STATUTORY INSTRUMENTS

2009 No. 495

CRIMINAL LAW, ENGLAND AND WALES

The Fixed Penalty (Procedure) (Vehicle Examiners) Regulations 2009

Made - - - -	*5th March 2009*
Laid before Parliament	*9th March 2009*
Coming into force - -	*1st April 2009*

These Regulations are made in exercise of the powers conferred by sections 84 and 88(4) of the Road Traffic Offenders Act 1988(**a**).

The Secretary of State has consulted with such representative organisations as appear appropriate in accordance with section 88(2) of that Act.

Accordingly, the Secretary of State makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Fixed Penalty (Procedure) (Vehicle Examiners) Regulations 2009 and shall come into force on 1st April 2009.

(2) These Regulations do not extend to Scotland.

Interpretation

2. In these Regulations, "the Act" means the Road Traffic Offenders Act 1988.

Application

3. These Regulations apply in cases where a fixed penalty notice is given by a vehicle examiner in accordance with section 54 (notices on-the-spot etc) of the Act.

(**a**) 1988 c.53. Relevant amendments to Part 3 of the 1988 Act (which makes provision in relation to fixed penalties) have been made by S.I. 1990/144, section 34 of, and paragraphs 102 - 108 of Schedule 4, and Schedule 8, to the Road Traffic Act 1991 (c.40), paragraph 25 of Schedule 3 to the Vehicle Excise and Registration Act 1994 (c. 22), paragraph 32 of Part 2 of Schedule 8 to the Police and Magistrates' Courts Act 1994 (c. 29), paragraphs 5 and 6 of Schedule 2 to the Road Traffic (New Drivers) Act 1995 (c.13), paragraphs 140 and 150 – 153 of Schedule 13, and Tables 1 and 7 of Part 5 of Schedule 15, to the Access to Justice Act 1999 (c. 22), sections 76 and 108 of the Police Reform Act 2002 (c.30), sections 69 and 109 of, and Schedule 8 to, the Railways and Transport Safety Act 2003 (c.20), paragraphs 314 - 322, of Schedule 8 to the Courts Act 2003 (c.39), Part 14 of the Schedule to the Statute Law (Repeals) Act 2004 (c.14), section 16 of the Domestic Violence, Crime and Victims Act 2004 (c.28), and by sections 3, 5, 8 and 9 of, and by Schedule 1, paragraphs 2 to 32 of Schedule 2, and paragraphs 1 to 3 of Schedule 7 to, the Road Safety Act 2006 (c. 49).

Documents or information to be provided

4. The documents described in column 1 of the Schedule to these Regulations (as referred to in the provisions of the Act specified in column 2 of the Schedule) shall contain the information, or, as the case may be, further information prescribed in column 3 of the Schedule.

Remittance

5. If payment of the fixed penalty is made by a person otherwise than as required by the fixed penalty notice, the Secretary of State shall return the remittance to that person.

Return of driving licence (if so held)

6. Where—

(a) the person to whom the fixed penalty notice was given holds a driving licence;

(b) the suspended enforcement period has expired;

(c) the fixed penalty has not been paid; and

(d) either that person has requested a hearing under section 55(2) or no registration certificate has been issued under section 70(2) of the Act;

the Secretary of State shall, in the case of an endorseable offence, return the driving licence to that person.

Notification of registration of sum

7. Where, in a case involving an endorseable offence, any sum is registered under section 71 of the Act for enforcement against that person as a fine, the designated officer for the court where the sum is registered shall notify the Secretary of State that the sum has been registered.

Receipt for payment

8. Where a fixed penalty is paid within the suspended enforcement period the Secretary of State shall send a receipt for the payment, if requested, to the payer.

Licence receipts

9. For the purposes of section 56(3)(a) of the Act, there is prescribed a period of two months beginning with the same date of issue.

Signed by authority of the Secretary of State for Transport

Jim Fitzpatrick
Parliamentary Under Secretary of State
Department for Transport

5th March 2009

SCHEDULE

Regulation 4

Information or further information to be provided in certain documents mentioned in Part 3 of the Act

Document	*Provision of the Act*	*Information or further information to be provided*

1. Fixed Penalty Notice	Section 52	(i) the name of the vehicle examiner giving the notice (ii) the serial number of the fixed penalty notice (iii) whether the notice relates to an endorseable offence (iv) the name, date of birth and address of the person to whom the notice is given (v) the date, time and place of the alleged offence (vi) the details of the vehicle including the registration number (vii) the documents, if any, to be provided to the Secretary of State and the period within which they must be provided and the address to which they must be sent (viii) an explanation of the action to be taken by the driver where (a) the driver has not or (b) the driver has, surrendered the licence, if the driver holds such a licence (ix) the fact that the person to whom the notice is given may opt for trial (x) the method of paying the fixed penalty (xi) guidance to the driver as to the legal consequences of a fixed penalty notice
2. Receipt for driving licence (if the offender holds a driving licence)	Section 56	(i) whether the driving licence is full or provisional (ii) the driver number as shown on the licence (iii) the groups of vehicles which the driver is entitled to drive (iv) the expiry date of the licence (v) the duration of the validity of the licence receipt (vi) the method of obtaining a new receipt on expiry of an old receipt (vii) the name of the vehicle examiner issuing the fixed penalty notice
3. Registration certificate	Section 70	(i) the serial number and date, time and place of issue of the fixed penalty notice (ii) the vehicle registration

		number (iii) the driver number (either as shown on the licence or as allocated by the Secretary of State) (iv) the amount of the appropriate fixed penalty (v) the sum to be registered in default of payment of the fixed penalty

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in consequence of the changes to the fixed penalty regime under Part 3 of the Road Traffic Offenders Act 1988 effected by section 5 of the Road Safety Act 2006, which permits vehicle examiners to issue fixed penalties for fixed penalty offences in respect of a vehicle.

Regulation 4, together with the *Schedule*, prescribes certain information or further information to be included in the fixed penalty notice, the receipt for a driving licence (if held), and the registration certificate in the case of non-payment of the fixed penalty.

Regulation 5 relates to payments made by a person otherwise than as required by the fixed penalty notice.

Regulation 6 provides for the return of driving licences (if so held) to the licence-holder if the period in which no enforcement proceedings can be brought ("the suspended enforcement period") has expired, the fixed penalty has not been paid, and the recipient of the notice has either requested a hearing or the fixed penalty has not been registered under section 70(2) of the Road Traffic Offenders Act 1988 for enforcement.

Regulation 7 provides for notification of the Secretary of State by the court in cases in which sums are registered for enforcement. *Regulations 8* and *9* deal with receipts for payment and licence receipts respectively.

No Impact Assessment has been prepared for this instrument as it has no significant impact on the cost of business and the voluntary sector.

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