
STATUTORY INSTRUMENTS

1997 No. 3058

ROAD TRAFFIC

**The Road Traffic (Vehicle Emissions)
(Fixed Penalty) Regulations 1997**

Made - - - - 19th December 1997

Coming into force in accordance with regulation 1

Whereas a draft of these Regulations has been laid before and approved by resolution of each House of Parliament in accordance with section 87(8) of the Environment Act 1995⁽¹⁾:

Now, therefore, the Secretary of State, in exercise of the powers conferred by section 87(1),(2) and (5) of and paragraph 5 of Schedule 11 to the Environment Act 1995 and of all other powers enabling him in that behalf, and after consultation with the Environment Agency and the Scottish Environmental Protection Agency and with such bodies appearing to him to be representative of the interests of local government and of industry and with such other bodies or persons as he considers appropriate in accordance with section 87(7) of that Act, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Road Traffic (Vehicle Emissions) (Fixed Penalty) Regulations 1997 and shall come into force on the seventh day after the day on which they are made.

Interpretation

2.—(1) In these Regulations—

- (a) “an authorised person” means a person authorised to issue fixed penalty notices in accordance with regulation 4;
- (b) “fixed penalty” means, subject to regulation 9, a penalty—
 - (i) of £60 in the case of a fixed penalty offence relating to regulation 61 of the 1986 Regulations, or
 - (ii) of £20 in the case of a fixed penalty offence relating to regulation 98 of the 1986 Regulations;
- (c) “fixed penalty notice” means a notice offering a person an opportunity to discharge any liability to conviction for a fixed penalty offence by payment of a penalty of the amount prescribed in sub-paragraph (b);

(1) 1995 c. 25. See section 91(1) for the definitions of “prescribed” and “regulations”.

- (d) “fixed penalty offence” means an offence under section 42 of the Road Traffic Act 1988(2) consisting of—
- (i) a contravention of, or failure to comply with, regulation 61 of the 1986 Regulations;
 - (ii) a contravention of, or failure to comply with, regulation 98 of the 1986 Regulations;
 - (iii) using on a road a motor vehicle which does not comply with a requirement of regulation 61 of the 1986 Regulations or causing or permitting a motor vehicle to be so used; or
 - (iv) using on a road a motor vehicle which does not comply with a requirement of regulation 98 of the 1986 Regulations or causing or permitting a motor vehicle to be so used;
- (e) “the 1986 Regulations” means the Road Vehicles (Construction and Use) Regulations 1986(3);
- (f) “a participating authority” means—
- (i) Birmingham City Council;
 - (ii) Bristol City Council;
 - (iii) Canterbury City Council;
 - (iv) Glasgow City Council;
 - (v) Middlesbrough Borough Council;
 - (vi) the Council of the City and County of Swansea; and
 - (vii) Westminster City Council;
- (g) “the period for paying” in relation to any fixed penalty notice, means the period of 28 days beginning with the day on which the notice was issued.

(2) Unless the context otherwise requires any reference in these Regulations to a numbered regulation is to the regulation in these Regulations bearing that number and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

Powers of participating authorities

3.—(1) A participating authority may within its area—

- (a) take such steps as are required, including the carrying out of tests on the emissions from vehicles, to enforce the provisions of regulation 61 of the 1986 Regulations, and
- (b) take such steps as are required to enforce the provisions of regulation 98 of the 1986 Regulations,

and each of the offences referred to in the definition of “fixed penalty offence” in regulation 2(1)(d) is hereby prescribed as an offence for the purposes of section 87(2)(o) of the Environment Act 1995.

(2) In connection with the discharge of an authority’s functions under paragraph (1) an authorised person of that authority may require the driver of any vehicle to disclose to him—

- (a) his name and address; and
- (b) his date of birth.

(3) Any person who fails to comply with a requirement under paragraph (2) shall be guilty of an offence and be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) 1988 c. 52; section 42 was substituted by section 8(2) of the Road Traffic Act 1991 (c. 40).

(3) S.I.1986/1078. Relevant amending instruments are S.I. 1990/1131, 1991/1526, 1992/2137, 1992/3285, 1993/2199, 1994/2192, 1995/2210, 1996/2085 and 1997/1544.

Persons to issue fixed penalty notices

4.—(1) A participating authority may authorise any officer of the authority, or any other person, who has successfully completed a course of training on checking emissions approved by the Secretary of State, to issue fixed penalty notices in accordance with these Regulations in respect of fixed penalty offences relating to regulation 61 of the 1986 Regulations.

(2) A participating authority may authorise any officer of the authority or any other person to issue fixed penalty notices in accordance with these Regulations in respect of fixed penalty offences relating to regulation 98 of the 1986 Regulations.

Issue of fixed penalty notices

5.—(1) Where—

- (a) a test has been carried out on the emissions from a vehicle, and
- (b) in consequence of that test an authorised person considers that a fixed penalty offence relating to regulation 61 of the 1986 Regulations has been committed by the person using that vehicle,

he may issue a fixed penalty notice to that person.

(2) Where an authorised person considers that a fixed penalty offence relating to regulation 98 of the 1986 Regulations has been committed by the driver of a vehicle, he may issue a fixed penalty notice to that person.

(3) A fixed penalty notice in accordance with paragraph (1) or (2) shall be issued as soon as is reasonably practicable and, in any case, not later than 24 hours after the commission of the offence in connection with which it is issued.

(4) A fixed penalty notice issued in accordance with paragraph (1) or (2) shall give such reasonable particulars of the circumstances alleged to constitute the fixed penalty offence to which the notice relates as are necessary for giving reasonable information of the offence and shall state—

- (a) the name and address of the person to whom the notice is issued;
- (b) the registered number of the vehicle concerned;
- (c) the date of the offence;
- (d) the monetary amount of the fixed penalty which may be paid;
- (e) the person to whom, and the address at which, the fixed penalty may be paid and any correspondence relating to the fixed penalty notice may be sent;
- (f) the person to whom and the address at which any request for a hearing may be sent;
- (g) the method or methods by which payment of the fixed penalty may be made;
- (h) the period for paying the fixed penalty, and
- (i) the consequences of the fixed penalty not being paid before the expiration of the period.

(5) A fixed penalty notice may be issued under this regulation either by giving it to the person to whom it is issued or by properly addressing, pre-paying and posting a letter containing the notice to that person and shall, for the purposes of these Regulations, be taken to have been issued at the time when it is so given or a letter containing it is so posted.

Proceedings or conviction

6.—(1) Where a fixed penalty notice has been issued to a person in accordance with regulation 5, no proceedings shall be instituted against that person for the offence in connection with which the notice was issued before the expiration of the period for paying the penalty, unless he has given a notice requesting a hearing in accordance with regulation 7.

(2) A person shall not be convicted for an offence in connection with which a fixed penalty notice has been issued if the fixed penalty is paid before the expiration of the period for paying it.

Request for a hearing

7.—(1) A person to whom a fixed penalty notice has been issued may give notice requesting a hearing in respect of the offence to which the fixed penalty notice relates.

(2) A notice requesting a hearing under paragraph (1) shall be in writing and shall be given to the person specified for this purpose in the fixed penalty notice at the address so specified not later than the end of the period of 28 days beginning with the day after the day on which the fixed penalty notice was issued.

(3) Where a hearing has been requested in accordance with paragraphs (1) and (2), the fixed penalty shall not be payable.

Prosecution in respect of an offence

8.—(1) Where a person to whom a fixed penalty notice has been issued in respect of an offence committed in England or Wales gives a notice requesting a hearing in respect of the offence in accordance with regulation 7, the fixed penalty notice may be treated as an information for the purposes of a prosecution for the offence in connection with which it was issued.

(2) Where a person to whom a fixed penalty notice has been issued in respect of an offence committed in Scotland gives a notice requesting a hearing in respect of the offence in accordance with regulation 7, an authorised person may notify the Procurator Fiscal.

Increase in fixed penalty

9. Where the person liable to pay the fixed penalty fails to pay it before the expiration of the period for paying it without having given notice requesting a hearing under regulation 7, the amount of the fixed penalty shall be increased—

- (a) to £90, in the case of an offence relating to regulation 61 of the 1986 Regulations, and
- (b) to £40, in the case of an offence relating to regulation 98 of the 1986 Regulations.

Recovery of unpaid fixed penalties

10.—(1) Any fixed penalty payable under a fixed penalty notice issued in England or Wales which is unpaid after the end of the period for paying it shall, if a county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court.

(2) Where any fixed penalty payable under a fixed penalty notice issued in Scotland remains unpaid, it shall be enforceable in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the Sheriff Court of any Sheriffdom in Scotland.

Enforcement by execution

11.—(1) Subject to paragraphs (2) and (3), an unpaid fixed penalty, which is recoverable in accordance with regulation 10 as if it were payable under a county court order, shall be treated for purposes of enforcement by execution as if it were a Part II debt specified in article 2(1)(a) of the Enforcement of Road Traffic Debts Order 1993(4) (“the 1993 Order”).

(4) S.I. 1993/2073.

(2) Article 3(1) of the 1993 Order (no warrant of execution to be issued until the time for serving a statutory declaration has expired) shall not apply to a warrant of execution to enforce payment of an unpaid fixed penalty.

(3) For the purposes of the enforcement of payment of an unpaid fixed penalty, any reference in the 1993 Order to “the authority” shall be a reference to a participating authority.

Withdrawal of a fixed penalty notice

12.—(1) A fixed penalty notice may be withdrawn in any case in which an authorised person determines that it ought not to have been issued or ought not to have been issued to the person named as the person to whom it was issued.

(2) Where a fixed penalty notice has been withdrawn in accordance with paragraph (1)—

- (a) any amount paid by way of fixed penalty in pursuance of that notice shall be repaid to the person who paid it, and
- (b) no proceedings shall be continued or instituted against that person for the offence in connection with which the withdrawn notice was issued.

Signed by authority of the Secretary of State

Helene Hayman
Parliamentary Under-Secretary of State,
Department of the Environment, Transport and
the Regions

19th December 1997

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for specified local authorities to issue fixed penalty notices to users of vehicles within their area who contravene, or fail to comply with, regulation 61 of the Road Vehicles (Construction and Use) Regulations 1986 and to drivers of vehicles within their area who contravene, or fail to comply with, regulation 98 of those Regulations. Regulation 61 makes provision concerning the emission of smoke and other substances from vehicles and regulation 98 makes provision for the stopping of the engine of a stationary vehicle to avoid noise and exhaust emissions.

A fixed penalty notice is a notice which enables a person who has committed an offence to discharge any liability to conviction on payment of a fixed penalty of £60 in the case of a contravention of regulation 61 and £20 in the case of a contravention of regulation 98. The Regulations make provision for a request to be made for a hearing in respect of the offence and for the increase in the amount of the fixed penalty if it remains unpaid at the end of the period of 28 days after the offence without a request for a hearing having been made.

A compliance cost assessment has been prepared and copies can be obtained from the Department of the Environment, Transport and the Regions, Zone 2/05, Great Minster House, 76 Marsham Street, London SW1P 4DR (telephone 0171-271 4653). Copies have been placed in the libraries of each House of Parliament.