

*Regulation 3* exempts local authorities from the requirement to have a scheme confirmed if its only purpose is to provide for licence charges to be increased in line with inflation.

*Regulation 4* provides that where the occupier has made arrangements with another person for the provision of parking places at those premises a licence charge is not payable by the occupier of premises but by that other person.

*Regulation 5* specifies when penalty charges may be imposed and *regulation 6* makes provision about rates of charge.

*Regulation 7* provides that where the occupier has made arrangements with another person for the provision of parking places at those premises a penalty charge imposed under the licence is not payable by the occupier of premises but by that other person.

*Regulation 8* prescribes the content and mode of service of penalty charge notices. *Regulations 9 to 11* provide for the making of representations to the licensing authority by a person on whom such a notice is served and for the subsequent cancellation or upholding of the notice.

*Regulation 12* provides that appeals against the rejection of those representations must be to a county court.

*Regulation 13* provides for the issue of a charge certificate where a penalty charge is not paid within the prescribed time and for the charge to be increased in such a case.

*Regulations 14 and 15* provide for the payment of penalty charges and for their recovery by court order if necessary. *Regulation 16* enables a person on whom a penalty charge notice or charge certificate is served to have the court order revoked if the procedure has broken down to that person's detriment.

*Regulation 17* provides for the service of notices.

A full Impact Assessment of the effect this instrument will have on the costs of business and the voluntary and public sectors has been produced and is available from the Roads Strategy Division, Department for Transport, Zone 3/5 Great Minster House, 76 Marsham Street, London SW1P 4DR or may be accessed via the Department's website at [www.dft.gov.uk](http://www.dft.gov.uk). A copy has been placed in the library of each House of Parliament.