

Statutory Instruments
2014 No. 81

Road Traffic, England
The Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England)
(Amendment) Regulations 2014

Made

15th January 2014

Laid before Parliament

21st January 2014

Coming into force

14th February 2014

The Secretary of State for Transport, in exercise of the powers conferred by sections 163(2), 173(1) to (3) and 197(1) of the Transport Act 2000(1) makes the following Regulations.

Introductory Text

1.Citation, commencement and application

2.Amendment of the Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013

3.Amendment of regulation 6

4.Amendment of regulation 9

Signature

Explanatory Note

Citation, commencement and application

1. These Regulations may be cited as the Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) (Amendment) Regulations 2014 and come into force on 14th February 2014.

Amendment of the Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013

2. The Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013(1) are amended in accordance with regulations 3 and 4.

(1)

S.I. 2013/1783.

Amendment of regulation 6

3.—(1) In regulation 6 (person by whom penalty charge is to be paid)—

(a) for paragraph (5) substitute—

“(5) Where—

(a) at the relevant time—

(i) the registered keeper of the relevant vehicle was a vehicle-hire firm; and

(ii) the relevant vehicle was hired to any person under a hire agreement with the vehicle-hire firm; and

(b) the charging authority has been given a copy of—

(i) a statement signed by or on behalf of the vehicle-hire firm to the effect that at the relevant time the vehicle was hired to a named person under a hire agreement;

(ii) a copy of the hire agreement (or, at the discretion of the charging authority, a copy of relevant extracts from the hire agreement); and

(iii) a copy of a statement of liability signed by the hirer under the hire agreement—

(aa) containing a statement by the hirer to the effect that the hirer acknowledges responsibility for any road user charges or penalty charges that may be incurred with respect to the vehicle while it is hired to the hirer; and

(bb) including an address given by the hirer (whether a residential, business or other address) as one at which documents may be given to the hirer,

road user charges and penalty charges are to be paid by the person who hired the vehicle under the hire agreement.”

(b) for sub-paragraph (7)(c) substitute—

“(c) “hire agreement” and “vehicle-hire firm” have the same meanings as in sub-paragraph 13(6) of Schedule 4 to the Protection of Freedoms Act 2012.(1)”.

(1)

2012 c.9.

Amendment of regulation 9

4. In regulation 9 (cancellation of penalty charge notice), for sub-paragraph (1)(c) substitute—

“(c) as soon as reasonably practicable refund any sum paid in respect of the penalty charge notice and (if applicable) the road user charge.”

Signed on behalf of the Secretary of State for Transport

Robert Goodwill

Parliamentary Under Secretary of State

Department for Transport

15th January 2014

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013 (the “Enforcement Regulations”).

Regulation 3 amends regulation 6 of the Enforcement Regulations to replace the definition of vehicles that are on hire taken from section 66 of the Road Traffic Offenders Act 1988 with the one taken from paragraph 13 of Schedule 4 to the Protection of Freedoms Act 2012. The wording of regulation 6(5) is substituted to take account of this change.

Regulation 4 amends regulation 9 the Enforcement Regulations to provide for the refund of not only the penalty charge but also (if applicable) any road user charge paid in circumstances where the charging authority accepts that a ground in regulation (8)(3) of the Enforcement Regulations has been established and cancels a penalty charge notice.

A regulatory impact assessment has not been produced for this instrument as it has negligible impact on the costs of business. An Explanatory Memorandum is available alongside the instrument on the UK legislation website, www.legislation.gov.uk.

EXPLANATORY MEMORANDUM TO
THE ROAD USER CHARGING SCHEMES (PENALTY CHARGES,
ADJUDICATION AND ENFORCEMENT) (ENGLAND) (AMENDMENT)
REGULATIONS 2014
2014 No. 81

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument amends the Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013 (SI 2013/1783) (the “2013 Regulations”) in two ways.

2.2 First, it alters the definition of the type of vehicle hire agreement caught by regulation 6(5) of the 2013 Regulations by including such agreements under which vehicles are hired for six months or more. The significance of a hire agreement being subject to regulation 6(5) is that the vehicle-hire firm (being the registered keeper of the vehicle) is able to transfer liability for road user charges and penalty charges incurred by the vehicle to it to its hirer.

2.3 Second, it requires a charging authority to consider refunding not just the penalty charge but also the road user charge where it accepts that one of the grounds for making representations against the issue of a penalty charge notice in regulation 8(3) of the 2013 Regulations has been established and cancels the penalty charge notice.

3. Matters of special interest to the Joint Committee on Statutory Instruments 3.1
Regulation 4 of these regulations addresses the concern raised by the JCSI in Item 5 of their Twelfth Report of Session 2013 – 14 published on 13 November 2013.

EXPLANATORY MEMORANDUM TO THE ROAD USER CHARGING SCHEMES (PENALTY CHARGES, ADJUDICATION AND ENFORCEMENT) (ENGLAND) (AMENDMENT) REGULATIONS 2014 2014 No. 81 1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments. 2. Purpose of the instrument 2.1 This instrument amends the Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013 (SI 2013/1783) (the “2013 Regulations”) in two ways. 2.2 First, it alters the definition of the type of vehicle hire agreement caught by regulation 6(5) of the 2013 Regulations by including such agreements under which vehicles are hired for six months or more. The significance of a hire agreement being subject to regulation 6(5) is that the vehicle-hire firm (being the registered keeper of the vehicle) is able to transfer liability for road user charges and penalty charges incurred by the vehicle to it to its hirer. 2.3 Second, it requires a charging authority to consider refunding not just the penalty charge but also the road user charge where it accepts that one of the grounds for making representations against the issue of a penalty charge notice in regulation 8(3) of the 2013 Regulations has been established and cancels the penalty charge notice. 3. Matters of special interest to the Joint Committee on Statutory Instruments 3.1 Regulation 4 of these regulations addresses the concern raised by the JCSI in Item 5 of their Twelfth Report of Session 2013 – 14 published on 13 November 2013. 4. Legislative Context 4.1 Section 163(2) of TA 2000 provides that charges imposed in respect of any motor vehicle by a charging scheme under Part 3 of the Transport Act 2000 (TA 2000) shall be paid by the registered keeper of the motor vehicle or, in circumstances specified in regulations made by the appropriate national authority, by such person as is so specified. 4.2 Section 198(1) of TA 2000 provides that in relation to charging schemes relating only to England the Secretary of State is the appropriate national authority and accordingly the Secretary of State made the 2013 Regulations which entered force on 2nd September 2013. 4.3 Section 173(1) of TA 2000 provides that the appropriate national authority may by regulations make provision for or in connection with the imposition and payment of charges (“charging scheme penalty charges”) in respect of acts, omissions, events or circumstances relating to or connected with charging schemes made under Part 3 of that Act. 4.4 Section 173(3) of TA 2000 provides that charging scheme penalty charges in respect of any vehicle shall be paid by the registered keeper of the motor vehicle or, in circumstances specified in regulations made by the appropriate national authority, [i.e. the 2013 Regulations] by such person as is so specified. 4.5. These regulations amend the 2013 Regulations in two ways: (a) as was the case under the original version of the 2013 Regulations responsibility for road user charges and penalty charges can be transferred by a vehicle-hire firm (being the registered keeper of the vehicle) to the hirer of the vehicle. These amending regulations remove the restriction on this only being possible where the vehicle concerned is let to the hirer for a fixed period of less than six months. This is achieved by using definitions in paragraph 13 of Schedule 4 to

the Protection of Freedoms Act 2012 in place of those in section 66 of the Road Traffic Offenders Act 1988; (b) to require a charging authority that accepts that one of the grounds for making representations against the issue of a penalty charge notice in regulation 8(3) of the 2013 Regulations is satisfied to consider refunding not only the penalty charge paid but also (if applicable) the road user charge paid too. 4.6 Because the 2013 Regulations contained provisions about the notification, adjudication and enforcement of charging scheme penalty charges the Lord Chancellor was required to join with the Secretary of State for Transport in making them, exercising the powers in s.173(4), 195(1)(b) to (d) and (2) and 197(1) of TA 2000. Because the amendments which are the subject matter of these regulations do not concern the parts of the 2013 Regulations which deal with the notification, adjudication and enforcement of penalty charges the Secretary of State has sufficient vires to make them alone. 5. Territorial Extent and Application 5.1 This instrument applies to England.

4. Legislative Context

4.1 Section 163(2) of TA 2000 provides that charges imposed in respect of any motor vehicle by a charging scheme under Part 3 of the Transport Act 2000 (TA 2000) shall be paid by the registered keeper of the motor vehicle or, in circumstances specified in regulations made by the appropriate national authority, by such person as is so specified.

4.2 Section 198(1) of TA 2000 provides that in relation to charging schemes relating only to England the Secretary of State is the appropriate national authority and accordingly the Secretary of State made the 2013 Regulations which entered force on 2nd September 2013.

4.3 Section 173(1) of TA 2000 provides that the appropriate national authority may by regulations make provision for or in connection with the imposition and payment of charges (“charging scheme penalty charges”) in respect of acts, omissions, events or circumstances relating to or connected with charging schemes made under Part 3 of that Act.

4.4 Section 173(3) of TA 2000 provides that charging scheme penalty charges in respect of any vehicle shall be paid by the registered keeper of the motor vehicle or, in circumstances specified in regulations made by the appropriate national authority, [i.e. the 2013 Regulations] by such person as is so specified.

4.5. These regulations amend the 2013 Regulations in two ways:

(a) as was the case under the original version of the 2013 Regulations responsibility for road user charges and penalty charges can be transferred by a vehicle-hire firm (being the registered keeper of the vehicle) to the hirer of the vehicle. These amending regulations remove the restriction on this only being possible where the vehicle concerned is let to the hirer for a fixed period of less than six months. This is achieved by using definitions in paragraph 13 of Schedule 4 to the Protection of Freedoms Act 2012 in place of those in section 66 of the Road Traffic Offenders Act 1988;

(b) to require a charging authority that accepts that one of the grounds for making representations against the issue of a penalty charge notice in regulation 8(3) of the 2013 Regulations is satisfied to consider refunding not only the penalty charge paid but also (if applicable) the road user charge paid too.

4.6 Because the 2013 Regulations contained provisions about the notification, adjudication and enforcement of charging scheme penalty charges the Lord Chancellor was required to join with the Secretary of State for Transport in making them, exercising the powers in s.173(4), 195(1)(b) to (d) and (2) and 197(1) of TA 2000. Because the amendments which are the subject matter of these regulations do not concern the parts of the 2013 Regulations which deal with the notification, adjudication and enforcement of penalty charges the Secretary of State has sufficient vires to make them alone.

5. Territorial Extent and Application 5.1 This instrument applies to England.