

## Customer Information

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

#### inNOVA forms included in information

Case group: public administration procedures concerning no-fault liabilities

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OBJEKTIV-07	Újrafelvételi kérelem az objektív felelősséggel kapcsolatos közigazgatási hatósági ügyben
OBJEKTIV-07	Application for review relating to public administration procedures concerning no-fault liabilities

This information is effective as of 4 June 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 from the date of the infringement and regarding Section 21 subsection 1 point h) within 150 days of the date of the infringement.

Proceedings at 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 at 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 **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 procedures in the first instance 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 procedure in the first instance in Bács-Kiskun, Békés, Borsod-Abaúj-Zemplén, Csongrád Csanád, 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 procedure in the second instance, 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 signals of the traffic lights 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 contains that the person presenting it is entitled to represent the customer (in the case of guardians and custodians the decision of their appointment, in the case of parents the birth certificate of the minor).

In the 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 an 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 meet 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 a qualified time stamp.

On the 23rd day upon its receipt, the initial decision becomes final provided that the customer does not submit a procedural request for evidence, nor does it exercise its 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).

### **Offer of evidence relating to public administration procedures concerning no-fault liabilities**

Within 8 days upon receiving the initial decision concerning liabilities, the customer may submit an application free of charge to the authority that initially made the decision. In his/her application, the customer may present all the circumstances that he/she finds prejudicial. For instance, he/she may contest and challenge the infringement committed, the scene of the committed infringement, the amount of the fine, etc. Submitting the application does not have any formal requirement, the legislative authority does not require a private document providing full evidence to be provided, accordingly. The customer may attach documents that he/she considers necessary to support his/her statements. No stamp duty must be paid, since the application can be submitted as exempt of such duty. A valid application can be submitted by the customer or his/her representative. 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). This document cannot be used when submitting an APPEAL, since there is a separate form is available for such purpose (code: RI-0504), this one being subject to duty.

### **Request for access to the file relating to public administration procedures concerning no-fault liabilities**

During any stage of the procedure, the customer may exercise his/her right to access the files, during which he/she can have the opportunity to peruse the documents available to the authorities. During the perusal of the documents he/she may make extracts or take notes. By paying a fee of HUF 100 per page, the customer may request copies to be made, but only during the perusal of the documents. The customer may make use of this option at the police department of the place of residence or at both authorities in the first instance, respectively, at the times and dates on <https://kozigbirsag.police.hu>. The customer may request access to the files by dialling the call centre of the authorities in the first instance, or by dialling the telephone number on <https://kozigbirsag.police.hu>. A valid application can be submitted by the customer or his/her representative. 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).

### **Verification of failure to meet the deadline relating to public administration procedures concerning no-fault liabilities**

If the legislation relating to the procedure sets a deadline for submitting any application, the application can validly be submitted until that deadline. If the customer or his/her representative is unable to comply with the deadline, his/her application can only be assessed if he/she verifies the reason of failure to meet the deadline concurrently with submitting the application. In the above verification it must be indicated what caused the failure to meet the deadline that was beyond his/her control (e.g. hospitalisation, permanent illness, immobility, incarceration, etc.). These circumstances can be verified by attaching the proper documents. Submitting the verification request is free of charge, but it cannot be considered exempt from paying fees and charges regarding applications and documents to be replaced. 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).

### **Request to be excused relating to public administration procedures concerning no-fault liabilities**

The operator of the motor vehicle has the possibility to be exempt from paying the fine, if he/she can submit evidence by presenting a private document providing full evidence that during the time of infringement another person gave the motor vehicle away to be used and he/she was not the operator of the motor vehicle at that time. If the motor vehicle has ceased to be in his/her possession unlawfully (e.g. theft, etc.) and, prior to the infringement procedure, he/she decided to bring procedures at the relevant authorities, he/she must verify such procedures by an authentic document (e.g. complaint).

**Attaching an authentic document is mandatory!** 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).

### **Lodging an appeal relating to public administration procedures concerning no-fault liabilities (regarding applications initiated prior to 31 December 2017)**

Within 15 days upon the decision being communicated, the customer may lodge an appeal at the authority making the decision if he/she considers the decision prejudicial from any reason. The appeal must be justified, and in the case of failure to do so, the appeal will be rejected without any examination in substance. In the appeal the customer cannot make reference to new facts that had been known to himself prior to making the decision. The decision of the public

administration procedure concerning no-fault liabilities is considered communicated on the 8<sup>th</sup> day upon it being received, and the deadline for the appeal is counted from that day. Lodging the appeal is subject to fees, the amount of which must be paid concurrently with submitting the application. The amount to be paid in case of an appeal, unless otherwise provided in this law, and if the value of the subject of the appeal can be set in cash, is HUF 400 for each HUF 10,000 of the amount concerned or challenged by the appeal, but at least HUF 5,000 and not more than HUF 500,000. The form provides help, as by entering the amount of the fine, it will automatically indicate the amount of the fee of the appeal. 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).

**Lodging an appeal relating to public administration procedures concerning no-fault liabilities (regarding applications initiated in accordance with Ákr. after 1 January 2018, and regarding repeated procedures)**

Lodging an appeal can only be carried out with reference to the contested decision, for reasons directly related to that and, with reference to injury or harm directly related to the decision.

The appeal must be justified. In the appeal the customer can make reference to new facts that had not been known to them prior to the initial proceedings or the customer could not refer to due to reasons beyond his/her control. The appeal can be lodged at the authority making such a decision within fifteen days upon the decision being received.

The amount to be paid in the case of an appeal, unless otherwise provided in this law, and if the value of the subject of the appeal can be set in cash, is HUF 400 for each HUF 10,000 of the amount concerned or challenged by the appeal, but at least HUF 5,000 and not more than HUF 500,000. The form provides help, as by entering the amount of the fine, it will automatically indicate the amount of the fee of the appeal. 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).

**Waiver of payment relating to public administration procedures concerning no-fault liabilities**

The administrative fine must be paid, via cash transfer order (cheque) constituting the annex to the decision or by bank transfer to the bank account number indicated in the decision, within 30 days upon the decision becoming final. If paying the imposed fine in a single payment entails excessive financial difficulties considering the customer's income and means, the customer may request from the initial authority, in a procedure subject to a fee, that the fine should be paid in instalments or may also request that the due date of payment should be prolonged. For this purpose, it is advised to indicate the payment in instalments or its prolongation in the heading „type of request.” Concurrently with the application, the procedural fine must be paid (HUF 3,000). If the customer requests payment in instalments, the authority grants the payment of the fine in equal instalments; in the case of prolongation the due date of a single payment will be prolonged, so in such a case the fine will still be payable in a single instalment. 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 review relating to public administration procedures concerning no-fault liabilities (it can only be submitted concerning public administrative procedures initiated on 31 December 2017 in accordance with Ket.)**

If upon the decision becoming final, the customer learns about data, fact or evidence which had existed before the decision was made, but which the authority has not assessed, or if the

authority assesses such data, fact or evidence, and finds it would be more favourable to the customer, respectively, the customer may submit an application within 15 days upon learning about such data, fact or evidence. This procedure is subject to fees, the amount of which must be paid concurrently with the application (HUF 3,000). All documents that the customer would like to inform the authorities about must be attached to the application; it is, however, important to mention that such data, fact or evidence must be known to the customer only upon the decision becoming final. 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).