EXPLANATORY MEMORANDUM TO

THE CIVIL ENFORCEMENT OF ROAD TRAFFIC CONTRAVENTIONS (REPRESENTATIONS AND APPEALS) (WALES) REGULATIONS 2013

2013 No. [DRAFT]

1. This Explanatory Memorandum has been prepared by the Wales Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These draft regulations form part of a package of statutory instruments which will enable local authorities in Wales to assume responsibility for enforcement of bus lane and some moving traffic offences. The package will enable enforcement to be carried out by civil enforcement officers acting on behalf of local authorities, in addition to police officers and traffic wardens.

2.2 These specific regulations set out procedures whereby persons upon whom civil penalties have been imposed for parking, bus lane or certain moving traffic contraventions in areas where civil enforcement applies, or whose vehicle has been immobilised on account of such contraventions, can make representations to the relevant enforcement authority against the imposition of the penalties in particular cases and can appeal to an independent adjudicator if their representations are rejected. The regulations set out the grounds for making representations and for appealing and the Schedule contains rules for the conduct of proceedings before adjudicators.

3. Matters of special interest to the Joint Committee on Statutory Instruments and the Select Committee on Statutory Instruments

3.1 There are three additional statutory instruments which will need to be made following Parliamentary approval of the Representations and Appeals Regulations to complete the package of legislation on civil enforcement. These are listed below.

The Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013 – These regulations must be signed by both the Lord Chancellor and Welsh Ministers and are subject to the negative procedure in both Parliament and the Assembly. These regulations provide detail in relation to the service of penalty charge notices and the immobilisation of vehicles. They also prescribe requirements in relation to use of income generated from penalty charge notices and deal with the appointment of adjudicators by enforcement authorities. The General Regulations and the Representations and Appeals Regulations should be read as a whole. **A draft copy of these regulations is therefore attached at Annex B to this memorandum.**

The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) Removed Vehicles (Wales) Regulations 2013 – These regulations are

subject to the affirmative procedure in the Assembly and must be signed, once approved, by Welsh Ministers. They deal with the appeal process where a vehicle owner does not agree that a vehicle should have been removed and/or disposed of by the local authority.

The Civil Enforcement of Road Traffic Contraventions (Approved Devices) (Wales) Order 2013 – This Order must be signed by Welsh Ministers and is subject to the negative procedure in the Assembly. The Order deals with the technical specifications for devices used by local authorities to capture road traffic contraventions (e.g. camera enforcement).

3.2 The intention is that all four instruments will be made simultaneously once Parliament has approved the draft Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations and the Assembly has approved the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) Removed Vehicles (Wales) Regulations 2013.

4. Legislative Context

4.1 Part 6 of the Traffic Management Act 2004 provides power to the "appropriate national authority" to make regulations for the civil enforcement by local authorities of parking and waiting restrictions, bus lanes and some moving traffic offences. In Wales the "appropriate national authority" is the National Assembly for Wales.

4.2 Under the Traffic Management Act the decision to increase the range of offences for which civil enforcement may be used in Wales is for Welsh Ministers; in addition to the regulation making role conferred by the 2004 Act, the Assembly also has legislative competence in relation to traffic regulation.

4.3 The Act also confers powers on the Lord Chancellor to make regulations dealing with the notification and enforcement of penalty charges, representations to the enforcement authority, appeals to an adjudicator by those on whom penalties are imposed and the appointment of adjudicators. Section 89 of the Act 2004 provides the Lord Chancellor with express powers to make different provisions for Wales.

4.4 In order for the policy in Wales to be operable as Welsh Ministers intend The Lord Chancellor must exercise his regulation making powers by ensuring the associated regulations dealing with appeals and enforcement are in place.

5. Territorial Extent and Application

5.1 This instrument applies to Wales only.

6. European Convention on Human Rights

6.1 The Secretary of State for Wales has made the following statement regarding Human Rights:

"In my view the provisions of the draft Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations are compatible with the Convention rights".

7. Policy background

- ***What is being done and why***

7.1 The package of legislation on civil enforcement is being introduced because the Welsh Government has decided to widen the scope of powers available to local authorities in Wales to enforce road traffic contraventions that would otherwise fall to the police. These specific regulations are necessary to ensure that persons upon whom civil penalties have been imposed in Wales can make representations against the imposition of the penalties and can appeal to an independent adjudicator if their representations are rejected.

7.2 The Welsh Government has assessed that the heavy workload of the police in Wales limits their ability to prioritise enforcement of bus lane and other moving traffic offences. Its view is that a practical alternative is to use its powers to provide Welsh local authorities with the necessary powers to tackle these contraventions. The police retain the ability to issue fixed penalty notices in relation to bus lane and moving traffic offences and the offence of stopping of vehicles on or near pedestrian crossings, though the regulations prohibit a motorist being penalised twice (civilly and criminally) for the same offence. The police retain powers to tackle other motoring offences.

7.3 The Welsh Government is concerned that the extent of indiscriminate parking can seriously reduce the capacity of the road network. It has assessed that effective control of on-street parking and loading and unloading is essential to keep buses moving. In addition, its view is that additional traffic management measures, for example, permitting buses to use lanes or make movements which are denied to other traffic, will assist the movement of buses.

7.4 Overall the Welsh Government's assessment is that in combination, these measures can improve the image and public perception of local bus services in a way that encourages higher patronage and a move away from single occupancy car journeys. The Welsh Government's view is that bus passengers – and, to some extent, other motorists - will benefit from the better enforcement of traffic contraventions. The Welsh Ministers also conclude that indirectly, Welsh local authorities will benefit because they have assessed that bus companies' costs will be lower than otherwise, leading to less demand for subsidy. It has also been concluded that bus passengers will benefit because of less expected upward pressure on fares as a result, and because of expected faster, more reliable and more punctual journeys.

7.5 Welsh Ministers intention through the package of regulations is to allow Welsh local authorities to put in place effective traffic management and enforcement measures. This, they believe, will help to help tackle congestion and provide priority through traffic for local bus services in Wales making them more attractive to passengers.

- ***Consolidation***

7.6 In the interests of simplifying this area the opportunity is being taken to consolidate the law. Provisions relating to civil enforcement of parking, bus lanes, and moving traffic offences have been consolidated into the package of statutory instruments.

8. Consultation outcome

8.1 The Welsh Government carried out a public consultation on its proposals on civil enforcement between 26 November 2009 and 5 February 2010. The organisations consulted were each of the 22 local authorities in Wales, the four police constabularies, the Traffic Penalty Tribunal, bodies representing taxi and private hire operators, and other stakeholders. Ten responses were received, most of those from local authorities.

8.2 A summary of the comments received and the Welsh Government's response was published on the website in April 2010:

http://wales.gov.uk/consultations/transport/civilenforcement/?lang=en&status=closed

8.3 The Welsh Government has concluded that there is a broad and strong consensus in favour of the proposals and that no material changes are required to the proposals as a result of the consultation exercise.

8.4 In accordance with paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 the Administrative Justice and Tribunals Council has also been consulted on these specific regulations.

9. Guidance

9.1 Section 87 of the Traffic Management Act 2004 allows Welsh Ministers to publish statutory guidance to local authorities on the exercise of their civil enforcement powers. The Welsh Government intends to work closely with local authorities to prepare statutory and operational guidance in due course.

10. Impact

10.1 No separate regulatory impact assessment has been prepared in relation to these specific regulations as no impact on business, charities or voluntary bodies is anticipated. The regulations will enable those on whom civil penalties have been imposed to make representations to the relevant enforcement authority against the imposition of the penalties and to an independent adjudicator if their representations are rejected.

10.2 Civil enforcement is intended to be self financing. Enforcement authorities will have responsibility for funding any additional appeals dealt with by the Traffic Penalty Tribunal resulting from greater enforcement of traffic contraventions. They will also be responsible for providing accommodation and administrative support for adjudicators, and setting their terms of work and for their remuneration.

10.3 The Welsh Government has produced a regulatory impact assessment on its overall policy on civil enforcement in Wales. This meets the Welsh Government's requirement for impact assessments in Wales. It is attached for information at **Annex A**.

10.4 An impact Assessment was also previously prepared for the Traffic Management Bill as a whole. For information this is available at the link.

http://webarchive.nationalarchives.gov.uk/20070305174115/http://www.dft.gov.uk/consultations/aboutria/ria/thetrafficmanagementbillregu5592?version=1

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Each Welsh local authority that has adopted civil enforcement powers or will adopt such powers in the future is required to send copies of their income and expenditure accounts relating to civil enforcement to Welsh Ministers.

12.2 Statutory guidance, published by the Welsh Government in April 2008, states that enforcement authorities should produce and publish an annual report about their enforcement activities within six months of the end of each financial year. The reports aim to detail the effectiveness of civil enforcement in terms of traffic journey times on key routes targeted by the authority for improvement, as well as identifying the income and expenditure resulting from the scheme. Details of expenditure must identify the transport schemes on which any surplus income has been spent. Finally, such reports must be made available to members of the public.

12.3 Enforcement authorities in Wales should also monitor their enforcement policies and the associated regulatory framework (including penalty charge levels). They should appraise them when reviewing the Regional Transport Plans and make recommendations for improvements.

12.4 Appraisals should take account of any relevant information that has been collected as part of the civil enforcement process, in particular about the practical effectiveness of the scheme. The Welsh Government intends that enforcement authorities will benefit from interviews with Civil Enforcement Officers, who it is assessed are in a unique position to identify changes to parking patters, as well benefitting from interviews with office staff, who see challenges and representations and the reasons for them.

13. Contact

Susan Olley at the Wales Office can answer any legal queries regarding the instrument.

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Tom Hubberstey at the Wales Office leads on any policy related questions.

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ANNEX A

REGULATORY IMPACT ASSESSMENT PREPARED BY THE WELSH GOVERNMENT

Options

1. Do Nothing

All four police forces in Wales were consulted on the proposals for the civil enforcement of bus lane and moving traffic contraventions. The evidence from the consultation exercise, suggested that the police would not be able to make the enforcement of bus lane and moving traffic contraventions a priority for action at all times.

This would mean that it would not be possible to effectively enforce the traffic management measures that have been put in place by local authorities to give buses priority through traffic congestion. Doing nothing would maintain the current situation whereby resources are not prioritised to deal with these types of contraventions.

In the absence of effective enforcement, local authorities would not be able to realise the benefits that would be gained through traffic management measures to improve the punctuality and reliability of local bus services.

2. Make the Regulations

In the absence of action by the police, the only practical alternative is to give local authorities the necessary powers to tackle bus lane and certain moving traffic contraventions. The police retain the ability to issue fixed penalty notices in relation to bus lane and moving traffic offences and the offence of stopping of vehicles on or near pedestrian crossings, though the regulations prohibit a motorist being penalised twice (civilly and criminally) for the same offence. The police retain powers to tackle other motoring offences.

Local authorities are keen to consolidate and strengthen the basket of measures that are available to them under the 2004 Act to meet their traffic management duties and to put in place the measures that are needed to make bus services more attractive.

Under Part 6 of the 2004 Act, Welsh Ministers have powers to make regulations that govern the way bus lane and certain moving traffic contraventions are to be enforced by local authorities. All of the responses to the public consultation exercise welcomed the introduction of these regulations that would form part of a broader approach for improving bus services in Wales.

Costs and benefits

Part 6 of the 2004 Act requires local authorities to apply to the Welsh Ministers for consent to adopt the civil enforcement powers to tackle bus lane and certain moving traffic contraventions. The enforcement of bus lane and moving traffic contraventions must be done on the basis of a record produced by an approved device. The approved device must include a camera and a recording system that meets the requirements set out in the nationally agreed technical standards. Such devices may currently be used to enforce parking contraventions.

The costs of putting in place the approved devices and any back office systems must be met by the income generated from Penalty Charge Notices issued by the enforcing local authority and the local authorities own resources. To prevent a situation arising where the issue of Penalty Charge Notices could be used to raise money, any surplus remaining after meeting the costs of administration must be used only to support transport measures specified in the Regulations.

As part of their submissions to the Welsh Ministers to be granted civil enforcement powers, local authorities are required to explain how all associated costs will be met on the introduction of civil enforcement powers. The Regulations allow local authorities to work together in partnership, in order to reduce costs and maximise efficiency and effectiveness.

Ultimately, bus passengers – and, to some extent, other motorists - will benefit from the better enforcement of traffic contraventions. Indirectly, local authorities will benefit because bus companies' costs will be lower, leading to less demand for subsidy. Bus passengers will benefit because there will be less upward pressure on fares as a result, because of faster, more reliable and more punctual journeys.

Improved and more attractive bus services will help to attract motorists out of their cars, leading to less direct congestion and improved air quality. This outcome should also assist in the improvement of bus patronage and, as a consequence, safeguard services for those members of the community without access to an alternative. Any increased patronage of local buses will generate additional income for bus companies, safeguarding jobs and allowing them to invest in improved services.

Empowering local authorities to tackle traffic congestion is pivotal to achieving the Welsh Government's economic, social and environmental objectives, and is consistent with the Welsh Government's prioritised National Transport Plan, published in December 2011.

Consultation

A consultation on these proposals was undertaken between 26 November 2009 and 5 February 2010. The organisations consulted were each of the 22

local authorities in Wales, the four police constabularies, the Traffic Penalty Tribunal, bodies representing taxi and private hire operators, and other stakeholders.

A summary of the responses to the consultation and the Welsh Government's responses to those has been published, and is provided as an annex. There was a broad and strong consensus in favour of the proposals.

Competition Assessment

Nothing in these proposals or the regulations will impact adversely on business, charities or the third sector.

Post implementation review

Each local authority that has adopted civil enforcement powers (i.e. for parking) or will adopt such powers (i.e. for bus lane or moving traffic contraventions) in the future is required to publish an annual report. The reports will detail the effectiveness of civil enforcement in terms of traffic journey times on key routes targeted by the authority for improvement, as well as identifying the income and expenditure resulting from the scheme. Details of expenditure must identify the transport schemes on which any surplus income has been spent. Such reports must also be made available to members of the public.

Annex

Analysis of responses to the consultation on the proposed civil enforcement of bus lane and moving traffic contraventions

Ten responses to the consultation document have been received and the main points raised are outlined below. Some respondents submitted a 'free standing' response and did not specifically answer the questions set out in the consultation document. In these circumstances every effort was made to link responses to specific questions where appropriate. Where this was not possible the essence of such responses was fully considered.

1. MOVING TRAFFIC CONTRAVENTIONS

Q1a Should the proposed Regulations provide for the civil enforcement of all the prohibitions and signs listed in the table at Regulation 9(4) of the Traffic Management Act 2004?

Nine responses (90%) agreed that the Regulations should continue to cover the prohibitions and signs listed in the table at Regulation 9(4) of Schedule 7 to the Traffic Management Act 2004. One expressed no opinion.

Response

The Welsh Assembly Government's Regulations will retain the existing provision that civil enforcement applies to all of the prohibitions and signs listed at regulation 9(4) of Schedule 7 to the Traffic Management Act 2004.

Q1b Are there other traffic prohibitions and signs that should be added to the list to provide for the ease of buses through traffic flows?

Five responses (50%) agreed that there is no need for further traffic prohibitions and signs to be added to the list. Two respondents (20%) thought that more should be included, specifically diagrams 958 (with-flow bus lane that pedal cycles and taxis may also use), 959 (with-flow bus lane that pedal cycles may also use) and 960 (contra-flow bus lane). These signs meet the criteria listed in paragraph 10(2) of Schedule 7. One other argued for the addition of signs to give buses right of way where two lanes merge to one.

Paragraph 10(1) of Schedule 7 to the TMA 2004 allows Welsh Ministers to make Regulations adding additional signs to the list in paragraph 9(4). For a traffic sign to be added to the list, in accordance with paragraph 10(2) of Schedule 7, it must:

- Regulate the movement of vehicles, not stationary vehicles;
- Be a sign to which section 36 of the Road Traffic Act 2988 applies; and

- Be a sign to which a failure to comply must not involve obligatory endorsement.

Response

Subject to the required consultation with appropriate Chiefs of Police and local authorities, the Welsh Assembly Government's Regulations will ensure that diagrams 958, 959 and 960 will be added to the list of traffic prohibitions and signs to ease the flow of buses. Local authorities may continue to apply to the Welsh Assembly Government for priority to be given to buses at specific locations (e.g. at traffic lights where two lanes merge into one).

2. SETTING CHARGES

Q2 Should the charge level applicable to bus lane and moving traffic contraventions be set at the higher penalty charge level in each band?

Nine respondents (90%) agreed that the charge level applicable to bus lane and moving traffic contraventions should be set at the higher penalty charge level.

Paragraph 8 of Schedule 9 to the TMA 2004 allows Welsh Ministers to set guidelines for the level of charges, and allows different guidelines to be given for different classes of contravention. The Order itself provides an annex containing a list of higher level contraventions, and that will need to be amended to include all the bus lane and moving traffic contraventions.

Response

The Welsh Assembly Government's Regulations will set the charge level applicable to bus lane and moving traffic contraventions at the higher penalty charge level in each band.

Q3 Should the charge level applicable to bus lane and moving traffic contraventions be the same as that for CPE contraventions?

Eight respondents (80%) agreed that the charge level applicable to bus lane and moving traffic contraventions should be the same as that for civil parking enforcement contraventions, thereby providing clarity and consistency.

Paragraph 8 of Schedule 9 to the TMA 2004 allows Welsh Ministers to set guidelines for the level of charges, and allows different guidelines to be given for different classes of contravention. The Order itself provides an annex containing a list of higher level contraventions, and that will need to be amended to include all the bus lane and moving traffic contraventions.

Response

The Welsh Assembly Government's Regulations will require that the charge level applicable to bus lane and moving traffic contraventions will be the same as that for Civil parking Enforcement contraventions.

3. ENFORCEMENT ACTIVITIES

Q4 Do you agree that Penalty Charge Notices for bus lane and moving traffic contraventions should only be issued on the basis of evidence from a camera and associated recording equipment?

Eight respondents (80%) agreed that Penalty Charge Notices for bus lane and moving traffic contraventions should only be issued on the basis of evidence from a camera and associated recording equipment. This would ensure that motorists are presented with clear evidence and help minimise unfounded challenges and appeals. One respondent (10%) argued that action against alleged contraventions should also be permitted on the basis of witness statements.

Response

In accordance with section 72(4)(a) of the TMA 2004, the Welsh Assembly Government's regulations will stipulate that PCNs for bus lane and moving traffic contraventions can only be issued on the basis of evidence from a camera and associated recording equipment.

Q5 Provided that cameras on board buses meet the requirements of Welsh Ministers, and are "approved devices", should they be used to obtain evidence of bus lane contraventions and support the issue of PCNs?

Eight respondents (80%) agreed that cameras on board buses that meet the requirements of Welsh Ministers and are "approved devices" should be used to obtain evidence of contraventions.

Response

The Approved Devices Order contains technical specifications for approved devices. This includes cameras that are not mounted in one place but are fixed to vehicles. Where the device does not occupy a fixed location, it must record the location form which it is being operated.

The Welsh Assembly Government's Regulations will stipulate that cameras on board buses that are "approved devices" may be used to obtain evidence of bus lane contraventions in support of the issue of PCNs.

Q6 Do you agree that where a bus lane and moving traffic contravention happen at the same time, they should be treated

separately and two PCNs issued? If not, which do you believe should take precedence?

Five respondents (50%) agreed that where a bus lane and moving traffic contravention happen at the same time, they should be treated separately and two Penalty Charge Notices issued. Four (40%) did not agree.

Response

There is nothing in the TMA 2004 that prevents the issuing of two separate PCNs where two contraventions have been committed, even if during the same incident. The Welsh Assembly Government's Regulations will therefore recommend that, where bus lane and moving traffic contraventions happen at the same time, they are treated separately and two PCNs are issued.

4. COLLECTING PENALTY CHARGES

Q7 Where vehicle owners persistently fail to pay PCNs for bus lane or moving traffic conventions, what action by local authorities do you think would be most effective to deter evasion?

Respondents suggested variously that vehicles should be seized (to prevent a recurrence of the contravention until the payment has been made); that drivers should have penalty points put on their licences; or that certificated bailiffs should be employed.

Response

There are already mechanisms in place within the existing Enforcement and Adjudication Regulations that allow the enforcement of unpaid PCNs under a county court order. The Lord Chancellor also has power to create criminal offences where PCNs are not paid. Section 19 of the TMA 2004 also provides Welsh Ministers with power to immobilise vehicles where there are outstanding unpaid charges. In addition, the Welsh Assembly Government's Regulations will encourage local authorities to consider a wide range of mechanisms to deter motorists from evading paying PCN penalties.

5. ISSUING THE PENALTY CHARGE NOTICE

Q8 Do you agree that all Penalty Charge Notices must be served by first class post within 14 days of the contravention?

Six respondents (60%) agreed that Penalty Charge Notices should be served by first class post within 14 days of the contravention to ensure that any necessary action is prompt. This may be especially important if the PCN is sent to a hiring or leasing company that must then contact the driver. One respondent argued that the Penalty Charge Notice should be served by first class post within 21 days of the contravention to accommodate absences such as holiday periods.

Response

The existing Enforcement and Adjudication Regulations already specify a period of 28 days for the issue of a PCN. The Welsh Assembly Government's Regulations will stipulate that in future all PCNs must be served by first class post within 14 days of a contravention.

6. CHARGE CERTIFICATE

Q9 Should the date that the Penalty Charge Notice was "served" be the date on which it was issued or the date on which it was received by the motorist deemed to have committed the contravention?

Seven respondents (70%) argued that the date that a Penalty Charge is served should be the date on which it was issued. Two respondents (20%) suggested that the date should be two days after it was sent by first class post, to allow for it to be delivered.

Response

The existing Enforcement and Adjudication Regulations already specify that service of a notice or charge certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted will be taken to have been effected on the second day after the day of posting. The Welsh Assembly Government's Regulations will retain this criterion.

7. REPRESENTATIONS

Q10 Should local authorities retain responsibility for handling representations from motorists who are deemed to have committed a bus lane or moving traffic contravention, or would it be acceptable for such responsibility to be contracted-out?

Three respondents (30%) agreed that local authorities should retain responsibility for handling representations from motorists who are deemed to have committed a bus lane or moving traffic contravention. Apart from consistency, it was made clear that handling representations is a quasi-judicial function. Also, an authority is able to undertake the handling of representations on behalf of other authorities, thereby offering efficiencies of scale. Five respondents (50%) thought that this should be a matter for individual local authorities to determine.

Response

The Welsh Assembly Government's Regulations will stipulate that local authorities must be responsible for handling representations from motorists who are deemed to have committed a bus lane or moving

traffic contravention, and not contracted-out. This will ensure the retention of a direct, transparent link between enforcement and handling of representations.

Q11 Should all decision notices following consideration of representations be issued within 21 days of receipt of the contraventions?

Six respondents (60%) agreed that all decision notices following the consideration of representations should be issued within 21 days of receipt of the contravention. One respondent argued that while 21 days should be the target, a period of 56 days should be permitted.

Response

The existing Representations and Appeals Regulations stipulate a period of 56 days beginning with the date on which representations were served on the local authority, for it to serve notice of its decision. The Welsh Assembly Government's new Regulations will nevertheless stipulate that all future decision notices must be issued within 21 days of receipt of a representation.

Respondents to the consultation:

South East Wales Transport Alliance (SEWTA)
Association of Transport Co-ordinating Officers
City and County of Cardiff Council
Bridgend County Borough Council
Neath Port Talbot County Borough Council
The Traffic Penalty Tribunal Adjudicators
Confederation of Passenger Transport
Flintshire County Council
Carmarthenshire County Council
One Voice Wales

ANNEX B

STATUTORY INSTRUMENTS

2013 No.

ROAD TRAFFIC, WALES

The Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

Made - - - -	*2013*
Laid before Parliament	*2013*
Laid before the National Assembly for Wales	*2013*
Coming into force - -	*2013*

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SCHEDULES

SCHEDULE 1 — PENALTY CHARGE NOTICES
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These Regulations are made by the Lord Chancellor in exercise of the powers conferred on him by sections 78, 81, 82 and 89 of the Traffic Management Act 2004(**a**) and by section 26 of the Welsh Language Act 1993(**b**), and by the Welsh Ministers in exercise of the powers conferred upon the National Assembly for Wales and now vested in them(**c**) by sections 72, 73(3), 79, 88 and 89 of

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(**a**) 2004 c.18. Section 81 was amended by the Tribunals, Courts and Enforcement Act 2007, section 50, Schedule 10 paragraph 39 and by S.I. 2006/1016. Section 82 was amended by the Tribunals, Courts and Enforcement Act 2007, sections 62(3) and 146, Schedule 13 paragraph 156(a) and Schedule 23, Part 3.

(**b**) 1993 c. 38.

(**c**) The functions of the National Assembly for Wales under the Traffic Management Act 2004 were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32). By

that Act and by paragraph 10(1) of Schedule 7 to that Act(**a**), and after consultation with the bodies specified in paragraph 10(3) of Schedule 7 to that Act.

In accordance with paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(**b**), the Lord Chancellor and the Welsh Ministers have consulted the Administrative Justice and Tribunals Council.

PART 1

PRELIMINARY

Title, commencement and application

1.—(1) These Regulations may be cited as the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013 and they come into force on ( ) 2013.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"the 2004 Act" means the Traffic Management Act 2004;

"the 28-day period" has the meaning given by regulation 10(4);

"adjudicator" means an adjudicator appointed under Part 4 of these Regulations;

"applicable discount" and "applicable surcharge" mean the amount of any discount or, as the case may be, surcharge set in accordance with Schedule 9 to the 2004 Act;

"approved device" has the meaning given by article 2 of the Civil Enforcement of Road Traffic Contraventions (Approved Devices) (Wales) Order 2013(**c**);

"charge certificate" has the meaning given in regulation 20(1);

"civil enforcement area" has the meaning given by paragraph 8 of Schedule 8 to the 2004 Act;

"civil enforcement officer" has the meaning given by section 76 of the 2004 Act;

"enforcement authority" in relation to a penalty charge or the immobilisation or removal of a vehicle means the enforcement authority in relation to the alleged contravention in consequence of which the charge was incurred or the vehicle was immobilised;

"notice to owner", subject to regulations 20(4) and 22(9), has the meaning given by regulation 18;

"outstanding" in relation to a penalty charge is to be construed in accordance with paragraphs (2) to (4);

"owner" in relation to a vehicle includes any person who falls to be treated as the owner of the vehicle by virtue of regulation 5;

"pedestrian crossing contravention" means a parking contravention consisting of an offence referred to in paragraphs 4(2)(c) or 4(2)(i)(i) of Schedule 7 to the 2004 Act (prohibition on stopping of vehicles on or near pedestrian crossings);

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virtue of section 92 of the Traffic Management Act 2004, the National Assembly for Wales was designated as the "appropriate national authority" as regards Wales, for the purposes of regulations made under Part 6.

(**a**) Section 79 was amended by the Disability Discrimination Act 2005 (c.13), section 19, Schedule 1, paragraph 48 and Schedule 2.

(**b**) 2007 c.15.

(**c**) S.I. 2013/000 (W.).

"penalty charge" means a penalty charge relating to a road traffic contravention and payable in accordance with regulation 4;

"penalty charge notice" has the meaning given by regulation 8(1);

"regulation 10 penalty charge notice" has the meaning given by regulation 10;

"road traffic contravention" in relation to Wales, means any of the following:

(a) a parking contravention as described in paragraph 4, Part 1 of Schedule 7 to the 2004 Act;

(b) a bus lane contravention as described in Part 2 of Schedule 7 to the 2004 Act; or

(c) a moving traffic contravention as described in Part 4 of Schedule 7 to the 2004 Act.

"the Welsh enforcement authorities" means those enforcement authorities which are local authorities in Wales; and

"the Representations and Appeals Regulations" means the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013(**a**).

(2) For the purposes of these Regulations a penalty charge is outstanding in relation to a vehicle if—

(a) the charge has not been paid and the enforcement authority to which the charge is payable has not waived payment, whether by cancellation of the penalty charge notice or notice to owner or otherwise;

(b) the owner of the vehicle when it was immobilised was also the owner of the vehicle when the penalty charge was imposed; and

(c) either—

(i) a notice to owner or regulation 10 penalty charge notice has been served in respect of the charge and the conditions in paragraph (3) are satisfied; or

(ii) no notice to owner or regulation 10 penalty charge notice has been served in respect of the charge and the conditions in paragraph (4) are satisfied.

(3) The conditions referred to in paragraph (2)(c)(i) are that—

(a) the penalty charge was imposed, in accordance with these Regulations, by an enforcement authority in respect of a road traffic contravention;

(b) the penalty charge is the subject of a charge certificate served under regulation 20 which has not been set aside in accordance with regulation 22.

(4) The conditions referred to in paragraph (2)(c)(ii) are that—

(a) the penalty charge related to a vehicle which, when the penalty charge became payable—

(i) was not registered under the Vehicle Excise and Registration Act 1994(**b**); or

(ii) was so registered, but without the inclusion in the registered particulars of the correct name and address of the keeper of the vehicle;

(b) having taken all reasonable steps, the enforcement authority to which the penalty charge was payable was unable to ascertain the name and address of the keeper of the vehicle and was consequently unable to serve a notice to owner under regulation 18, or a regulation 10 penalty charge notice; and

(c) the period of 42 days beginning with the date on which the penalty charge became payable has expired.

Service by post

3.—(1) Subject to paragraph (5), any notice (except a penalty charge notice served under regulation 9) or charge certificate under these Regulations—

(a) may be served by first class (but not second class) post; and

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(**a**) S.I. 2013/000 (W.).
(**b**) 1994 c. 22.

(b) where the person on whom it is 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.

(2) Unless the contrary is proved, service of a notice or charge certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted is to be taken to have been effected on the second working day after the day of posting.

(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**).

(4) A document may be transmitted to a vehicle hire firm (as defined in regulation 5(4)) by means of electronic data transmission where—

(a) the vehicle hire firm has indicated in writing to the person sending the notice or document that it is willing to regard a document as having been duly sent to it if it is transmitted to a specified electronic address; and

(b) the document is transmitted to that address.

(5) Nothing in this regulation applies to the service of any notice or order made by a county court.

PART 2

PENALTY CHARGES

Imposition of penalty charges

4. Subject to the provisions of these Regulations a penalty charge is payable with respect to a vehicle where there has been committed in relation to that vehicle a road traffic contravention in a civil enforcement area in Wales.

Person by whom a penalty charge is to be paid

5.—(1) Where a road traffic contravention occurs, the person by whom the penalty charge for the contravention is to be paid, is to be determined in accordance with the following provisions of this regulation.

(2) In a case not falling within paragraph (3), the penalty charge is payable by the person who was the owner of the vehicle involved in the contravention at the material time.

(3) Where—

(a) the vehicle is a mechanically propelled vehicle which was, at the material time, hired from a vehicle-hire firm under a hiring agreement;

(b) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice served in respect of any road traffic contravention involving the vehicle during the currency of the hiring agreement; and

(c) in response to a notice to owner served on him, the owner of the vehicle made representations on the ground specified in regulation 4(4)(d) of the Representations and Appeals Regulations and the enforcement authority accepted those representations,

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(**a**) 1971 c.80.

the penalty charge is payable by the person by whom the vehicle was hired and that person must be treated as if they were the owner of the vehicle at the material time for the purposes of these Regulations.

(4) In this regulation—

(a) "hiring agreement" and "vehicle-hire firm" have the same meanings as in section 66 of the Road Traffic Offenders Act 1988(**a**); and

(b) "the material time" means the time when the contravention giving rise to the penalty charge is said to have occurred.

Evidence of contravention

6.—(1) In respect of a parking contravention, a penalty charge must not be imposed except on the basis of—

(a) a record produced by an approved device; or

(b) information given by a civil enforcement officer as to conduct observed by that officer.

(2) In respect of—

(a) a bus lane contravention; or

(b) a moving traffic contravention,

a penalty charge must not be imposed except on the basis of a record produced by an approved device.

Criminal proceedings for road traffic contraventions in civil enforcement areas

7.—(1) A penalty charge is not payable in relation to a road traffic contravention where—

(a) the conduct constituting the contravention is the subject of criminal proceedings; or

(b) a fixed penalty notice, as defined by section 52 of the Road Traffic Offenders Act 1988(b), has been given in respect of that conduct.

(2) Where, notwithstanding the provisions of paragraph (1)—

(a) a penalty charge has been paid in respect of a road traffic contravention; and

(b) the circumstances are as mentioned in paragraph (1)(a) or (b),

the enforcement authority must, as soon as reasonably practicable after those circumstances come to its notice, refund the amount of the penalty charge.

(3) No criminal proceedings may be instituted and no fixed penalty notice may be served in respect of any parking contravention occurring in a civil enforcement area, except a pedestrian crossing contravention.

Penalty charge notices

8.—(1) In these Regulations a "penalty charge notice" means a notice which—

(a) was served in accordance with regulation 9 or 10 in relation to a road traffic contravention; and

(b) complies with the requirements of—

(i) paragraph (2) below;

(ii) the Schedules to these Regulations; and

(iii) regulation 3 of the Representations and Appeals Regulations which so apply.

(**a**) 1988 c.53. Section 66 was amended by the Road Safety Act 2006, section 5, Schedule 1 paragraphs 1,8 and 9 and section 59, Schedule 7.

(**b**) Section 52 was amended by the Statute Law (Repeals) Act 2004 (c.14), Schedule 1, Part 14 and by the Road Safety Act 2006 (c.49), Schedule 1, paragraphs 1 and 2.

(2) A penalty charge notice must be in the form set out in Schedule 2 to these regulations or a form to the like effect, provided that it contains all of the prescribed particulars as set out in Schedule 1 to these regulations and regulation 3 of the Representations and Appeals Regulations.

(3) The Schedules have effect with regard to penalty charge notices.

Penalty charge notices – service by a civil enforcement officer

9. A civil enforcement officer who has reason to believe that a parking contravention is being committed by a stationary vehicle in a civil enforcement area, may serve a penalty charge notice—

(a) by fixing it to the vehicle; or

(b) by giving it to the person appearing to the civil enforcement officer to be in charge of the vehicle.

Penalty charge notices – service by post

10.—(1) An enforcement authority may serve a penalty charge notice by post where—

(a) on the basis of a record produced by an approved device, the authority has reason to believe that a penalty charge is payable with respect to a road traffic contravention committed in relation to a vehicle in a civil enforcement area;

(b) a civil enforcement officer attempted to serve a penalty charge notice in accordance with regulation 9 but was prevented from doing so by some person; or

(c) a civil enforcement officer had begun to prepare a penalty charge notice for service in accordance with regulation 9, but the vehicle concerned was driven away from the place in which it was stationary before the civil enforcement officer had finished preparing the penalty charge notice or had served it in accordance with regulation 9,

and references in these Regulations to a "regulation 10 penalty charge notice" are to a penalty charge notice served by virtue of this paragraph.

(2) For the purposes of paragraph 1(c), a civil enforcement officer who observes conduct which appears to constitute a parking contravention is not thereby to be taken to have begun to prepare a penalty charge notice.

(3) A regulation 10 penalty charge notice must be served on the person appearing to the enforcement authority to be the owner of the vehicle involved in the contravention in consequence of which the penalty charge is payable.

(4) Subject to paragraph (6), a regulation 10 penalty charge notice may not be served later than the expiration of the period of 28 days beginning with the date on which, according to a record produced by an approved device, or information given by a civil enforcement officer, the contravention to which the penalty charge notice relates occurred (in these Regulations called "the 28-day period").

(5) Paragraph (6) applies where—

(a) within 14 days of the appropriate date the enforcement authority has requested the Secretary of State to supply the relevant particulars in respect of the vehicle involved in the contravention and those particulars have not been supplied before the expiration of the 28-day period;

(b) an earlier regulation 10 penalty charge notice relating to the same contravention has been cancelled under regulation 22(5)(c); or

(c) an earlier regulation 10 penalty charge notice relating to the same contravention has been cancelled under regulation 5 of the Representations and Appeals Regulations.

(6) Where this paragraph applies, notwithstanding the expiration of the 28-day period, an enforcement authority continues to be entitled to serve a regulation 10 penalty charge notice—

(a) in a case falling within paragraph (5)(a), for a period of six months beginning with the appropriate date; or

(b) in a case falling within paragraph (5)(b) or (c), for a period of 4 weeks beginning with the appropriate date.

(7) In this regulation—

(a) "the appropriate date" means-

(i) in a case falling within paragraph (5)(a), the date referred to in paragraph (4);

(ii) in a case falling within paragraph (5)(b), the date on which the district judge serves notice in accordance with regulation 22(5)(d); or

(iii) in a case falling within paragraph (5)(c) the date on which the previous regulation 10 penalty charge notice was cancelled; and

(b) "relevant particulars" means particulars relating to the identity of the keeper of the vehicle contained in the register of mechanically propelled vehicles maintained by the Secretary of State under the Vehicle Excise and Registration Act 1994.

Removal of or interference with a penalty charge notice

11.—(1) A penalty charge fixed to a vehicle in accordance with regulation 9(a) must not be removed or interfered with except by or under the authority of—

(a) the owner or person in charge of the vehicle; or

(b) the enforcement authority.

(2) A person contravening paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

PART 3

IMMOBILISATION OF VEHICLES FOR PARKING CONTRAVENTIONS

Power to immobilise vehicles

12.—(1) Subject to regulation 13 (limitations on the power to immobilise vehicles), where a penalty charge notice has been served—

(a) in respect of a parking contravention; and

(b) in accordance with regulation 9,

a civil enforcement officer or a person acting under the direction of a civil enforcement officer may fix an immobilisation device to the vehicle while it remains in the place where it was found.

(2) On any occasion when an immobilisation device is fixed to a vehicle in accordance with this regulation, the person fixing the device must also fix to the vehicle a notice—

(a) indicating that such a device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from that device;

(b) specifying the steps to be taken in order to secure its release; and

(c) warning that unlawful removal of an immobilisation device is an offence.

(3) A notice fixed to a vehicle in accordance with this regulation must not be removed or interfered with except by or under the authority of—

(a) the owner, or person in charge of the vehicle; or

(b) the enforcement authority.

(4) A person contravening paragraph (3) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) Any person who, without being authorised to do so in accordance with these Regulations, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with this

Limitations on the power to immobilise vehicles

13.—(1) An immobilisation device must not be fixed to a vehicle in accordance with regulation 12 if there is displayed on the vehicle—

(a) a current disabled person's badge; or

(b) a current recognised badge.

(2) If, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (1)(a), the vehicle was not being used—

(a) in accordance with regulations under section 21 of the Chronically Sick and Disabled Persons Act 1970(**a**);

(b) in circumstances falling within section 117(1)(b) of the Road Traffic Regulation Act 1984(**b**) (use where a disabled persons' concession would be available),

the person in charge of the vehicle is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (1)(b), the vehicle was not being used—

(a) in accordance with regulations under section 21A of the Chronically Sick and Disabled Persons Act 1970(**c**);

(b) in circumstances falling within section 117(1A)(b) of the Road Traffic Regulation Act 1984(**d**) (use where a disabled person's concession would be available by virtue of displaying a non-GB badge),

the person in charge of the vehicle is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) An immobilisation device must not be fixed to a vehicle which is in a parking place in respect of a contravention consisting of, or arising out of, a failure—

(a) to pay a parking charge with respect to the vehicle;

(b) properly to display a ticket or parking device; or

(c) to remove the vehicle from a parking place by the end of the period for which the appropriate charge was paid,

until 15 minutes have elapsed since the service of a penalty charge notice under regulation 9 in respect of the contravention.

(5) In this Regulation—

(a) "disabled person's badge" is a badge issued by local authorities for motor vehicles driven by or used for the carriage of disabled persons in accordance with section 21 of the Chronically Sick and Disabled Persons Act 1970 and regulations made thereunder; and

(b) "recognised badge" has the same meaning as in section 21A(1) of the Chronically Sick and Disabled Persons Act 1970.

(**a**) 1970 c.44. In relation to Wales, section 21 was amended by the Local Government Act 1972 (c.70), Schedule 30, by the Transport Act 1982 (c.49) section 68, by the Road Traffic Regulation Act 1984 (c.27), Schedule 13, by the Local Government Act 1985 (c.51), Schedule 5, paragraph 1, by the Road Traffic Act 1991 (c.40), section 35(2)-(5), Schedule 8, by the Local Government (Wales) Act 1994 (c.19), Schedule 10, paragraph 8 and Schedule 18, by the Traffic Management Act 2004 section 94(1)-(4), by the Disability Discrimination Act 2005 (c.13) Schedule 1, paragraph 41 and by the Tribunals, Courts and Enforcement Act 2007, Schedule 8.

(**b**) 1984 (c.27). In relation to Wales section 117(1) was amended by the Road Traffic Act 1991 section 35(6) and Schedule 8 and by the Disability Discrimination Act 2005, Schedule 1, paragraph 44(1), (2) and by the Traffic Management Act 2004, section 94(5).

(**c**) Section 21A was inserted by the Disability Discrimination Act 2005, section 9.

(**d**) Subsection (1A) was inserted by the Disability Discrimination Act 2005, Schedule 1, paragraphs 42 and 44.

Release of immobilised vehicles

14.—(1) A vehicle to which an immobilisation device has been fixed in accordance with regulation 12 may only be released from that device by or under the direction of a person authorised by the enforcement authority to give such a direction.

(2) Subject to paragraph (1), such a vehicle must be released from the device on payment in any manner specified in the notice fixed to the vehicle under regulation 12(2) of—

(a) the penalty charge payable in respect of the parking contravention; and

(b) such charge in respect of the release as may be required by the enforcement authority.

PART 4

ADJUDICATORS

Discharge of functions relating to adjudicators

15.—(1) The functions of the Welsh enforcement authorities relating to adjudicators under section 81 of the 2004 Act and under regulations 16 and 17 are to be discharged jointly, under arrangements made under section 101(5) of the Local Government Act 1972(**a**), by a joint committee or joint committees appointed under section 102(1)(b) of that Act.

(2) The constituent authorities of a joint committee may include county or county borough councils in England.

(3) Any arrangements for the discharge of functions by a joint committee under section 73 of the Road Traffic Act 1991(**b**), as that section was applied to local authorities, which subsisted immediately before the coming into force of these Regulations continue in force and have effect as if made under this regulation, until such time as those arrangements are varied or replaced.

Appointment of adjudicators

16.—(1) The relevant enforcement authorities must appoint such number of adjudicators for the purposes of Part 6 of the 2004 Act on such terms as they may decide.

(2) Any decision by those authorities to appoint a person as an adjudicator will not have effect without the consent of the Lord Chancellor.

(3) Any decision by those authorities—

(a) not to re-appoint a person as an adjudicator; or

(b) to remove a person from his office as an adjudicator,

will not have effect without the consent of the Lord Chancellor and the Lord Chief Justice.

(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005(**c**) to exercise his functions under paragraph (3).

(5) Adjudicators who—

(a) were appointed under section 73 of the Road Traffic Act 1991; and

(b) held office immediately before the coming into force of this regulation,

are to be treated as having been appointed under this regulation on the same terms as those on which they held office at that time.

(6) Each adjudicator must make an annual report to the relevant enforcement authorities in accordance with such requirements as may be imposed by those authorities.

(**a**) 1972 c.70.
(**b**) 1991 c.40.
(**c**) 2005 c.4.

(7) The relevant authorities must make and publish an annual report to the Welsh Ministers on the discharge by the adjudicators of their functions.

Expenses of the relevant authorities

17.—(1) In default of a decision by any of the enforcement authorities under section 81(9)(a) of the 2004 Act as to the proportions in which their expenses under section 81 of that Act are to be defrayed, the authorities concerned must refer the issue to be determined by an arbitrator nominated by the Chartered Institute of Arbitrators.

(2) Where the Welsh Ministers are satisfied that there has been a failure on the part of any of the relevant enforcement authorities to agree those proportions, they may give to the relevant joint committee such directions as are in their opinion necessary to secure that the issue is referred to arbitration in accordance with paragraph (1).

(3) In this regulation "the relevant joint committee" means the joint committee constituted under regulation 15 of which the enforcement authorities in default are constituent authorities.

PART 5

ENFORCEMENT OF PENALTY CHARGES

The notice to owner

18.—(1) Subject to regulation 19, where—

(a) a penalty charge notice has been served with respect to a vehicle under regulation 9; and

(b) the period of 28 days specified in the penalty charge notice as the period within which the penalty charge is to be paid has expired without that charge being paid,

the enforcement authority concerned may serve a notice ("a notice to owner") on the person who appears to it to have been the owner of the vehicle when the alleged contravention occurred.

(2) A notice to owner served under paragraph (1) must, in addition to the matters required to be included in it under regulation 3(3) of the Representations and Appeals Regulations, state—

(a) the date of the notice, which must be the date on which the notice is posted;

(b) the name of the enforcement authority serving the notice;

(c) the amount of the penalty charge payable;

(d) the date on which the penalty charge notice was served;

(e) the grounds on which the civil enforcement officer who served the penalty charge notice under regulation 9 believed that a penalty charge was payable with respect to the vehicle;

(f) that the penalty charge, if not already paid, must be paid within "the payment period" as defined by regulation 3(3)(a) of the Representations and Appeals Regulations;

(g) that if, after the payment period has expired, no representations have been made under regulation 4 of the Representations and Appeals Regulations and the penalty charge has not been paid, the enforcement authority may increase the penalty charge by the applicable surcharge; and

(h) the amount of the increased penalty charge.

Time limit for service of a notice to owner

19.—(1) A notice to owner may not be served after the expiry of the period of 6 months beginning with the relevant date.

(2) The relevant date—

(a) in a case where a notice to owner has been cancelled under regulation 22(5)(c) of these Regulations, is the date on which the district judge serves notice in accordance with regulation 22(5)(d);

(b) in a case where a notice to owner has been cancelled under regulation 5 of the Representations and Appeals Regulations, is the date of such cancellation;

(c) in a case where payment of the penalty charge was made, or had purportedly been made, before the expiry of the period mentioned in paragraph (1) but the payment or purported payment had been cancelled or withdrawn, is the date on which the enforcement authority is notified that the payment or purported payment has been cancelled or withdrawn;

(d) in any other case, is the date on which the relevant penalty charge notice was served under regulation 9.

Charge certificates

20.—(1) Where a notice to owner is served on any person and the penalty charge to which it relates is not paid before the end of the relevant period, the authority serving the notice may serve on that person a statement (a "charge certificate") to the effect that the penalty charge in question is increased by the amount of the applicable surcharge.

(2) The relevant period, in relation to a notice to owner, is the period of 28 days beginning—

(a) where no representations are made under regulation 4 of the Representations and Appeals Regulations, with the date on which the notice to owner is served;

(b) where—

(i) such representations are made;

(ii) a notice of rejection is served by the authority concerned; and

(iii) no appeal against the notice of rejection is made,

with the date on which the notice of rejection is served;

(c) where an adjudicator has, under regulation 7(4) of the Representations and Appeals Regulations, recommended the enforcement authority to cancel the notice to owner, with the date on which the enforcement authority notifies the appellant under regulation 7(5) of those Regulations that it does not accept the recommendation; or

(d) in a case not falling within sub-paragraph (c) where there has been an unsuccessful appeal to an adjudicator under the Representations and Appeals Regulations against a notice of rejection, with the date on which the adjudicator's decision is served on the appellant.

(3) Where an appeal against a notice of rejection is made but is withdrawn before the adjudicator serves notice of his decision, the relevant period in relation to a notice to owner is the period of 14 days beginning with the date on which the appeal is withdrawn.

(4) In this regulation—

(a) references to a "notice to owner" include a regulation 10 penalty charge notice; and

(b) "notice of rejection" has the meaning given by regulation 2 of the Representations and Appeals Regulations.

Enforcement of charge certificates

21. Where a charge certificate has been served on any person and the increased penalty charge provided for in the certificate is not paid within the period of 14 days beginning with the date on which the certificate is served, the enforcement authority may, if a county court so orders, recover the increased charge as if it were payable under a county court order.

Invalid notices

22.—(1) This regulation applies where—

(a) a county court makes an order under regulation 21;

(b) the person against whom it is made makes a witness statement complying with paragraph (2); and

(c) that statement is served on the county court which makes the order, before the end of—

(i) the period of 21 days, beginning with the date on which notice of the county court's order is served on him; or

(ii) such longer period as may be allowed under paragraph (4).

(2) The witness statement must state one and only one of the following—

(a) that the person making it did not receive the notice to owner in question;

(b) that representations were made to the enforcement authority under regulation 4 of the Representations and Appeals Regulations but a notice of rejection was not received from that authority in accordance with regulation 6 of those Regulations;

(c) that an appeal was made to an adjudicator under regulation 7 of those Regulations against the rejection by the enforcement authority of representations made under regulation 4 of those Regulations but—

(i) no response to the appeal was received;

(ii) the appeal had not been determined by the time that the charge certificate had been served; or

(iii) the appeal was determined in the appellant's favour; or

(d) that the penalty charge to which the charge certificate relates has been paid.

(3) Paragraph (4) applies where it appears to a district judge, on the application of a person on whom a charge certificate has been served, that it would be unreasonable in the circumstances of the case to insist on serving his witness statement within the period of 21 days allowed for by paragraph (1).

(4) Where this paragraph applies, the district judge may consider allowing a longer period for service of the witness statement.

(5) Where a witness statement is served under paragraph (1)(c)—

(a) the order of the court is deemed to have been revoked;

(b) the charge certificate is deemed to have been cancelled;

(c) in the case of a statement under paragraph (2)(a), the notice to owner to which the charge certificate relates is deemed to have been cancelled; and

(d) the district judge must serve written notice of the effect of service of the statement on the person making it and on the enforcement authority concerned.

(6) Subject to regulation 19, service of a witness statement under paragraph (2)(a) must not prevent the enforcement authority from serving a fresh notice to owner.

(7) Where a witness statement has been served under paragraph (2)(b), (c) or (d), the enforcement authority must refer the case to the adjudicator who may give such directions as are appropriate in the circumstances and the parties must comply with those directions.

(8) A witness statement under this regulation may be served on the county court by email in accordance with Section 1 of Practice Direction 5B in Part 5 of the Civil Procedure Rules 1998(**a**).

(9) In this regulation—

(a) references to a "notice to owner" include a regulation 10 penalty charge notice; and

(b) "witness statement" means a statement which is a witness statement for the purposes of the Civil Procedure Rules 1998 and which is supported by a statement of truth in accordance with Part 22 of those Rules.

(**a**) S.I. 1998/3132. L17.

PART 6

FINANCIAL PROVISIONS

Modification of section 55 of the Road Traffic Regulation Act 1984

23.—(1) Section 55 of the Road Traffic Regulation Act 1984(**a**) applies in relation to the income and expenditure of enforcement authorities in connection with their functions under Part 6 of the 2004 Act in relation to parking contraventions, subject to the following modifications.

(2) For subsection (1) there is substituted—

"(1) A local authority in Wales which is an enforcement authority must keep an account—

(a) of its income and expenditure in respect of any designated parking places in its area which are not in a civil enforcement area;

(b) of its income and expenditure (otherwise than as an enforcement authority) in respect of designated parking places in its area which are in a civil enforcement area; and

(c) of its income and expenditure in connection with its functions as an enforcement authority in relation to parking contraventions within Part 1, paragraph 4 of Schedule 7 to the 2004 Act.".

(3) For subsection (3A) there is substituted—

"(3A) A local authority in Wales which is an enforcement authority must after the end of each financial year send a copy of the accounts kept under subsection (1) to the Welsh Ministers.".

(4) In subsection (3B) for the words "the end of" there is substituted "the conclusion of the audit of the accounts of the body concerned for".

(5) In subsection (10) after "in this section—" there is inserted—

""the 2004 Act" means the Traffic Management Act 2004;

"enforcement authority" means an authority which is an enforcement authority for the purposes of Part 6 of the 2004 Act (pursuant to paragraph 8(5) of Schedule 8) and references to the functions of an authority as an enforcement authority are to its functions under that Part of that Act.".

Income and expenditure

24.—(1) In connection with its functions as an enforcement authority, a local authority in Wales must keep separate income and expenditure accounts in relation to each of the following types of contravention—

(a) bus lane contraventions as described in Part 2 of Schedule 7 to the 2004 Act; and

(b) moving traffic contraventions as described in Part 4 of Schedule 7 to the 2004 Act,

in addition to those accounts in relation to parking contraventions as described in regulation 23.

(2) A local authority in Wales which is an enforcement authority must, after the end of each financial year, send a copy of each of the accounts kept under subsection (1) to the Welsh Ministers.

(**a**) In relation to Wales, section 55 was amended by the Local Government Act 1985 (c.51), Schedule 17, by the Local Government (Wales) Act 1994 (c.19), Schedule 7, by the New Roads and Street Works Act 1991 (c. 22), Schedule 8, paragraph 46, by the Road Traffic Act 1991, Schedule 7, paragraph 5 and Schedule 8 and by the Traffic Management Act 2004, section 95.

Surpluses to be carried forward

25. Where, immediately before the coming into force of these Regulations there is a surplus in an account which is kept under section 55 of the Road Traffic Regulation Act 1984 as modified in relation to that authority by an Order made under Schedule 3 to the Road Traffic Act 1991 and kept by a local authority the surplus must be carried forward.

Application of sums paid by way of penalty charge

26.—(1) Any surplus in an account which is kept under section 55 of the Road Traffic Regulation Act 1984, must be treated as a surplus arising under that section as modified by regulation 23 and must be applied for all or any of the purposes specified in that section.

(2) Any surplus arising in an account kept by an enforcement authority in relation to bus lane or moving traffic contraventions must be applied for all or any of the purposes specified in paragraph (3) and, insofar as it is not applied, must be appropriated to the carrying out of some specific project falling within those purposes and carried forward until applied to that project.

(3) The purposes referred to in paragraph (2) are—

(a) the making good to the enforcement authority's general fund of any amount charged to that fund in respect of any deficit in the four years preceding the financial year in question;

(b) the purposes of environmental improvement in the enforcement authority's area;

(c) meeting costs incurred, whether by the enforcement authority or by some other person, in the provision or operation of, or of facilities for public passenger transport services; or

(d) the purposes of a highway or road improvement project in the enforcement authority's area.

(4) For the purposes of paragraph (3)(b), "environmental improvement" includes—

(a) the reduction of environmental pollution (as defined in the Pollution Prevention and Control Act 1999(**a**);

(b) improving or maintaining the appearance or amenity of—

(i) a road or land in the vicinity of a road, or

(ii) open land or water to which the general public has access; and

(c) the provision of outdoor recreational facilities available to the public without charge.

(5) For the purposes of paragraph (3)(d), "a highway improvement project" means a project connected with the carrying out by the appropriate highway authority of any operation which constitutes the improvement of a highway (within the meaning of the Highways Act 1980)(**b**).

PART 7

AMENDMENT AND REVOCATION

Revocation

27.—(1) Upon the coming into force of these Regulations, the instruments set out in paragraph (2) are revoked.

(2) The instruments described in paragraph (1) are—

(a) The Civil Enforcement of Parking Contraventions (General Provisions) (Wales) (No.2) Regulations 2008 (**c**); and

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(**a**) 1999 (c.24).
(**b**) 1980 (c.66).
(**c**) S.I. 2008/1214 (W.122). This revoked and replaced S.I. 2008/614 (W.66).

(b) The Civil Enforcement of Parking Contraventions (Penalty Charge Notices, Enforcement and Adjudication) (Wales) Regulations 2008(**a**).

Amendment to paragraph 9(4) of Schedule 7 to the Traffic Management Act 2004

28. The table in paragraph 9(4) of Schedule 7 to the Traffic Management Act 2004 is amended as follows—

(a) After diagram number 957, under the heading "Description" insert: "With flow bus lane which pedal cycles and taxis may also use ahead."

(b) After diagram number 957, under the heading "Diagram number" insert: "958".

(c) After diagram number 958, under the heading "Description", insert: "With flow bus lane which pedal cycles may also use."

(d) After diagram number 958, under the heading "Diagram number" insert: "959."

(e) After diagram number 959.1, under the heading "Description" insert: "Contra flow bus lane."

(f) After diagram number 959.1, under the heading "Diagram number", insert: "960."

Signed by authority of the Lord Chancellor

Name
Parliamentary Under Secretary of State
Ministry of Justice

Date

Name
Minister for Local Government and Communities, one of the Welsh Ministers

Date

(**a**) S.I. 2008/609, as amended by S.I. 2008/913.

SCHEDULES

SCHEDULE 1

Regulation 8

PENALTY CHARGE NOTICES

Contents of a penalty charge notice served under regulation 9

1. A penalty charge notice served under regulation 9 must, in addition to the matters required to be included in it by regulation 3(2) of the Representations and Appeals Regulations, state—

(a) the date on which the notice is served;

(b) the name of the enforcement authority;

(c) the registration mark of the vehicle involved in the alleged contravention;

(d) the date and the time at which the alleged contravention occurred;

(e) the grounds on which the civil enforcement officer issuing the notice believes that a penalty charge is payable;

(f) the amount of the penalty charge;

(g) that the penalty charge must be paid within the period of 28 days beginning with the date on which the alleged contravention occurred;

(h) that if the penalty charge is paid within the period of 14 days beginning with the date on which the notice is served, the penalty charge will be reduced by the amount of any applicable discount;

(i) the manner in which the penalty charge must be paid; and

(j) that if the penalty charge is not paid within the period of 28 days referred to in sub-paragraph (g), a notice to owner may be served by the enforcement authority on the owner of the vehicle.

Contents of a regulation 10 penalty charge notice

2. A regulation 10 penalty charge notice, in addition to the matters required to be included in it by regulation 3(4) of the Representations and Appeals Regulations, must state—

(a) the date of the notice, which must be the date on which it is posted;

(b) the matters specified in paragraphs 1(b), (c), (d), (f) and (i);

(c) the grounds on which the enforcement authority believes that a penalty charge is payable;

(d) that the penalty charge must be paid within the period of 28 days beginning with the date on which the penalty charge notice is served;

(e) that if the penalty charge is paid not later than the applicable date, the penalty charge will be reduced by the amount of any applicable discount;

(f) that if after the last day of the period referred to in sub-paragraph (d)—

(i) no representations have been made in accordance with regulation 4 of the Representations and Appeals Regulations; and

(ii) the penalty charge has not been paid,

the enforcement authority may increase the penalty charge by the amount of any applicable surcharge and take steps to enforce payment of the charge as so increased;

(g) the amount of the increased penalty charge; and

(h) that the penalty charge notice is being served by post for whichever of the following reasons applies—

(i) that the penalty charge notice is being served by post on the basis of a record produced by an approved device;

(ii) that it is being so served, because a civil enforcement officer attempted to serve a penalty charge notice by affixing it to the vehicle or giving it to the person in charge of the vehicle but was prevented from doing so by some person; or

(iii) that it is being so served because a civil enforcement officer had begun to prepare a penalty charge notice for service in accordance with regulation 9, but the vehicle was driven away from the place in which it was stationary before the civil enforcement officer had finished preparing the penalty charge notice or had served it in accordance with regulation 9.

3. In paragraph 2 for the purposes of sub-paragraph (e), the "applicable date" is—

(a) in the case of a penalty charge notice served by virtue of regulation 10(1)(a) (on the basis of a record produced by an approved device), the last day of the period of 21 days beginning with the date on which the notice was served; or

(b) in any other case, the last day of the period of 14 days beginning with that date.

SCHEDULE 2

Regulation 8

FORM OF PENALTY CHARGE NOTICES

PENALTY CHARGE NOTICE BY A CIVIL ENFORCEMENT OFFICER

NAME OF ENFORCEMENT AUTHORITY

PENALTY CHARGE NOTICE SERVED BY A CIVIL ENFORCEMENT OFFICER

(Section 78 of the Traffic Management Act 2004 and Regulation 9 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013)

Penalty Charge Notice Number		Date of issue (dd/mm/yyyy)	//
The motor vehicle with Registration Number			
Tax disc Number		Expiry date	//
Make		Colour	
Was observed at			
On		//	
From (time by 24-hour clock)	:	To (time by 24-hour clock)	:
By Civil Enforcement Officer			
Who had reasonable cause to believe that the following parking contravention had occurred and that a penalty Charge is to be paid			
Contravention Code			
A Penalty Charge of		£	is payable within 28 days of the date of this Penalty Charge Notice
The Penalty Charge will be reduced by 50% to		£	if payment is received within 14 days of the date of this Penalty Charge Notice

Non-payment

If the Penalty Charge is not paid within 28 days of the date of this Notice the enforcement authority is entitled to serve a Notice to Owner (NtO) on the owner of the vehicle, which acts as a final reminder before an additional surcharge is added to the amount of the Penalty Charge.

Challenging the Penalty Charge

You are entitled to challenge this Penalty Charge Notice (PCN) within 28 days of the date of this Notice. Your challenge will be considered by the enforcement authority if it is received before a Notice to Owner (NtO) is served. The enforcement authority may accept the grounds for challenge and cancel the PCN or reject the challenge and issue a Notice to Owner (NtO).

Further representations may be made once the NtO has been served. The NtO will set out the grounds for making further representations and the way in which the representations **must** be made. If the enforcement authority rejects the representations there is a further right of appeal to an adjudicator. Any challenge must be sent to the postal address below and must be in writing.

Instructions for payment
Payment of this PCN must be received within 28 days of the date of this Notice. If payment is received within 14 days of the date of this Notice, the reduced charge shown overleaf will be accepted as payment. You may pay using any of the following methods:

1. BY POST (to the following address)

2. BY TELEPHONE (on the following number(s))

3. IN PERSON (at the following offices)

4. ONLINE (at the following web address)

If paying by post, complete the details below, detach the slip and return it with your payment to the address shown above (Box 1, "BY POST").

PAYMENT SLIP (Print details)

Name: Mr/Mrs/Miss/Dr…….....

Address:……...…….
.....……

Full Penalty		£	
Reduced Penalty (if paid within 14 days)		£	
Penalty Charge Notice Number		Vehicle Registration Number	
Date of contravention		Time of contravention	

ENW'R AWDURDOD GORFODI

HYSBYSIAD TÂL COSB A GYFLWYNWYD GAN SWYDDOG GORFODI SIFIL

(Adran 78 o Ddeddf Rheoli Traffig 2004 a Rheoliad 9 o Reoliadau Gorfodi Sifil ar Dramgwyddau Traffig Ffyrdd (Darpariaethau Cyffredinol) (Cymru) 2013)

Rhif Hysbysiad Tâl Cosb		Dyddiad dyroddi (dd/mm/bbbb)	//
Y cerbyd modur gyda'r Rhif Cofrestru			
Rhif Disg Treth		Dyddiad dod i ben	//
Gwneuthuriad		Lliw	
Gwelwyd yn			
Ar		//	
Rhwng (amser yn ôl y cloc 24 awr)	:	A (amser yn ôl y cloc 24 awr)	:
Gan Swyddog Gorfodi Sifil			
A oedd ag achos rhesymol i gredu bod y tramgwydd parcio a ganlyn wedi digwydd a bod Tâl Cosb i'w dalu.			
Cod Tramgwydd			
Mae Tâl Cosb o		£	i'w dalu cyn pen cyfnod o 28 o ddiwrnodau gan ddechrau ar ddyddiad yr Hysbysiad Tâl Cosb hwn
Caiff y Tâl Cosb ei ostwng o 50% i		£	os daw'r taliad i law cyn pen cyfnod o 14 o ddiwrnodau gan ddechrau ar ddyddiad yr Hysbysiad Tâl Cosb

Peidio â thalu

Os nad ydych wedi talu'r Tâl Cosb cyn pen cyfnod o 28 o ddiwrnodau gan ddechrau ar ddyddiad yr Hysbysiad hwn, mae gan yr awdurdod gorfodi yr hawl i gyflwyno Hysbysiad i'r Perchennog i berchennog y cerbyd, sy'n gweithredu fel nodyn atgoffa terfynol cyn ychwanegu gordal ychwanegol at swm y Tâl Cosb.

Herio'r Tâl Cosb

Mae gennych hawl i herio'r Hysbysiad Tâl Cosb hwn cyn pen cyfnod o 28 o ddiwrnodau gan ddechrau ar ddyddiad yr Hysbysiad hwn. Bydd yr awdurdod gorfodi yn ystyried eich her os daw i law cyn i Hysbysiad i'r Perchennog gael ei gyflwyno. Caiff yr awdurdod gorfodi dderbyn y seiliau dros yr her a diddymu'r Hysbysiad Tâl Cosb neu wrthod yr her a dyroddi Hysbysiad i'r Perchennog.

Cewch wneud sylwadau pellach ar ôl i'r Hysbysiad i'r Perchennog gael ei gyflwyno. Bydd yr Hysbysiad i'r Perchennog yn nodi'r seiliau dros gyflwyno sylwadau pellach a'r ffordd y mae'n **rhaid** cyflwyno'r sylwadau. Os yw'r awdurdod gorfodi yn gwrthod y sylwadau, mae gennych hawl bellach i apelio i ddyfarnydd. Rhaid anfon unrhyw her i'r cyfeiriad post isod a rhaid iddi fod yn ysgrifenedig.

Sut i dalu
Rhaid i'r taliad am yr Hysbysiad Tâl Cosb hwn ddod i law cyn pen cyfnod 28 o ddiwrnodau gan ddechrau ar ddyddiad yr Hysbysiad hwn. Os daw'r taliad i law cyn pen cyfnod o 14 o ddiwrnodau gan ddechrau ar ddyddiad yr Hysbysiad hwn, caiff y tâl llai a ddangosir drosodd ei dderbyn yn daliad. Cewch ddefnyddio unrhyw un o'r dulliau a ganlyn i dalu:

1. DRWY'R POST (i'r cyfeiriad a ganlyn)

2. DROS Y FFÔN (ar y rhif(au) a ganlyn)

3. YN BERSONOL (yn y swyddfeydd a ganlyn)

4. AR LEIN (drwy'r cyfeiriad gwefan a ganlyn)

Os ydych yn talu drwy'r post, rhowch y manylion isod ar y ddalen dalu, torrwch y ddalen honno oddi wrth weddill y ddogfen a'i rhoi ynghlwm â'ch taliad a'u hanfon i'r cyfeiriad uchod (Blwch 1, "DRWY'R POST").

DALEN DALU (Defnyddiwch lythrennau breision i roi'r manylion)

Enw: Mr/Mrs/Miss/Y Dr…….....
Cyfeiriad:

Cosb Lawn		£	
Cosb Lai (os ydych yn talu cyn pen cyfnod o 14 o ddiwrnodau)			
Rhif yr Hysbysiad Tâl Cosb		Rhif Cofrestru'r Cerbyd	
Dyddiad y tramgwydd		Amser y tramgwydd	

PENALTY CHARGE NOTICE SERVED BY POST

NAME OF ENFORCEMENT AUTHORITY

PENALTY CHARGE NOTICE SERVED BY POST

(Section 78 of the Traffic Management Act 2004 and Regulation 10 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013)

Penalty Charge Notice Number		Date of issue (dd/mm/yyyy)	//
The motor vehicle with Registration Number			
Tax disc Number		Expiry date	//
Make		Colour	
Was observed at			
Date of Contravention		//	
From (time by 24-hour clock)	:	To (time by 24-hour clock)	:

EITHER

By Civil Enforcement Officer	
Who had reasonable cause to believe that the following contravention has taken place and that a Penalty Charge is to be paid.	
Contravention Code	

OR

On the basis of evidence recorded by an approved device, the authority believes the following contravention has taken place and that a Penalty Charge is to be paid.	
Contravention Code	

This Penalty Charge Notice (PCN) is being served by post because **EITHER**:

The contravention was recorded by an approved device.	
A Civil Enforcement Officer (CEO) attempted to serve this PCN by affixing it to the vehicle or giving it to the person in charge of the vehicle but was prevented from doing so by some person.	
A Civil Enforcement Officer had begun to prepare this PCN but the vehicle was driven away before the CEO had finished preparing or had served it	

A Penalty Charge of	£	is payable within 28 days of the date of issue of this Notice
Where the PCN is served on the basis that a Civil Enforcement Officer was unable to serve it, the Penalty Charge will be **reduced** by 50% to	£	if payment is received within 14 days of the date of issue of this Notice
Where the PCN is served on the basis of an approved device, the Penalty Charge will be **reduced** by 50% to	£	if payment is received within 21 days of the date of issue of this Notice
The Penalty Charge will be **increased** by 50% to		and steps will be taken to enforce payment if payment is not made within 28 days of the date of issue of this Notice and no challenge is made to the enforcement authority

Challenging the Penalty Charge

You are entitled to challenge this PCN within 28 days of the date of this Notice. Any challenge made after this 28-day period may be disregarded. A challenge may be made on the following grounds:

1	That the contravention did not occur.
2	That you were never the owner of the vehicle in question
3	That you were not the owner/keeper at the time of the contravention and you have supplied details of the person from whom you obtained the vehicle or the person to whom you disposed of the vehicle.
4	That the vehicle was taken without your consent.
5	That the vehicle was hired at the time of the contravention and you have supplied the hirer's details.
6	That the Penalty Charge exceeded the relevant amount.
7	That the enforcement authority did not follow correct procedure in issuing the PCN.
8	That the Traffic Regulation Order under which the PCN issued was invalid.
9	That the PCN has already been paid.
10	That a CEO was not prevented from serving the original PCN, or
11	That there are other compelling reasons why the PCN should be cancelled.

Any challenge must be sent to the postal address below and must be in writing. If a challenge has been considered by the enforcement authority but not accepted, there is a further right of appeal to an adjudicator.

APPROVED DEVICES ONLY

Where the PCN has been issued as a result of a record produced by an approved device, you can write to the enforcement authority and either request that you or your representative attend at the enforcement authority's offices and inspect the record of the contravention free of charge or request images of the contravention be provided to you free of charge.

Instructions for payment

You may pay using any of the following methods:

1. BY POST (to the following address)
(Insert postal address)

2. BY TELEPHONE (on the following number(s))
(Insert telephone number)

3. IN PERSON (at the following offices)
(Insert address of office)

4. ONLINE (at the following we address)
(Insert web address)

If paying by post, complete the details below, detach the slip and return it with your payment to the address shown above (Box 1, "BY POST").

PAYMENT SLIP (Print details)

Name: Mr/Mrs/Miss/Dr…….....

Address:……...……

Full Penalty		£	
Reduced Penalty		£	
Penalty Charge Notice Number		Vehicle Registration Number	
Date of Contravention		Time of contravention	

ENW'R AWDURDOF GORFODI

HYSBYSIAD TÂL COSB A GYFLWYNWYD DRWY'R POST

(Adran 78 o Ddeddf Rheoli Traffig 2004 a Rheoliad 10 o Reoliadau Gorfodi Sifil ar Dramgwyddau Traffig Ffyrdd (Darpariaethau Cyffredinol) (Cymru) 2013)

Rhif yr Hysbysiad Tâl Cosb		Dyddiad dyroddi (dd/mm/bbbb)	//
Y cerbyd modur gyda'r Rhif Cofrestru			
Rhif Disg Treth		Dyddiad dod i ben	//
Gwneuthuriad		Lliw	
Gwelwyd yn			
Dyddiad y tramgwydd		//	
Rhwng (amser yn ôl y cloc 24 awr)	:	a (amser yn ôl y cloc 24 awr)	

NAILL AI

Gan Swyddog Gorfodi Sifil	
A oedd ag achos rhesymol i gredu bod y tramgwydd a ganlyn wedi digwydd a bod Tâl Cosb i'w dalu.	
Cod Tramgwydd	

NEU

Ar sail tystiolaeth a gofnodwyd gan ddyfais a gymeradwyir, mae'r awdurdod yn credu bod y tramgwydd a ganlyn wedi digwydd a bod Tâl Cosb i'w dalu.	
Cod Tramgwydd	

Mae'r Hysbysiad Tâl Cosb hwn yn cael ei gyflwyno drwy'r post achos **NAILL AI**:

Cofnodwyd y tramgwydd gan ddyfais a gymeradwyir.	
Ceisiodd Swyddog Gorfodi Sifil gyflwyno'r Hysbysiad Tâl Cosb hwn drwy ei roi ar y cerbyd neu drwy ei roi i'r person a oedd â gofal am y cerbyd ond rhwystrodd y person hwnnw y Swyddog rhag gwneud hynny.	

Roedd Swyddog Gorfodi Sifil wedi dechrau llunio'r Hysbysiad Tâl Cosb hwn ond cafodd y cerbyd ei yrru i ffwrdd cyn i'r Swyddog orffen ei lunio neu ei gyflwyno.	

Mae Tâl Cosb o	£	i'w dalu cyn pen cyfnod o 28 o ddiwrnodau gan ddechrau ar ddyddiad dyroddi'r Hysbysiad hwn
Pan fydd yr Hysbysiad Tâl Cosb yn cael ei gyflwyno ar y sail nad oedd modd i Swyddog Gorfodi Sifil ei gyflwyno, caiff y Tâl Cosb ei **ostwng** o 50% i	£	os daw'r tâl i law cyn pen cyfnod o 14 o ddiwrnodau gan ddechrau ar y dyddiad dyroddi'r Hysbysiad hwn
Pan fydd Hysbysiad Tâl Cosb yn cael ei gyflwyno ar sail dyfais a gymeradwyir, caiff y Tâl Cosb ei **ostwng** o 50% i	£	os daw'r tâl i law cyn pen cyfnod o 21 o ddiwrnodau gan ddechrau ar y dyddiad dyroddi'r Hysbysiad hwn
Caiff y Tâl Cosb ei **godi** o 50% i	£	a chaiff camau eu cymryd i'ch gorfodi i dalu os na thalwch y Tâl Cosb cyn pen cyfnod o 28 o ddiwrnodau gan ddechrau ar ddyddiad dyroddi'r Hysbysiad hwn ac os nad ydych yn herio'r awdurdod gorfodi am y Tâl Cosb

Herio'r Tâl Cosh

Mae gennych hawl i herio'r Hysbysiad Tâl Cosb hwn cyn pen cyfnod o 28 o ddiwrnodau gan ddechrau ar ddyddiad yr Hysbysiad hwn. Mae'n bosibl y bydd unrhyw her a wneir ar ôl y cyfnod hwn o 28 o ddiwrnodau ei diystyried. Gallwch herio ar y seiliau a ganlyn:

1	Ni ddigwyddodd y tramgwydd
2	Ni fuoch erioed yn berchennog ar y cerbyd dan sylw
3	Nid chi oedd y perchennog/ceidwad adeg y tramgwydd ac rydych wedi rhoi manylion y person y cawsoch y cerbyd oddi wrtho neu'r person y rhoddasoch neu y gwerthasoch y cerbyd iddo
4	Cymerwyd y cerbyd heb eich cydsyniad
5	Llogwyd y cerbyd adeg y tramgwydd ac rydych wedi rhoi manylion y llogwr
6	Mae'r Tâl Cosb yn uwch na'r swm perthnasol
7	Nid oedd yr awdurdod gorfodi wedi dilyn y weithdrefn gywir wrth ddyroddi'r Hysbysiad Tâl Cosb
8	Mae'r Gorchymyn Rheoli Traffig y gwnaed yr Hysbysiad Tâl Cosb odano yn annilys
9	Mae'r Hysbysiad Tâl Cosb eisoes wedi ei dalu
10	Ni rwystrwyd Swyddog Gorfodi Sifil rhag cyflwyno'r Hysbysiad Tâl Cosb gwreiddiol, neu
11	Mae rhesymau cadarn eraill pam y dylid diddymu'r Hysbysiad Tâl Cosb.

Rhaid anfon unrhyw her i'r cyfeiriad post isod a rhaid iddi fod yn ysgrifenedig. Os yw'r awdurdod gorfodi yn ystyried yr her ond heb ei derbyn, mae gennych hawl bellach i apelio i ddyfarnydd.

DYFEISIAU A GYMERADWYIR YN UNIG
Pan fydd yr Hysbysiad Tâl Cosb wedi ei ddyroddi o ganlyniad i gofnod a gynhyrchwyd gan ddyfais a gymeradwyir, gallwch ysgrifennu i'r awdurdod gorfodi a gofyn naill ai i chi neu'ch cynrychiolydd gael mynd i swyddfeydd yr awdurdod gorfodi i edrych ar y cofnod o'r tramgwydd a hynny'n rhad ac am ddim, neu i'r awdurdod roi delweddau o'r tramgwydd i chi yn rhad ac am ddim.

Sut i dalu
Cewch ddefnyddio unrhyw un o'r dulliau a ganlyn i dalu:

1. DRWY'R POST (i'r cyfeiriad a ganlyn)

2. DROS Y FFÔN (ar y rhif(au) a ganlyn)

3. YN BERSONOL (yn y swyddfeydd a ganlyn)

4. AR LEIN (drwy'r cyfeiriad gwefan a ganlyn)

Os ydych yn talu drwy'r post, rhowch y manylion isod ar y ddalen dalu, torrwch y ddalen honno oddi wrth weddill y ddogfen a'i rhoi ynghlwm â'ch taliad a'u hanfon i'r cyfeiriad uchod" (Blwch 1, "DRWY'R POST").

DALEN DALU (Defnyddiwch lythrennau breision i roi'r manylion)

Enw: Mr/Mrs/Miss/Y Dr…….....
Cyfeiriad:……...……
……

Cosb Lawn		£	
Cosb Lai		£	
Rhif yr Hysbysiad Tâl Cosb		Rhif Cofrestru'r Cerbyd	
Dyddiad y tramgwydd		Amser y tramgwydd	

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Civil Enforcement of Parking Contraventions (General Provisions) (Wales) (No.2) Regulations 2008 (S.I. 2008/1214 (W.122)) and the Civil Enforcement of Parking Contraventions (Penalty Charge Notices, Enforcement and Adjudication) (Wales) Regulations 2008 (S.I. 2008/609).

These Regulations provide for the civil enforcement of road traffic contraventions in Wales in accordance with Part 6 of the Traffic Management Act 2004. Part 6 of the 2004 Act and statutory instruments made thereunder supersede the provisions of Part II of and Schedule 3 to the Road Traffic Act 1991. These Regulations should be read in conjunction with the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013 (S.I. 2013/xxxx) and the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) Removed Vehicles (Wales) Regulations (S.I. 2013/xxxx).

Regulation 3 makes provision for the service of a penalty charge notice by post. Regulation 4 enables a penalty charge to be imposed for specified types of road traffic contravention. A penalty charge is payable by the owner of the vehicle concerned (regulation 5(2)), except in the circumstances specified in regulation 5(3) (vehicle hired from a vehicle hiring firm under a vehicle hiring agreement). In accordance with regulation 6, a penalty charge is not to be imposed except on the basis of a record produced by an "approved device" (see section 92(1) of the Traffic Management Act 2004 and the Civil Enforcement of Road Traffic Contraventions (Approved Devices) (Wales) Order 2013 (S.I. 2013/xxxx)) or information given by a civil enforcement officer as to conduct observed by that officer. Regulation 7 provides that a penalty charge is not to be payable for a road traffic contravention where the contravention is the subject of criminal proceedings or a fixed penalty notice has been given under the Road Traffic Offenders Act 1988, but, if a penalty charge is in fact paid in either of those circumstances, it must be refunded by the enforcement authority.

Regulation 8 defines a penalty charge notice and introduces the Schedules which make detailed provision as to the form and content of such notices. Regulation 9 enables a civil enforcement officer, where that officer has reason to believe that a penalty charge is payable for a stationary vehicle in a civil enforcement area, to fix a penalty charge notice to the vehicle or hand one to the person appearing to him to be in charge of it. Regulation 10 makes provision for the service of a penalty charge notice by post, on the basis of the evidence of an approved device or where a civil enforcement officer has been prevented by some person from serving one in accordance with regulation 9, or had begun to prepare a penalty charge notice in accordance with regulation 9, but the vehicle was driven away before it had been served, and for time limits applicable to notices served by post. Regulation 11 makes it an offence to interfere with a penalty charge notice served by its being fixed to a vehicle, except by or under the authority of the owner or person in charge of the vehicle or the enforcement authority.

Provision is made by Part 3 for the immobilisation of vehicles for parking contraventions. Regulation 12 defines when an immobilisation device may be fixed to a vehicle, requires a notice to be fixed to the vehicle at the time of immobilisation and creates the offences of interfering with the notice or the immobilisation device. Regulation 13 specifies exceptions to the general power to immobilise and regulation 14 specifies the pre-requisites for the release of a vehicle from an immobilisation device.

Part 4 provides for the appointment of adjudicators by enforcement authorities and for the functions of those authorities relating to adjudicators to be discharged through joint committees. Regulation 15 requires the Welsh enforcement authorities to act through one or more joint committees and also provides for arrangements under the 1991 Act to be continued as between Welsh and (where required) English enforcement authorities until superseded. Enforcement authorities are required by regulation 16 to appoint a sufficient number of adjudicators and provision is made for parking adjudicators holding office under the 1991 Act immediately before the coming into force of these Regulations to continue in office. Regulation 17 deals with the expenses of the relevant authorities, providing for the Welsh enforcement authorities to refer

decisions concerning the apportionment of expenses to an independent arbitrator and gives the Welsh Ministers power to give directions to the joint committee to refer such matters for arbitration.

Part 5 is concerned with the enforcement of penalty charges. Regulations 18 and 19 provide for the service of a notice to owner by an enforcement authority in respect of an unpaid penalty charge and specify the contents of a notice to owner and the time limit for service. Provision is made by regulations 20, 21 and 22 for the service of charge certificates in respect of unpaid penalty charges (where a notice to owner or penalty charge notice under regulation 10 has been served and the avenues of appeal have not been pursued or have been pursued unsuccessfully), for charge certificates to be enforced through a county court and for county court orders to be set aside where the respondent serves a witness statement stating one of the matters mentioned in regulation 22(2).

In Part 6, regulation 23 applies section 55 of the Road Traffic Regulation Act 1984 ("the 1984 Act"), with modifications, to the income and expenditure of enforcement authorities from parking places under Part 6 of the Traffic Management Act 2004. Regulation 24 makes provision for separate accounts to be kept in respect of the income and expenditure from bus lane and moving traffic contraventions respectively. Regulation 25 provides that a surplus in an account kept under section 55 of the 1984 Act must be carried forward and regulation 26 specifies the purposes for which those funds, and any surplus resulting from bus lane and moving traffic contraventions, must be applied.

Part 7 deals with revocation of previous legislation and amendment to Schedule 7 to the Traffic Management Act 2004 to allow further traffic signs to be included for moving traffic contravention purposes.

A full Regulatory Impact Assessment and Explanatory Memorandum can be obtained from the Integrated Transport Unit, Transport, Planning and Governance Division, Transport Wales, Welsh Government, Cathays Park, Cardiff, CF10 3NQ or on the Welsh Government website at http://