

## Customer Information

### Relating to public administration procedures concerning the purported no-fault liabilities

#### inNOVA forms related to applications in Customer Information

Case group: public administration procedures concerning no-fault liabilities

Identifier	Title of form
OBJEKTIV-08	Megkeresés ügyfél részéről az objektív felelősséggel kapcsolatos közigazgatási hatósági ügyben
OBJEKTIV-08	Application by the customer relating to public administration procedures concerning no-fault liabilities
OBJEKTIV-09	Közigazgatási per indítása iránti kérelem az objektív felelősséggel kapcsolatos közigazgatási hatósági ügyben
OBJEKTIV-09	Application for administrative proceedings relating to public administration procedures concerning no-fault liabilities
OBJEKTIV-10	Kézbesítési vélelem megdöntése iránti kérelem az objektív felelősséggel kapcsolatos közigazgatási hatósági ügyben
OBJEKTIV-10	Application for rebuttal of fiction of service relating to public administration procedures concerning no-fault liabilities
OBJEKTIV-11	Költségmentesség iránti kérelem az objektív felelősséggel kapcsolatos közigazgatási hatósági ügyben
OBJEKTIV-11	Application for legal aid Application for legal aid relating to public administration procedures concerning no-fault liabilities
OBJEKTIV-12	Hiánypótlás az objektív felelősséggel kapcsolatos közigazgatási hatósági ügyben
OBJEKTIV-12	Deficiencies relating to public administration procedures concerning no-fault liabilities

This information is effective as of 01 February 2020.

### Information

As of May 1, 2008 in accordance with the stipulations of Act I of 1988 on Road Traffic (hereinafter referred to as Kkt.), in case of road traffic infringements as specified in the Act, administrative fines must be imposed on **the operator of the motor vehicle**, if the offences have been recorded by technical means specified in a separate regulation.

The decision on the administrative fine will be delivered to the customer by the authority in the first instance, regarding Section 21 subsection 1 points a)-g) of Kkt within 70 days of the date of the infringement and regarding Section 21 subsection 1 point h) within 150 days of the date of the infringement.

Proceedings in the first instance opened due to the infringement in accordance with Section 21 subsection 1 points a)-g) of Kkt. shall be completed within four months of the date of the infringement. Proceedings in the first instance opened due to the infringement in accordance with Section 21 subsection 1 point h) of Kkt. shall be completed within five months of the date of the infringement?

In the case of committing some infringements the amount of the **fine set** in specific legislation must be applied; **mitigation, remission, community service, imprisonment conversion, exercising fairness are not permitted under the law.**

Regarding the procedure of fining, due to procedures opened prior to 31 December 2017, *Act CXL of 2004 on the General Rules of Administrative Proceedings and Services* (hereinafter referred to as Ket.) shall apply when investigating the application, whereas from 1 January 2018 the provisions of *Act CL of 2016 on Administrative Proceedings* (hereinafter referred to as Ákr.) shall apply.

In accordance with Government Decree 410/2007 (XII.29.) in initial procedures

the Vas County Chief Commissioner of Police shall have jurisdiction to conduct the procedure in Baranya, Győr-Moson-Sopron, Fejér, Komárom-Esztergom, Somogy, Tolna, Vas, Veszprém and Zala Counties and Budapest;

the Szabolcs-Szatmár-Bereg County Chief Commissioner of Police shall have jurisdiction to conduct the initial procedure in Bács-Kiskun, Békés, Borsod-Abaúj-Zemplén, Csongrád, Hajdú-Bihar, Heves, Jász-Nagykun-Szolnok, Szabolcs-Szatmár-Bereg, Nógrád and Pest Counties in the event of infringements committed in the territory of the above counties.

The Budapest Chief Commissioner of Police shall have authority to conduct the subsequent procedure, with national jurisdiction.

Administrative procedures shall be carried out in case of the following infringements:

- a) the speed limit,
- b) passage through a level crossing,
- c) the traffic light signals controlling the flow of traffic,
- d) the use of hard shoulders on motorways,
- e) the ban on entry, restricted zones, the prescribed direction of traffic
- f) protecting nature,
- g) and the pay-as-you-go toll charged for the use of toll road sections.

In case of the above infringements the relevant legislation holds the operator of the motor vehicle liable, and it is unnecessary to find the identity of the driver actually driving the vehicle. There is a possibility for exemption from paying the fine, **ONLY and EXCLUSIVELY** in cases in accordance with the law.

The authority communicates with the customer or their representatives. If the representative lodges the submission to the authority, they must provide evidence of their entitlement to represent by attaching the appropriate documents.

To provide evidence of such entitlement, it is necessary to attach either an authorization in a private document providing full evidence, a power of attorney or an authentic instrument that properly evidences that the person presenting it is entitled to represent the customer (in case of guardians and custodians the decision of their appointment, in case of parents the birth certificate of the minor).

In case of customers who are legal persons, if the person is not listed in the company information service as eligible to represent, it is necessary to attach either authorization in a private document providing full evidence or, in case of legal counsels, the employment contract and the license to practice.

The concept of a **private document providing full evidence**, regarding procedures carried out in accordance with Ket., is defined in Section 196 of Act III of 1952 on the Code of Civil Procedure, according to which the private document providing full evidence, until evidence to the contrary, gives full probative value to the fact that its issuer has made the statements therein, has accepted the statements therein and has consented to be bound by it, if the documents meets the following conditions:

- a) the issuer has made and signed the document himself/herself;
- b) two witnesses certify on the document with their signature that the issuer has signed the document which he has not made himself/herself (e.g. typed document), or that he has recognized his signature as his/her personal signature before the witnesses; the address of the witnesses must also be included on the document;
- c) the signature or initial of the issuer on the document is certified by a court or public notary (and he declares in front of the witnesses the authenticity of his/her signature);
- d) an attorney duly countersigns the document made to confirm that the issuer has signed the document made by someone else in front of him or her, or that the issuer recognizes the signature as his or her personal signature;
- e) the document was issued within the regular scope of activity of the business entity and was duly signed;
- f) the issuer has affixed a qualified electronic signature to the electronic document.

The concept of a private document providing full evidence, regarding procedures carried out in accordance with Ákr., is defined in Section 325 of Act CXXX of 2016 on the Civil Procedure Code. The private document providing full evidence, until evidence to the contrary, gives full probative value to the fact that its issuer has made the statements therein, has accepted the statements therein and has consented to be bound by it, if the documents meets the following conditions:

- a) the issuer has made and signed the document himself/herself;
- b) two witnesses certify on the document with their signature that the issuer has signed the document which he has not made himself/herself (e.g. typed document), or that he has recognized his signature as his/her personal signature before the witnesses; furthermore the witnesses must attach their handwritten and legible names and addresses; failing that, their residence;
- c) the signature or initial of the issuer on the document is certified by a court or public notary;
- d) the document is duly signed by the representative entitled to represent the legal person in accordance with the applicable rules;
- e) an attorney duly countersigns the document made to confirm that the issuer has signed the document made by someone else in front of him or her, or that the issuer recognizes the signature as his or her personal signature;
- f) the document has been issued within the regular scope of activity of the business entity and has been duly signed;
- g) the issuer has affixed a qualified electronic signature to the electronic document and, if the law provides for it, affixes a time stamp to it;
- h) the electronic document is authenticated by document authentication services or
- i) the document has been created by an electronic service defined in an act or a government decree, in which the service provider assigns the document to the issuer by issuer's

identification, and certifies such personal identification together with data that can clearly be traced back to issuer's own handwritten signature or certifies it on the basis of such signature; furthermore the service provider includes, in an inseparable clause affixed to an electronic document, the certification regarding it being clearly attached to a person, and then, together with the document, affixes at least a qualified electronic stamp and at least qualified time stamp.

On the 23rd day upon its receipt, the decision of the first instance becomes final provided that the customer does not submit a procedural request for evidence, nor does he/she exercise his/her right to appeal. The deadline for the settlement of the fine is 30 days upon the decision becoming final (e.g. the decision becomes final on 28th September thus the deadline shall then be on 28th October.)

If due to a customer's economic situation, he/she is unable to pay the fine in a single payment, he/she may request, by a chargeable procedure, to pay in instalments or he/she can also request being granted a deferral, respectively. This request can be submitted until the end of the deadline together with the paid procedural fee (HUF 3,000).

#### **Application by the customer relating to public administration procedures concerning no-fault liabilities**

During the public administration procedures, the customer may request information on different relevant data from the decision-making authority in the first instance, which data may include the deadlines related to the decision, the method of paying the fine, the exact location of the event, etc.

Regarding the above pieces of information, the customer may fill in the form and submit it as an application, exempt from duty, to the authority.

This form cannot be used for the following: **lodging an appeal, submitting a request for evidence, access to a file, payment in instalments, prolongation, re-opening of the procedure.** As regards the above-listed, separate forms are available. If the customer's representative approaches the authorities, it is necessary to provide adequate evidence of his/her entitlement to represent (by attaching either an authorization or any other document proving such authorization).

#### **Application for administrative proceedings relating to public administration procedures concerning no-fault liabilities (an application maybe submitted for judicial review of public administrative procedures initiated on 31 December 2017 in accordance with Ket., as well as an for administrative proceedings regarding applications initiated in accordance with Ákr. after 1 January 2018 and regarding repeated procedures)**

If the client has exhausted all remedies or if there are no further possibilities to appeal against the decision, he/she may submit an application for judicial review/administrative proceedings.

The request must be submitted to the authority in the first instance with reference to the infringement within 30 days upon the delivery of the decision to be reviewed.

Neither the judicial review nor the administrative proceedings have a suspensive effect on implementation; the suspension of either must be requested separately. This procedure is subject to fees, the amount of which is HUF 30,000 in the case of a decision and HUF 10,000 in the case of an order. If the customer's representative approaches the authorities, it is necessary to provide adequate evidence of his/her entitlement to represent (by attaching either an authorization or any other document proving such authorization).

In accordance with the stipulations on electronic communication in Act III of 1952 on the Code of Civil Procedure, the party acting with a legal representative as well as economic organizations with their registered seat in Hungary must **mandatorily** submit the application to the authority making the administrative decision in the first instance in accordance with Section 330 subsection 2 by using the support services for submitting forms. Further to the above, other customers may also submit their applications electronically. The form can be downloaded on the homepage of the Police from the menu entry below: <http://www.police.hu/ugyintezes/elektronikus-ugyintezes/birosagi-felulvizsgalat>

### **Application for rebuttal of fiction of service relating to public administration procedures concerning no-fault liabilities**

The authority communicates its decision relating to public administration procedures concerning no-fault liabilities with the customer in writing by registered post with recorded delivery. The date of delivery is the date when the customer, his/her representative ad litem, or acting recipient has accepted or refused to accept delivery of the item mailed. If the postal service returns the acknowledgement of the receipt with “nem kereste” (unclaimed) stamp, the date of delivery is the 5<sup>th</sup> business day upon the date of delivery of the item for the second time, which is a rebuttable presumption. If the customer or his/her representative verifies that he/she was unable to claim the delivery due to reasons beyond his/her control (e.g. hospitalisation, permanent illness, immobility, incarceration, etc.) or if he/she verifies that the delivery was defective, he/she can submit an application. If the customer is a legal person, it can only submit such an application if it verifies that the delivery was defective. The procedure is free of any fee. If the customer’s representative approaches the authorities, it is necessary to provide adequate evidence of his/her entitlement to represent (by attaching either an authorization or any other document proving such authorization).

### **Application for legal aid relating to public administration procedures concerning no-fault liabilities**

The customer has the right to legal aid in public administrative procedures if his/her income and means do not allow them to pay the costs and fees of the procedure. Exemption from payment (legal aid) extends from the day of submitting such a request to the entire duration of the procedure and also to the enforcement proceedings. In his/her request the customer must declare his/her assets and properties, furthermore the circumstances that do not allow for them paying the costs and fees of the procedure. If the customer’s representative approaches the authorities, it is necessary to provide adequate evidence of his/her entitlement to represent (by attaching either an authorization or any other document proving such authorization).

### **Deficiencies relating to public administration procedures concerning no-fault liabilities**

If the application submitted by the client to the authority is deficient, and such deficiency can be corrected or amended, the authority communicates the deficiencies (e.g. the customer has not paid the procedural fees and charges; has not attached a private document providing full evidence that serves as a basis of exemption, or the representative has not attached a document showing adequate evidence of his/her entitlement to represent to the customer, etc.) by setting an appropriate deadline for correction or amendment.

The adequate document or statement, the correction or amendment of which the authority has called on the customer to provide, must be attached to the form. If the set deadline is inappropriate to obtain the adequate document, the form **RI-0512 „Application by the customer relating to public administration procedures concerning no-fault liabilities”** can be used to prolong the deadline.