STATUTORY INSTRUMENTS

2009 No. 2085

ROAD TRAFFIC, ENGLAND

The Workplace Parking Levy (England) Regulations 2009

Made - - - -	*28th July 2009*
Laid before Parliament	*31st July 2009*
Coming into force - -	*1st October 2009*

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

PART 1

PRELIMINARY

Citation, commencement and application

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

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

Interpretation

2.—(1) In these Regulations—

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

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

"licence charge" means the charge for the grant of a licence;

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

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

"penalty charge" means a charge imposed under regulation 5;

"penalty charge notice" means a notice served under regulation 8.

(2) In these Regulations, where an arrangement has been made for any function under a joint local licensing scheme to be discharged by one of the licensing authorities, "licensing authority" means the authority on which the function has been conferred by the arrangement.

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

PART 2

LICENSING SCHEMES AND LICENCE CHARGES

Exemption of licensing scheme orders from confirmation requirement

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

(a) the order varies a licensing scheme, and

(b) its sole purpose is to provide for licence charges to be altered in line with alterations in the retail prices index.

(2) In this regulation "retail prices index" has the meaning given in section 21(4) of the Statistics and Registration Service Act 2007(**a**).

Liability to pay licence charge

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

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

(b) provided the licensing authority with such evidence of those arrangements as that authority may reasonably require.

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

PART 3

PENALTY CHARGES

Imposition of penalty charges

Imposition of penalty charges

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

(a) where a person is providing a workplace parking place at any premises in the area covered by a licensing scheme and there is no licence in force in respect of those premises;

(b) where a person is providing a workplace parking place at licensed premises in circumstances where the number of vehicles (excluding exempt vehicles) occupying workplace parking places at those premises exceeds the maximum number of workplace parking places covered by the licence;

(c) if a condition in a licence (other than a condition as to the number of vehicles which may occupy workplace parking places at licensed premises) has been contravened.

(2) Where a licensing scheme provides for the imposition of a penalty charge it must specify the period within which the charge must be paid and may specify different periods for different circumstances.

(3) A licensing scheme may not specify under paragraph (2) a period of less than 28 days beginning on the date on which the penalty charge notice is served.

(**a**) 2007 c.18.

Rates of penalty charges

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

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

Liability to pay penalty charges

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

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

(b) provided the licensing authority with such evidence of those arrangements as that authority may reasonably require.

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

Enforcement of penalty charges

Penalty charge notices

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

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

(3) A penalty charge notice must state—

(a) the amount of the penalty charge to which it relates;

(b) all the circumstances in which a penalty charge is payable and the date and time at which each of those circumstances occurred;

(c) the period specified in the licensing scheme within which the penalty charge must be paid;

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

(e) if the licensing scheme so provides, the amount of the reduced penalty charge if it is duly paid in the time specified in the notice;

(f) the grounds on which the chargee may make representations under regulation 9;

(g) the amount of the increased penalty charge if, before the end of the relevant period determined under regulation 13—

(i) the penalty charge is not paid, or

(ii) no representations are made under regulation 9, and

(h) the address to which payment of the penalty charge must be sent.

(4) In this regulation and regulations 9 to 15 "chargee" means—

(a) the person on whom the penalty charge notice is served; or

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

Representations against penalty charge notices

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

(2) The grounds are that—

(a) the circumstances stated in the penalty charge notice—

(i) did not occur, or

(ii) did not occur at the date or time or in the manner specified in the notice;

(b) the penalty charge exceeded the amount applicable in the circumstances of the case.

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

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

(a) to consider them and any supporting evidence which is provided with them, and

(b) to serve on the chargee notice of its decision as to whether or not it accepts that the ground in question has been established (and, if it accepts that it has, whether completely or partially).

Cancellation of penalty charge notices

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

(a) cancel the penalty charge notice; and

(b) state in the notice served under regulation 9(4)(b) that the notice has been cancelled.

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

Rejection of representations against penalty charge notices

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

(a) a charge certificate may be served under regulation 13 unless—

(i) the penalty charge is paid, or

(ii) the chargee appeals against the licensing authority's decision, and

(b) the chargee has a right of appeal to a county court.

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

Appeals

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

(2) An appeal under this regulation—

(a) is a re-hearing of the licensing authority's decision to impose a charge, and

(b) may be determined having regard to matters of which the licensing authority was unaware.

(3) On an appeal the court may either—

(a) quash the notice of rejection and substitute such decision of its own as it thinks fit for the decision of the licensing authority under regulation 9(4), or

(b) dismiss the appeal.

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

Charge certificates

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

(2) The licensing authority may—

(a) cancel a charge certificate, and

(b) if the authority thinks fit in such a case, serve a further charge certificate.

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

(a) where no representations are made, the period specified in the licensing scheme within which the penalty charge must be paid;

(b) where—

(i) representations are made,

(ii) a notice of rejection is served, and

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

the period of 28 days beginning with the date on which the notice of rejection is served;

(c) where an appeal against a notice of rejection is dismissed, the period of 28 days beginning with the date of service of the order dismissing the appeal; and

(d) where an appeal against a notice of rejection is made but is withdrawn before a county court makes an order under regulation 12(3), the period of 14 days beginning with the date on which the appeal is withdrawn.

Payment of increased penalty charge

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

Recovery of unpaid penalty charges

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

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

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

Service of notices etc

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

(a) by delivering it to that person or by leaving it at that person's proper address,

(b) by sending it by first class (but not second class) post to that person at that address, or

(c) if the person is a body corporate, by serving it in accordance with sub-paragraph (a) or (b) on the secretary, clerk or principal officer of that body,

(d) if the person is a partnership, by serving it in accordance with sub-paragraph (a) or (b) on a partner or a person having the control or management of the partnership business, or

(e) by means of any form of electronic communication which is agreed with the person to whom it is to be sent.

(2) For the purposes of paragraph (1), and of section 7 of the Interpretation Act 1978(**a**) (service of documents by post) in its application to this regulation, the proper address of a person is—

(a) in the case of an individual, that person's last known address,

(b) in the case of the secretary, clerk or principal officer of a body corporate, the address of the registered office of the body or its principal office in the United Kingdom,

(c) in the case of a partner in, or a person having the control or management of, a partnership, it is the address of the principal office of the partnership in the United Kingdom,

but subject to paragraph (3).

(3) If a person to be served with a relevant notice has notified the licensing authority of an address within the United Kingdom other than that person's proper address at which that person, or another acting on that person's behalf, will accept service of a relevant notice, that address is the person's proper address.

(4) Unless the contrary is proved, service of a relevant notice sent by a form of electronic communication shall, if sent to an agreed fax telephone number or electronic address, be taken to have been effected on the first working day after the day on which it was transmitted.

(5) In paragraph (4), "working day" means any day except—

(a) a Saturday or a Sunday;

(b) New Year's Day;

(c) Good Friday;

(d) Christmas Day; and

(e) any other day which is a bank holiday in England under the Banking and Financial Dealings Act 1971(**b**).

Signed by authority of the Secretary of State for Transport

Paul Clark
Parliamentary Under Secretary of State,
Department for Transport

22nd July 2009

Signed by authority of the Lord Chancellor

Claire M. Ward
Parliamentary Secretary,
Ministry of Justice

28th July 2009

(**a**) 1978 c.30.
(**b**) 1971 c. 80.

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

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

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

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

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

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

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

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

Regulations 14 and 15 provide for the payment of penalty charges and for their recovery by court order if necessary.

Regulation 16 provides for the service of notices.

An Explanatory Memorandum and an Impact Assessment, showing the effect this instrument will have on the costs of business and the voluntary and public sectors, have been produced. They are available from the Road Demand Management Division, Department for Transport, Zone 3/05 Great Minster House, 76 Marsham Street, London SW1P 4DR or may be accessed via the Office of Public Sector Information website at www.opsi.gov.uk. A copy has been placed in the library of each House of Parliament.

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