



Traffic enforcement and penalty charge notices

By Kenneth Hamer

CPR Part 75 contains a little known regime for challenging penalty charge notices. Traffic enforcement of penalty charge notices, such as London congestion charges, is through the Traffic Enforcement Centre at Northampton. However, congestion charges for a vehicle may be avoided if, for example, the vehicle in question is exempt and the owner acts promptly. In a case in which I was recently instructed, my client, the owner of a low emission vehicle emitting 55 g/km Co₂, was entitled to a 100% discount from payment of congestion charges. The vehicle in question met the emissions standards for the Ultra Low Emission Zone for driving or parking on public roads in London. The penalty charge notice was sent to the wrong address and a statutory declaration to set aside the congestion charge was filed out of time as soon as the owner learnt of the enforcement proceedings, after the bailiffs came knocking!

To avoid enforcement of a penalty charge notice the owner must pay the total sum due for the transgression or file a statutory declaration with the Enforcement Centre. If filed in time, usually 21 days of receipt of the enforcement notice, and the statutory declaration satisfies one of the statutory grounds the charge is deemed to have been cancelled and the enforcement process comes to an end. Paragraph 8(3) of Schedule 6 to the Road Traffic Act 1991, together with similar provisions in the London Local Authorities Act 1996, and regulations dealing with vehicle emissions, road user charging and penalty charge enforcement provide four – and only four – grounds for filing a statutory declaration, namely: that the penalty charge to which the certificate relates has been paid; that no penalty charge notice was ever received; that representations were made in time to the relevant local authority but no reply was received; or that an appeal

was made in time to the Parking and Traffic Appeals Service but no response was received. Provision is made in the legislation for leave to file a statutory declaration out of time.

An application to extend time is considered on paper by a nameless “court officer” at the Traffic Enforcement Centre who, in the instant case, dismissed it without explanation, stating in the decision letter: “The Court Officer is not required to give an explanation for refusal”, but helpfully adding that an application for review may be made to the county court. Enter CPR Part 75. It is important to appreciate that the function of a District Judge under CPR Part 75 is extremely limited. Rule 75.5A provides that any party may request any decision of a court officer to be “reviewed” by a district judge. 75PD.6 states that that any review by a district judge will only be a review of the decision to refuse the application for further time for filing a statutory declaration or witness statement. The review will not be a review of the validity of the notice of the amount due or the order under which the penalty charge was levied.

In my case, the District Judge at a hearing held that the application for a review of the decision of the court officer should be granted, and the decision of the court officer refusing the applicant’s application to file a statutory declaration out of time was set aside; with an order for costs being made against the charging authority.

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