
SCOTTISH STATUTORY INSTRUMENTS

2003 No. 212

**The Road Traffic (Vehicle Emissions)
(Fixed Penalty) (Scotland) Regulations 2003**

PART 5

TESTS

On-the-spot and deferred emissions tests

9.—(1) An authorised person may require a person driving on a road a motor vehicle which is in, or which is about to pass through, or which has passed through, the area of the appropriate authority to permit that motor vehicle to be the subject of a test for the purpose of determining whether an emissions offence is being or has been committed.

(2) Subject to paragraph (3), the test referred to in paragraph (1) shall be carried out immediately by an authorised person.

(3) An authorised person may, instead of proceeding immediately with the test—

- (a) require the test to be carried out by an authorised person at such place and time (being not later than 14 days beginning with the day on which the paragraph (1) requirement is imposed) as that authorised person shall specify when imposing that requirement; or
- (b) require the person on whom the paragraph (1) requirement is imposed to present the vehicle for examination under section 45 (tests of satisfactory condition of vehicles) of the Road Traffic Act 1988.

(4) When imposing a requirement under paragraph (3)(b), the authorised person shall also—

- (a) require the driver of the vehicle concerned to produce, in respect of that vehicle, either a test certificate issued under section 45(2)(b) of the Road Traffic Act 1988 or a notice of failure; and
- (b) specify the—
 - (i) date on which, and the time at which;
 - (ii) place at which; and
 - (iii) person to whom,

the certificate or notice is to be produced.

(5) The date specified under paragraph (4)(b)(i) shall be within 21 days of the day on which the authorised person imposes the requirement under paragraph (3)(b).

(6) A requirement for the production of a certificate or notice under paragraph (4)(a) shall not be treated as satisfied unless the date of issue of the document produced is on or after the date on which the requirement was imposed.

(7) A person who fails to comply with a requirement imposed by virtue of paragraphs (1), (3) (a) or (4)(a), of this regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) In this regulation—

“notice of failure” means a notification, under section 45(4) of the Road Traffic Act 1988, of the refusal of a test certificate in which the grounds specified as those on which the vehicle failed the examination under that section do not include item 28 in paragraph 3(b) of Schedule 2 to the Motor Vehicles (Tests) Regulations 1981⁽¹⁾ (including that item as applied as mentioned in paragraphs 3A to 6 of that Schedule).

Issue of fixed penalty notice: emissions offence

10. Where—

- (a) a test on a vehicle has been carried out as mentioned in regulation 9(2) or (3)(a); and
- (b) in consequence of that test an authorised person considers that an emissions offence has been committed by the person using that vehicle,

that authorised person may, in accordance with Part 7, issue a fixed penalty notice to that person.

Furnishing of information for the purposes of Part 5

11.—(1) In connection with the discharge of an authorised person’s functions under this Part, an authorised person may require the driver of a vehicle in respect of which a requirement under regulation 9(1) is imposed to disclose to the authorised person the information set out in regulation 15.

(2) A person who fails to comply with a requirement to furnish information under paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(1) S.I.1981/1694. Schedule 2 was substituted by S.I. 1991/2229 as amended by S.I. 1992/3160 and 1998/1672.