

*Draft Regulations laid before Parliament under section 87(8) of the Environment Act 1995, for approval by resolution of each House of Parliament.*

---

D R A F T   S T A T U T O R Y   I N S T R U M E N T S

---

**2017 No. 000**

**ENVIRONMENTAL PROTECTION, ENGLAND**

**The Air Quality (Mandatory Road User Charging Schemes)  
(England) Regulations 2017**

*Made* - - - - - \*\*\*  
*Coming into force* - - - - - \*\*\*

**CONTENTS**

1. Citation, commencement, extent and application
2. Interpretation
3. Charging authorities and public authorities to which these Regulations apply
4. Duty to prepare a draft charging scheme
5. Inquiry in respect of a draft charging scheme
6. Duty to submit a draft charging scheme to the Secretary of State
7. Approval of a draft charging scheme by the Secretary of State
8. Making a charging scheme
9. The power to vary or revoke a charging scheme
10. Variation of a charging scheme at the request of the Secretary of State
11. Suspending a charging scheme
12. Restriction on powers to introduce a further motor vehicle charging scheme
13. Duty of public authorities to co-operate and provide information
14. Guidance
15. Review

The Secretary of State makes these Regulations in exercise of the powers conferred by section 87(1), (2)(j), (l) and (5) of the Environment Act 1995(a).

In accordance with section 87(7) of that Act(b), the Secretary of State has consulted the Environment Agency, such bodies or persons appearing to the Secretary of State to be representative of the interests of local government and of industry as the Secretary of State considers appropriate, and such other bodies or persons as the Secretary of State considers appropriate.

---

(a) 1995 c.25; section 87(1) was amended by S.I. 2011/1043.  
(b) Section 87(7) was amended by S.I. 2013/755.

A draft of this instrument has been approved by a resolution of each House of Parliament pursuant to section 87(8) of that Act.

### **Citation, commencement, extent and application**

1.—(1) These Regulations may be cited as the Air Quality (Mandatory Road User Charging Schemes) (England) Regulations 2017 and come into force on [date].

(2) These Regulations extend to England and Wales but apply to England only.

### **Interpretation**

2. In these Regulations—

“the 1995 Act” means the Environment Act 1995;

“the 1999 Act” means the Greater London Authority Act 1999(a);

“the 2000 Act” means the Transport Act 2000(b);

“air quality objectives” means objectives prescribed for the purposes of Part 4 of the 1995 Act under section 87(2)(b) of that Act;

“air quality plan” means a plan drawn up by the Secretary of State in accordance with regulation 26(1) of the Air Quality Standards Regulations 2010(c);

“air quality standards” means standards prescribed for the purposes of Part 4 of the 1995 Act under section 87(2)(a) of that Act;

“charging authority” means an authority referred to in section 295(1) of the 1999 Act or in section 163(3)(a), (b), (bb), (c) or (cc) of the 2000 Act to which these Regulations apply by virtue of regulation 3;

“charging scheme” means a scheme required to be made in accordance with these Regulations to impose charges in respect of the keeping or use of motor vehicles on roads under—

(a) section 295(1) of, and Schedule 23 to, the 1999 Act(d), or

(b) section 163(3)(a), (b), (bb), (c) or (cc) of the 2000 Act(e);

“draft charging scheme” means a charging scheme prepared by a charging authority under regulation 4;

“motor vehicle” has the same meaning as in section 185(1) of the Road Traffic Act 1988(f) or in the case of a charging scheme made under the 1999 Act, the same meaning as in section 295(3) of that Act;

“public authority” has the same meaning as in section 3 of the Freedom of Information Act 2000(g);

“varied charging scheme” means a charging scheme varied by a charging authority at the request of the Secretary of State under regulation 10.

### **Charging authorities and public authorities to which these Regulations apply**

3.—(1) These Regulations apply to—

(a) Birmingham City Council, Derby City Council, Leeds City Council, Nottingham City Council and Southampton City Council;

---

(a) 1999 c.29.

(b) 2000 c.38.

(c) S.I. 2010/1001.

(d) Schedule 23 was amended by section 199 and Schedule 13 of the Transport Act 2000 (c.38) and sections 112, 113, 115-118, 120 and Part 1 and 2 of Schedule 6 of the Local Transport Act 2008 (c.26).

(e) Section 163(3) was amended by section 103(2) of the Local Transport Act 2008 (c.26) and paragraph 102(2) of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 (c.20).

(f) 1988 c.52.

(g) 2000 c.36.

- (b) any other charging authority to which the Secretary of State has issued a notice under paragraph (2);
- (c) any public authority that a charging authority requests co-operation or information from in accordance with regulation 13.

(2) The Secretary of State may issue a notice to a charging authority if the Secretary of State considers it is appropriate for that authority to exercise its powers to make a charging scheme for the purposes of the achievement of air quality standards, air quality objectives and any air quality plan.

(3) A notice under paragraph (2) may apply to two or more charging authorities.

(4) Before issuing a notice under paragraph (2), the Secretary of State must consult such persons as the Secretary of State thinks appropriate and must give a reasonable period for representations to be made to the Secretary of State in response to that consultation.

(5) Charging authorities must co-operate with each other in the discharge of their obligations under these Regulations where more than one charging authority has powers in relation to the whole or part of their combined areas to make a charging scheme—

- (a) in respect of the cities specified in paragraph (1)(a);
- (b) if the Secretary of State has issued a notice under paragraph 1(b) naming two or more charging authorities and specifying that those authorities should co-operate in the discharge of their functions under these Regulations.

(6) Where two or more charging authorities are required co-operate in accordance with paragraph (5), any reference to a charging authority in these Regulations is a reference to all or any of the charging authorities concerned.

#### **Duty to prepare a draft charging scheme**

4.—(1) A charging authority must prepare a draft charging scheme in respect of some or all of the area for which it is responsible, for the purpose of reducing emissions from motor vehicles in that area.

(2) The charging authority must prepare the draft charging scheme having regard to any air quality plan which has been made in respect of an area in England where the draft charging scheme is intended to apply.

#### **Inquiry in respect of a draft charging scheme**

5.—(1) The power to hold an inquiry under paragraph 4(3)(b) of Schedule 23 to the 1999 Act or under section 170(2)(a) of the 2000 Act (as the case may be) in relation to a draft charging scheme is subject to paragraphs (2) to (4).

(2) An inquiry may only be caused to be held if it is necessary to do so, notwithstanding any other opportunities to make representations in relation to the draft charging scheme.

(3) Before an inquiry is caused to be held in accordance with paragraph (2), a charging authority must consult the Secretary of State and—

- (a) submit to the Secretary of State a proposed timetable for the completion of the inquiry, and
- (b) inform the Secretary of State whether the inquiry will be in addition to or instead of any other opportunity to make representations about the draft charging scheme.

(4) Where a charging authority consults the Secretary of State under paragraph (3), the Secretary of State must give written consent to the timetable before the inquiry begins.

#### **Duty to submit a draft charging scheme to the Secretary of State**

6.—(1) A charging authority must submit a draft charging scheme to the Secretary of State within 12 months of—

- (a) where regulation 3(1)(a) applies, the date on which these Regulations come into force;

(b) where regulation 3(1)(b) applies, the date on which the notice is issued under that regulation.

(2) The Secretary of State may extend the deadline by which the draft charging scheme must be submitted under paragraph (1).

(3) When submitting a draft charging scheme, the charging authority must provide the Secretary of State with the following information—

- (a) the date on which it is proposed that the draft charging scheme will come into effect;
- (b) confirmation that consultation in respect of the draft charging scheme, undertaken in accordance with paragraph 4(3)(a) of Schedule 23 to the 1999 Act or section 170(1A), (1C) or 5(a) the 2000 Act<sup>(a)</sup> (as the case may be), has been completed;
- (c) a summary of any responses received in response to any consultation and of the changes (if any) made to the draft charging scheme following that consultation;
- (d) in the case of a scheme under the 1999 Act, confirmation that the draft charging scheme conforms with the transport strategy which applies in the area that the draft charging scheme covers;
- (e) in the case of a charging scheme under the 2000 Act, confirmation that the draft charging scheme facilitates the achievement of the local transport policies (where applicable) which apply in the area that the draft charging scheme covers;
- (f) confirmation—
  - (i) that no inquiry under paragraph 4(3)(b) of Schedule 23 to the 1999 Act or section 170(2)(a) of the 2000 Act (as the case may be) has been held or is due to be held, or
  - (ii) that an inquiry under either of those provisions has taken place in accordance with the timetable agreed by the Secretary of State under regulation 5(4).

(4) In this regulation—

“local transport policies” has the meaning given by section 108(5) of the 2000 Act;

“transport strategy” has the meaning given by section 142(1) of the 1999 Act.

### **Approval of a draft charging scheme by the Secretary of State**

7.—(1) Where a draft charging scheme is submitted under regulation 6, the Secretary of State may by notice to the charging authority—

- (a) approve the scheme with or without modifications, or
- (b) require the charging authority to prepare a revised draft charging scheme addressing such matters as the notice may specify.

(2) A revised draft charging scheme under paragraph (1)(b) must be submitted to the Secretary of State for approval by such date as is specified in the notice.

(3) The Secretary of State may only issue a notice under paragraph (1)(b) if the Secretary of State considers that the draft charging scheme—

- (a) has been drafted by the charging authority without sufficient regard to any guidance given by the Secretary of State under regulation 14;
- (b) has not been subject to adequate consultation;
- (c) has been drafted by the charging authority without sufficient regard to any responses made during the consultation;

---

(a) Section 170(1A) and (1C) were substituted, for subsection (1) as originally enacted, by section 111(2) of the Local Transport Act 2008. Section 170(1A) was amended by paragraph 110(2) of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009. Section 5 was amended by paragraph 6(2) of Schedule 5 to the Local Transport Act 2008.

- (d) has been drafted by the charging authority without sufficient regard to any air quality plan which has been made in respect of the area in England where the draft charging scheme is intended to apply;
- (e) will not sufficiently contribute towards the achievement of air quality standards and air quality objectives in that area.

### **Making a charging scheme**

**8.**—(1) Where a draft charging scheme has been approved under regulation 7(1)(a), the charging authority must make the charging scheme (with any modifications required by the Secretary of State) in the form approved as soon as is reasonably practicable in accordance with (as the case may be)—

- (a) Schedule 23 to the 1999 Act, or
- (b) section 168 of the 2000 Act(a) and any regulations made under that section.

(2) In the case of a charging scheme to be made in accordance with paragraph (1)(a), the power in paragraphs 4(3)(d) of Schedule 23 to the 1999 Act must not be exercised without the prior written consent of the Secretary of State.

### **The power to vary or revoke a charging scheme**

**9.** The power to vary or revoke a charging scheme by order under paragraph 38 of Schedule 23 to the 1999 Act(b) or section 168(2) of the 2000 Act (as the case may be) must not be exercised in respect of a charging scheme made pursuant to regulation 8(1) without the prior written consent of the Secretary of State.

### **Variation of a charging scheme at the request of the Secretary of State**

**10.**—(1) A charging authority must vary a charging scheme made pursuant to regulation 8(1) in accordance with a notice issued by the Secretary of State.

(2) A notice under paragraph (1) may require (but is not limited to requiring) one or more of the following variations—

- (a) an increase in the size of the area to which the charging scheme applies (which must be no greater than the whole of the area that the charging authority has powers under the 1999 Act or the 2000 Act (as the case may be) to apply the scheme to);
- (b) a reduction in the size of the area to which the charging scheme applies;
- (c) the addition or removal of descriptions of motor vehicles or measures to which the charging scheme applies.

(3) An inquiry may be caused to be held in relation to a varied charging scheme in accordance with regulation 5, and for that purpose references in that regulation to a draft charging scheme are to be read as references to a varied charging scheme.

(4) The charging authority must submit a varied charging scheme to the Secretary of State within 12 months of the date on which the notice was issued.

(5) The Secretary of State may extend the deadline by which the varied charging scheme must be submitted under paragraph (4).

(6) When submitting a varied charging scheme, the charging authority must provide the Secretary of State with the information specified in regulation 6(3)(a) to (f), and for that purpose references in that regulation to a draft charging scheme are to be read as references to a varied charging scheme.

(7) Where a varied charging scheme is submitted to the Secretary of State in accordance with paragraph (4), the Secretary of State may by notice to the charging authority—

---

(a) Section 168 was amended by paragraph 4 of Schedule 5 to the Local Transport Act 2008 and paragraph 109 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009.

(b) Paragraph 38 was amended by paragraph 18 of Schedule 13 and Part 3 of Schedule 31 to the 2000 Act.

- (a) approve the varied charging scheme with or without modifications;
- (b) require the charging authority to prepare a revised varied charging scheme addressing such matters as the notice may specify.

(8) A revised varied charging scheme under paragraph (7)(b) must be submitted to the Secretary of State for approval by such date as is specified in the notice.

(9) The Secretary of State may only issue a notice under paragraph (7)(b) if the Secretary of State considers that the varied charging scheme—

- (a) has been drafted by the charging authority without sufficient regard to any guidance given by the Secretary of State under regulation 14;
- (b) has not been subject to adequate consultation;
- (c) has been drafted by the charging authority without sufficient regard to any responses made during the consultation;
- (d) has been drafted by the charging authority without sufficient regard to any air quality plan which has been made in respect of the area in England where the varied charging scheme is intended to apply;
- (e) will not sufficiently contribute towards the achievement of air quality standards and air quality objectives in that area.

(10) Where a varied charging scheme has been approved under paragraph (7)(a), the charging authority must make the charging scheme (with any modifications required by the Secretary of State) in the form approved as soon as is reasonably practicable in accordance with (as the case may be)—

- (a) Schedule 23 to the 1999 Act, or
- (b) section 168 of the 2000 Act and any regulations made under that section.

### **Suspending a charging scheme**

**11.**—(1) The power to suspend a charging scheme under section 172A of the 2000 Act<sup>(a)</sup> must not be exercised in respect of a charging scheme made pursuant to regulation 8(1) or 10(10) (as the case may be) without the prior written consent of the Secretary of State.

(2) But in the event of an emergency, a charging authority may suspend a charging scheme in order to enable or facilitate any action to take place in response to the emergency, and the charging authority must inform the Secretary of State of that decision as soon as is reasonably practicable.

### **Restriction on powers to introduce a further motor vehicle charging scheme**

**12.** A charging authority which has made a charging scheme under regulation 8(1) or 10(10) must not exercise its powers to make a motor vehicle charging scheme under the 1999 Act or the 2000 Act (as the case may be) in relation to the same area to which that charging scheme applies or is intended to apply without the prior written consent of the Secretary of State.

### **Duty of public authorities to co-operate and provide information**

**13.**—(1) A charging authority may—

- (a) request the co-operation of a public authority in the exercise of its functions under these Regulations;
- (b) request information from a public authority which it requires for the purposes of the exercise of its functions under these Regulations.

(2) A public authority must comply with a request under paragraph (1) unless it considers that doing so would—

---

(a) Section 172A was inserted by section 114 of the Local Transport Act 2008.

- (a) be incompatible with the authority's own duties, or
- (b) have an adverse effect on the exercise of the authority's functions.

(3) A public authority which does not to comply with a request under paragraph (1) must give reasons for its decision not to do so.

### **Guidance**

**14.**—(1) Where the Secretary of State issues guidance in relation to these Regulations under section 88(1) of the 1995 Act (whether or not in combination with guidance issued under section 108(2ZB)(b), 112(1) or 193(1) of the 2000 Act(a)), the guidance must take account of any air quality plan.

(2) A charging authority, in exercising any of its functions under these Regulations, must have regard to guidance issued under paragraph (1).

### **Review**

**15.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision,
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(3) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(4) Subsequent reports under this regulation must be published at intervals not exceeding five years.

(5) In this regulation, “regulatory provision” has the meaning given by section 32(4) of the Small Business, Enterprise and Employment Act 2015(b).

*Name*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

### **EXPLANATORY NOTE**

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

These Regulations, which apply in England only, require certain charging authorities in England to prepare motor vehicle charging schemes using their powers under the Transport Act 2000 (c.38), or in London under the Greater London Authority Act 1999 (c.29), as a measure to implement air quality plans drawn up by the Secretary of State under the Air Quality Standards Regulations 2010 (S.I. 2010/1001). Those plans address air quality objectives, which are

---

(a) Section 108(2ZB) was inserted by section 8(4) of the Local Transport Act 2008 (c.26). Section 112(1) was amended by section 10(4) of, and Part 1 of Schedule 7 to, that Act. Section 193(1) was amended by paragraph 8(2) of Schedule 5 to that Act and paragraph 112 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 (c.20).

(b) 2015 c. 26.

prescribed in regulation 4 of, and the Schedule to, the Air Quality (England) Regulations 2000 (S.I. 2000/928).

Regulation 3 sets out those charging authorities which must prepare a charging scheme in accordance with the Regulations (namely Birmingham City Council, Derby City Council, Leeds City Council, Nottingham City Council and Southampton City Council), and gives the Secretary of State the power to require other charging authorities to bring forward charging schemes if the Secretary of State is of the opinion that it is necessary to address air quality standards and objectives in England.

Regulation 4 requires a charging authority to prepare a draft charging scheme. Regulation 5 concerns the holding of public inquiries in respect of draft charging schemes. Regulation 6 requires a charging authority to submit a draft charging scheme to the Secretary of State for approval. Regulation 7 concerns the giving of approval of draft charging schemes by the Secretary of State. Following such approval, an authority must make the drafting scheme as set out in regulation 8. Regulations 9 and 10 provide for variation and revocation of charging schemes, while regulation 11 provides for suspension of charging schemes.

Regulation 12 restricts charging authorities from introducing motor vehicle charging schemes under the Transport Act 2000 (or in London under the Greater London Authority Act 1999) in an area already covered by a charging scheme under these Regulations without the prior consent of the Secretary of State. Regulation 13 places a duty on public authorities to cooperate and provide information. Regulation 14 requires charging authorities to have regard to guidance on charging schemes issued by the Secretary of State.

A full impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector is available from the Joint Air Quality Team, Department for Environment, Food and Rural Affairs, Area 2C, Nobel House, 17 Smith Square, London SW1P 3JR and is published with an Explanatory Memorandum alongside the instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk).