

## SCHEDULES

### SCHEDULE 1

Section 5

#### GIVING OF FIXED PENALTY NOTICES BY VEHICLE EXAMINERS ETC.

##### *Road Traffic Offenders Act 1988 (c. 53)*

- 1 Part 3 of the Road Traffic Offenders Act 1988 (fixed penalties) is amended as follows.
- 2 In section 52(3)(c) (fixed penalty notice must state to whom and where fixed penalty may be paid), for the words from the beginning to “to” substitute “the person to”.
- 3 (1) Section 54 (notices on-the-spot or at a police station) is amended as follows.
  - (2) In subsection (1), after “uniform” insert “, or a vehicle examiner who produces his authority,”.
  - (3) In subsection (2), after “constable” insert “or vehicle examiner”.
  - (4) In subsection (3), after “constable”, in each place, insert “or vehicle examiner”.
  - (5) In subsection (4)—
    - (a) after “constable”, in the first three places, insert “or vehicle examiner”,
    - (b) for “, within seven days after the notice is given, he produces” substitute “he delivers”, and
    - (c) for the words from “person to” to “person concerned)” substitute “accordance with subsection (4A) below”.
  - (6) After that subsection insert—

“(4A) Delivery must—

    - (a) if the notice is given by a constable, be made in person, within seven days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or
    - (b) if the notice is given by a vehicle examiner, be made (either by post or in person), within fourteen days after the notice is given, to the Secretary of State at the place specified in the notice.”
  - (7) In subsection (5)—
    - (a) for “produces” substitute “delivers”,
    - (b) for the words from “person to a” to “to him” substitute “accordance with subsection (4A) above”,
    - (c) in paragraph (a) and in the words following paragraph (b), for “constable or authorised person” substitute “person to whom the notice under subsection (4) above is delivered”,
    - (d) omit “he surrenders”, and
    - (e) for “to the constable or authorised person” substitute “are delivered”.

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*Status: This is the original version (as it was originally enacted).*

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- (8) In subsection (7)—
  - (a) after “surrendered” insert “or delivered”, and
  - (b) insert at the end “if the fixed penalty notice was given by a constable or authorised person”.
- (9) In the heading, for “**or at a police station**” substitute “**etc.**”
- 4 (1) Section 56 (licence receipts) is amended as follows.
  - (2) In subsection (1)—
    - (a) for “constable or authorised person” substitute “person”, and
    - (b) after “surrenders” insert “or delivers”.
  - (3) In subsection (2)—
    - (a) for “The” substitute “Where the duty in section 54(7) of this Act applies, the”, and
    - (b) after “surrendered” insert “or delivered”.
  - (4) In subsection (3)—
    - (a) for “by a constable or authorised person” substitute “under subsection (1) above”, and
    - (b) for “by the fixed penalty clerk” substitute “under subsection (2) above”.
- 5 (1) Section 57 (endorsement of licences without hearings) is amended as follows.
  - (2) In subsection (1), for the words from “has surrendered” to “this Act,” substitute “has been given a fixed penalty notice under section 54 of this Act in respect of an offence involving obligatory endorsement,”.
  - (3) In subsection (3), for “fixed penalty clerk” substitute “person to whom it is paid”.
  - (4) In subsection (4)—
    - (a) for “fixed penalty clerk” substitute “person to whom the fixed penalty is required to be paid”, and
    - (b) for “the clerk”, in both places, substitute “the person”.
  - (5) In subsection (6)—
    - (a) for “On endorsing” substitute “Where the endorsement of”, and
    - (b) after “section” insert “is made by the fixed penalty clerk,”.
- 6 (1) Section 61 (fixed penalty notice mistakenly given: exclusion of fixed penalty procedures) is amended as follows.
  - (2) In subsection (1)—
    - (a) for “sent to him under section 54(7)” substitute “surrendered or delivered under section 54”, and
    - (b) after “clerk” insert “or the Secretary of State”.
  - (3) In subsection (2)—
    - (a) omit “fixed penalty clerk must not endorse the”,
    - (b) before “under” insert “must not be endorsed”, and
    - (c) after “but” insert “if it was sent to the fixed penalty clerk he”.
- 7 In section 62(1) (fixing notices to vehicles), after “constable” insert “or a vehicle examiner”.

- 8 (1) Section 63 (service of notice to owner if penalty not paid) is amended as follows.
- (2) In subsection (2), for “chief officer of police” substitute “relevant person”.
- (3) After that subsection insert—
- “(2A) In this section “the relevant person” means—
- (a) if the fixed penalty notice was fixed by a constable, the chief officer of police, and
- (b) if it was fixed by a vehicle examiner, the Secretary of State.”
- (4) In subsection (4)(c), for “chief officer of police by or on whose behalf the notice was served” substitute “relevant person”.
- 9 (1) Section 66 (hired vehicles) is amended as follows.
- (2) In subsection (1)(c), for “chief officer of police by or on whose behalf the notice was served” substitute “relevant person”.
- (3) In subsection (5), for “chief officer of police” substitute “person”.
- (4) In subsection (8), after the definition of “hiring agreement” insert—
- ““relevant person” means—
- (a) if the fixed penalty notice was fixed by a constable, the chief officer of police by or on whose behalf the notice to owner was served, and
- (b) if it was fixed by a vehicle examiner, the Secretary of State, and”.
- 10 In section 68(4) (meaning of “official form”), after “police” insert “or the Secretary of State”.
- 11 (1) Section 69 (payment of fixed penalty) is amended as follows.
- (2) In subsection (1), for “Payment of a fixed penalty under this Part of this Act” substitute “Where a fixed penalty notice has been given or fixed by a constable or authorised person under this Part of this Act, payment of the fixed penalty”.
- (3) After that subsection insert—
- “(1A) Where a fixed penalty notice has been given or fixed by a vehicle examiner, or given by the Secretary of State, under this Part of this Act, payment of the fixed penalty must be made to the Secretary of State.”
- (4) In subsection (3), after “clerk” insert “, or the Secretary of State,”.
- 12 (1) Section 70 (registration certificates) is amended as follows.
- (2) In subsection (2), for “chief officer of police” substitute “relevant person”.
- (3) After that subsection insert—
- “(2A) In subsection (2) above “the relevant person” means—
- (a) if the fixed penalty notice in question was given or fixed by a constable or given by an authorised person, the chief officer of police, and
- (b) if it was given or fixed by a vehicle examiner or given by the Secretary of State, the Secretary of State.”

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- (4) In subsection (3), for “fixed penalty clerk” substitute “appropriate person”.
- (5) After that subsection insert—
  - “(3A) In subsection (3) above “the appropriate person” means—
    - (a) if the fixed penalty notice in question was given or fixed by a constable or given by an authorised person, the fixed penalty clerk, and
    - (b) if it was given or fixed by a vehicle examiner or given by the Secretary of State, the Secretary of State.”
- (6) In subsection (4), for “the chief officer of police or the fixed penalty clerk” substitute “a person”.
- 13 (1) Section 72 (notices on-the-spot or at a police station: when registration and endorsement invalid) is amended as follows.
  - (2) In subsection (4), after “surrendered” insert “or delivered”.
  - (3) In the heading, for “**or at a police station**” substitute “**etc.**”
- 14 (1) Section 73 (notices fixed to vehicles: when registration invalid) is amended as follows.
  - (2) In subsection (4), for—
    - (a) “the chief officer of police”, and
    - (b) “that chief officer of police”,
 substitute “the relevant person”.
  - (3) After that subsection insert—
    - “(4A) In subsection (4) above “the relevant person” means—
      - (a) if the fixed penalty notice concerned was fixed by a constable, the fixed penalty clerk, and
      - (b) if it was fixed by a vehicle examiner, the Secretary of State.”
  - (4) In subsection (5), omit—
    - (a) “by or on behalf of the chief officer of police”, and
    - (b) “such”.
  - (5) In subsection (7)—
    - (a) omit “by or on behalf of the chief officer of police”, and
    - (b) for “he” substitute “the person by whom it is served”.
- 15 (1) Section 75 (issue of conditional offer) is amended as follows.
  - (2) After subsection (1) insert—
    - “(1A) Where in England and Wales—
      - (a) a vehicle examiner has reason to believe that a fixed penalty offence has been committed, and
      - (b) no fixed penalty notice in respect of the offence has been given under section 54 of this Act or fixed to a vehicle under section 62 of this Act,

a notice under this section may be sent to the alleged offender by the Secretary of State.”

(3) After subsection (3A) insert—

“(3B) Where in Scotland a vehicle examiner—

- (a) on any occasion has reason to believe that a person he finds is committing or has on that occasion committed a fixed penalty offence, he may hand to that person,
- (b) in any case has reason to believe that a fixed penalty offence has been committed, he or another person authorised in that respect by the Secretary of State may send to the alleged offender,

a notice under this section.”

(4) In subsection (4), for “and (3)” substitute “to (3B)”.

(5) In subsection (6), for “person issues a conditional offer” substitute “conditional offer is issued by a person under subsection (1), (2) or (3) above”.

(6) In subsection (8), for—

- (a) “the fixed penalty clerk”, and
  - (b) “that clerk”, in both places,
- substitute “the appropriate person”.

(7) After subsection (11) insert—

“(11A) In this section and sections 76 and 77 of this Act “the appropriate person” means—

- (a) where the conditional offer was issued under subsection (1), (2) or (3) above, the fixed penalty clerk, and
- (b) where the conditional offer was issued under subsection (1A) or (3B) above, the Secretary of State.”

16 (1) Section 76 (effect of order and payment of penalty) is amended as follows.

(2) In subsection (1), for “sent” substitute “issued”.

(3) For subsections (2) to (5) substitute—

“(2) Where the alleged offender makes payment of the fixed penalty in accordance with the conditional offer, no proceedings shall be brought against him for the offence to which the offer relates unless subsection (3) below applies.

(3) This subsection applies where—

- (a) it appears to the appropriate person, on inspecting the licence and its counterpart, that the alleged offender would be liable to be disqualified under section 35 of this Act if he were convicted of the offence to which the conditional offer relates,
- (b) the appropriate person returns the payment to the alleged offender together with his licence and its counterpart, and
- (c) where the appropriate person is not the Secretary of State, the appropriate person gives notice that he has done so to the person required to be notified.

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- (4) Where the requirements specified in the conditional offer in accordance with sub-paragraphs (i) and (ii) of section 75(8)(a) of this Act have not been fulfilled, no proceedings shall be brought against the alleged offender for the offence to which the offer relates—
  - (a) until the end of the period of twenty-eight days following the date on which the conditional offer was made, or such longer period as may be specified in the offer, and
  - (b) where the appropriate person is not the Secretary of State, unless the appropriate person notifies the person required to be notified that proceedings may be brought by virtue of this subsection.
- (5) In this section and section 77 of this Act “the person required to be notified” means—
  - (a) if the conditional offer was issued under subsection (1) of section 75 of this Act, the chief officer of police,
  - (b) if it was issued under subsection (2) of that section, the procurator fiscal, and
  - (c) if it was issued under subsection (3) of that section, the chief constable or (as the case may be) the chief constable of the British Transport Police Force.”
- (4) In subsection (6), for “(4)(b)” substitute “(3)(a)”.
- (5) In subsection (7), for—
  - (a) “the fixed penalty clerk”, and
  - (b) “that clerk”,
 substitute “the appropriate person”.
- (6) In subsection (8), for “(4)” substitute “(3)”.
- (7) In subsection (9), for “(2)(b)” substitute “(5)(b) or (c)”.
- 17 (1) Section 77 (endorsement where penalty paid) is amended as follows.
  - (2) In paragraph (a) of subsection (1), for—
    - (a) “the fixed penalty clerk”, and
    - (b) “the clerk”,
 substitute “the appropriate person”.
  - (3) For paragraph (b) of that subsection substitute—
    - “(b) proceedings against the alleged offender for the offence to which the conditional offer relates are excluded by section 76 of this Act,”.
  - (4) In the words following that paragraph, for “clerk” substitute “appropriate person”.
  - (5) In subsection (2), for “it appears to a fixed penalty clerk in Scotland” substitute “in Scotland it appears to the appropriate person”.
  - (6) In subsection (3)—
    - (a) for “a clerk” substitute “the appropriate person”,
    - (b) for “the clerk” substitute “unless the appropriate person is the Secretary of State, the appropriate person”, and

- (c) for “referred to in section 76(2)(a) or (b) of this Act” substitute “required to be notified”.
- (7) In subsection (4), for “after a notice has been given in pursuance of subsection (3) (b) above” substitute “where subsection (3) above applies”.
- (8) In subsection (6), for “The fixed penalty clerk” substitute “Where the appropriate person is the fixed penalty clerk, he”.
- 18 (1) Section 79 (statements by constables) is amended as follows.
- (2) In subsection (1)—
- (a) after “constable”, in the first place, insert “or vehicle examiner”,
- (b) for “constable's” substitute “relevant”, and
- (c) omit “constable or authorised”.
- (3) In subsection (2)—
- (a) for “constable's” substitute “relevant”, and
- (b) after “committed” insert “or on behalf of the Secretary of State”.
- (4) In subsections (4) and (5), for “constable's” substitute “relevant”.
- (5) In subsection (6), for “production of the notice under section 54(5) at a police station in accordance with that section” substitute “delivery of the notice”.
- 19 In section 80 (certificates about payment), for “fixed penalty clerk”, in both places, substitute “person to whom it was required to be paid”.
- 20 In section 82(1) (accounting for fixed penalties), after “paid” insert “to the fixed penalty clerk”.
- 21 (1) Section 83 (powers of court where clerk deceived) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), after “fixed penalty clerk” insert “or the Secretary of State”, and
- (b) in paragraph (b), for the words from “Act the” to “the counterpart” substitute “Act the appropriate person is deceived as to whether proceedings against the person are excluded by section 76 of this Act”.
- (3) In the heading, for “**where clerk deceived**” substitute “**in cases of deception**”.
- 22 In section 84(1) (regulations), for “75(2) and (3) or 76(5) and (6)” substitute “75(1), (1A), (2), (3) or (3B) or 76(3)(c) or (4)(b)”.
- 23 In section 89(1) (interpretation), after the definition of “proceedings” insert “and
- “vehicle examiner” means an examiner appointed under section 66A of the Road Traffic Act 1988.”

*Road Traffic (New Drivers) Act 1995 (c. 13)*

24 The Road Traffic (New Drivers) Act 1995 is amended as follows.

25 (1) Section 2 (surrender of licences) is amended as follows.

(2) In subsection (3)—

(a) in paragraph (a)—

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- (i) after “1988” insert “, retained by a vehicle examiner under that section”, and
  - (ii) for “fixed penalty clerk in” substitute “appropriate person in”, and
- (b) in paragraphs (c), (d) and (f), for “fixed penalty clerk” substitute “appropriate person”.
- (3) In subsection (4)—
  - (a) omit “, the fixed penalty clerk”,
  - (b) in paragraph (a), insert at the beginning “the appropriate person”, and
  - (c) in paragraph (b), insert at the beginning “unless the appropriate person is the Secretary of State, he”.
- (4) In subsection (5), omit “by the fixed penalty clerk”.
- (5) After subsection (6) insert—
  - “(7) In this section and section 3—
    - “the appropriate person”, in relation to a fixed penalty notice, means—
      - (a) if it was given by a constable or an authorised person, the fixed penalty clerk, and
      - (b) if it was given by a vehicle examiner or the Secretary of State, the Secretary of State, and
    - “the appropriate person”, in relation to a conditional offer, means—
      - (a) where the conditional offer was issued under subsection (1), (2) or (3) of section 75 of the Road Traffic Offenders Act 1988, the fixed penalty clerk, and
      - (b) where it was issued under subsection (1A) or (3B) of that section, the Secretary of State.”
- 26 (1) Section 3 (revocation of licences) is amended as follows.
  - (2) In subsection (1), for “(4)” substitute “(4)(b)”.
  - (3) After that subsection insert—
    - “(1ZA) Where section 2(4)(a) applies but the appropriate person is the Secretary of State, the Secretary of State must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued, revoke that person’s licence.”
  - (4) In subsections (1A) and (1B), after “subsection (1)” insert “or (1ZA)”.
  - (5) In subsection (2), for “subsection (1) or (1B)” substitute “this section”.
- 27 (1) Schedule 1 (newly qualified drivers holding test certificates) is amended as follows.
  - (2) In paragraph 1, after sub-paragraph (2) insert—
    - “(2A) In this Schedule “the appropriate person” has the same meaning as in sections 2 and 3 of this Act.”
  - (3) In paragraph 3(4)—
    - (a) in paragraph (a), for “fixed penalty clerk”, in both places, substitute “appropriate person”,

- (b) in paragraph (c), for “fixed penalty clerk” substitute “appropriate person”, and
  - (c) in the words following paragraph (c), for “fixed penalty clerk to whom the payment is made” substitute “appropriate person”.
- (4) In paragraph 4(3)—
  - (a) in paragraph (b), for “fixed penalty clerk” substitute “appropriate person”, and
  - (b) for the words following paragraph (c) substitute “section 2(4) does not apply but if the appropriate person is the fixed penalty clerk sub-paragraph (4) applies instead.”
- (5) In paragraph 5—
  - (a) after sub-paragraph (1) insert—
 

“(1ZA) Where section 2(4) is disappplied by paragraph 4(3) and the appropriate person is the Secretary of State, the Secretary of State must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued revoke that person’s test certificate.”,
  - (b) in sub-paragraphs (1A) and (1B), after “sub-paragraph (1)” insert “or (1ZA)”, and
  - (c) in sub-paragraph (2), for “sub-paragraph (1) or (1B)” substitute “this paragraph”.
- (6) In paragraph 6(1), after “paragraph 5(1)” insert “or (1ZA)”.
- (7) In paragraph 7—
  - (a) in sub-paragraph (3)(b), for “fixed penalty clerk” substitute “appropriate person”, and
  - (b) in sub-paragraph (4)—
    - (i) for “fixed penalty clerk” substitute “appropriate person”, and
    - (ii) at the beginning of paragraph (b) insert “unless the appropriate person is the Secretary of State,”.
- (8) In paragraph 8—
  - (a) after sub-paragraph (1) insert—
 

“(1ZA) Where paragraph 7(4) applies and the appropriate person is the Secretary of State, the Secretary of State must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued revoke that person’s licence and test certificate.”,
  - (b) in sub-paragraphs (1A) and (1B), after “sub-paragraph (1)” insert “or (1ZA)”, and
  - (c) in sub-paragraph (2), for “sub-paragraph (1) or (1B)” substitute “this paragraph”.
- (9) In paragraph 9, after “paragraph 8(1)” insert “or (1ZA)”.
- (10) In paragraph 10(a), after—
  - (a) “paragraph 5(1)”, and
  - (b) “paragraph 8(1)”,

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insert “or (1ZA)”.