
STATUTORY INSTRUMENTS

2003 No. 1113

ROAD TRAFFIC

The Motor Vehicles (Tests) (Amendment) Regulations 2003

<i>Made</i>	- - - -	<i>14th April 2003</i>
<i>Laid before Parliament</i>		<i>16th April 2003</i>
<i>Coming into force</i>	- -	<i>1st June 2003</i>

The Secretary of State for Transport, in exercise of the powers conferred by sections 45 and 46 of the Road Traffic Act 1988(1), and of all other powers enabling him in that behalf, after consultation with representative organisations pursuant to section 195(2) of that Act, hereby makes the following Regulations:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Motor Vehicles (Tests) (Amendment) Regulations 2003 and shall come into force on 1st June 2003.

(2) In these Regulations “the principal Regulations” means the Motor Vehicles (Tests) Regulations 1981(2).

(3) Subject to regulations 24 and 25, these Regulations apply in relation to, and for purposes connected with, examinations of motor vehicles under Parts III and IV of the principal Regulations carried out on or after 1st June 2003.

Amendment of Regulations

2. The principal Regulations shall be further amended in accordance with regulations 3 to 23 and 26 of these Regulations.

Interpretation

3.—(1) In regulation 3(1)—

(a) after the definition of “the 1981 Act” insert the following definition—

““the 1988 Act” means the Road Traffic Act 1988;”;

(b) for the definition of “designated council”, substitute the following definition—

(1) 1988 c. 52. Section 45 was amended, and section 46 substituted, by sections 1 and 2, respectively, of the Road Traffic (Vehicle Testing) Act 1999 (c. 12).

(2) S.I.1981/1694. Relevant amending instruments are S.I. 1995/2438, 1998/1672 and 2000/1432.

““designated council” means a council designated by the Secretary of State for the purposes of sections 45 (tests of satisfactory condition of vehicles) and 46 (particular aspects of regulations under section 45) of the 1988 Act;”(3)

(c) for the definition of “examination”, substitute the following definition—

““examination” means an examination of a motor vehicle for the purposes of section 45 of the 1988 Act”;

(d) omit the definition of “traffic area” (and of “office” in relation to a traffic area); and

(e) insert, at the appropriate places, the following definitions—

““communication” includes a communication comprising sounds or images or both and a communication effecting a payment;”;

““electronic communication” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—

(a) by means of a telecommunications system (within the meaning of the Telecommunications Act 1984); or

(b) by other means but while in an electronic form;”(4);

““inspector” means a person appointed by a designated council for the purposes of sections 45 and 46 of the 1988 Act;”;

““proper officer”, in relation to a designated council in England or Wales, has the meaning given by section 270(3) of the Local Government Act 1972;”(5);

““section 66A examiner” means an examiner appointed under section 66A (appointment of vehicle examiners) of the 1988 Act;”;

““the records” means the records of the results of examinations for the purposes of section 45 of the 1988 Act maintained by the Secretary of State (or caused by him to be maintained); and “the electronic record” means such of those records as is maintained in electronic form;” and

““VOSA” means the Vehicle and Operator Services Agency”.

(2) After paragraph (5), insert the following paragraph—

“(6) References in these Regulations to the making, by electronic communication, of entries in the electronic record include references to causing entries to be made in that record (either by electronic communication or by other means notified by the Secretary of State).”.

Exemptions

4. In regulation 6 (exemptions)—

(a) in paragraph (1)(xix), after “granted by a local authority” insert “or Transport for London(6)”; and

(b) In paragraph (4)—

(i) after “issued the licence” (in the first place where those words appear), insert “(“the licensing authority”)”; and

(ii) for “the authority which issued the licence” (in the second place where those words appear), substitute “the licensing authority”.

(3) See also section 45(3)(c)(i), substituted by the Road Vehicles (Testing) Act 1999, section 1(1)(b).

(4) 1984 c. 12. See the definition in section 106(1), and section 4(1) and (2).

(5) 1972 c. 70.

(6) Transport for London was established by section 154 of the Greater London Authority Act 1999 (c. 29).

Approvals, authorisations and designations for the purposes of examinations

5. For Part II (regulations 7 to 11), substitute Part II set out in the Schedule to these Regulations.

Applications for examinations

6. In regulation 12 (applications for examinations)(7)—
- (a) in paragraph (2), in the entry in column (2) of the Table relevant to item 1, after “An”, insert “authorised”;
 - (b) in paragraph (3)—
 - (i) after “Regulations”, insert “authorised”;
 - (ii) in sub-paragraphs (a) and (b), omit “by the examiner or, as the case may be, the designated council”; and
 - (iii) in sub-paragraphs (a) and (b), omit “by the examiner or, as the case may be, the designated council”; and
 - (c) in paragraph (4), before “examiner” (in both places), insert “authorised”;
 - (d) in paragraph (5)—
 - (i) for the words from the beginning to “council”, substitute “Any authorised examiner, inspector, nominated tester or section 66A examiner”; and
 - (ii) omit the words from “; and the reference” to the end; and
 - (e) in paragraph (6)—
 - (i) for “examiner”, in the first place where that word appears, substitute “authorised examiner or a nominated tester”;
 - (ii) omit “appointed by such a council”; and
 - (iii) for “inspectors appointed by that council”, substitute “their inspectors”.

Requirements as to vehicles submitted for examinations

7. In regulation 13 (requirements as to vehicles submitted for examinations)(8)—
- (a) in paragraph (1) for the words from the beginning to “council”, substitute “An authorised examiner, a section 66A examiner, a nominated tester and an inspector”;
 - (b) in sub-paragraph (a) of that paragraph, after “the examiner, inspector”, insert “or nominated tester, as the case may be”;
 - (c) in sub-paragraph (c) of that paragraph, after “inspector”, insert “or nominated tester, as the case may be”;
 - (d) in sub-paragraph (d) of that paragraph, after “the examiner or inspector”, insert “or nominated tester, as the case may be”;
 - (e) in sub-paragraph (e) of that paragraph, after “the examiner, or inspector”, insert “or nominated tester, as the case may be”;
 - (f) in sub-paragraph (j) of that paragraph—
 - (i) after “the examiner or inspector”, insert “or nominated tester, as the case may be”; and
 - (ii) omit the word “or” at the end of paragraph (ii);

(7) Relevant amendments are made by S.I. 1995/2438 and 1998/1672.

(8) Relevant amendments are made by S.I. 1995/2438 and 2000/1432.

- (g) in sub-paragraph (k) of that paragraph, after “the examiner or inspector”, insert “or nominated tester, as the case may be”;
- (h) after sub-paragraph (k) of that paragraph, insert—
 - “(l) the vehicle—
 - (i) does not have a registration mark, vehicle identification number, chassis number or serial number; or
 - (ii) has one or more of those marks and numbers, but either none of them is legible or such one or more as is legible is in a script other than English.”;
 - and
 - (i) omit paragraph (2).

Conditions as to responsibility for damage to vehicles and third party liabilities

8. In regulation 14 (conditions as to responsibility for damage to vehicles and third party liabilities)⁽⁹⁾—

- (a) in paragraph (1), for “an examiner or an inspector appointed by a designated council, the examiner,” substitute “a person other than a section 66A examiner, the authorised examiner or”;
- (b) in sub-paragraph (a) of that paragraph, for “the examiner, council”, substitute “the authorised examiner or designated council (as the case may be)”;
- (c) for paragraph (1A), substitute the following paragraph—

“(1A) Where a motor vehicle has been submitted for an examination to be carried out by a section 66A examiner, paragraph (1) shall apply in relation to the examination as if—

 - (a) for the reference to a person other than a section 66A examiner, there were substituted a reference to a section 66A examiner; and
 - (b) for references to an authorised examiner or designated council, there were substituted references to the Secretary of State.”;
- (d) in paragraph (2), before “examiner” insert “authorised”;
- (e) in paragraph (3), before “examiner” (in both places), insert “authorised”;
- (f) in paragraph (4)—
 - (i) in sub-paragraph (a), before “examiner”, insert “authorised”;
 - (ii) in sub-paragraph (b), for the words from “of the vehicle” to the end, substitute “, in the control or care of an inspector, and”;
 - (iii) in sub-paragraph (c), for the words from “of the vehicle” to the end, substitute “, in the control or care of a section 66A examiner”.

Notification of examinations and results

9. For regulation 15 (results of examinations), substitute the following regulation—

“Notification of examinations and results

15.—(1) Subject to paragraph (3), the person by whom an examination is to be carried out shall, before carrying out the examination—

(9) Relevant amendments are made by S.I. [1995/2438](#).

- (a) satisfy himself that there is available to him a supply of forms “VT20” (or “VT20W”) and “VT30” (or “VT30W”) sufficient to enable the result of the examination to be recorded; and
 - (b) by electronic communication enter in the electronic record—
 - (i) his intention to carry out the examination;
 - (ii) the registration mark (if any) of the vehicle that he intends to examine; and
 - (iii) the vehicle identification number, chassis number or serial number of the vehicle.
- (2) Subject to paragraphs (3) and (4), as soon as reasonably practicable after completing an examination, the person by whom it was carried out—
- (a) shall, by electronic communication, enter in the electronic record, as the circumstances require—
 - (i) that the prescribed statutory requirements are complied with in relation to the vehicle; or
 - (ii) that the prescribed statutory requirements are not complied with in relation to the vehicle;
 - (b) shall, by electronic communication—
 - (i) make such other entries in the electronic record as the record requires to be made; or
 - (ii) where he has caused those entries to be made, confirm them;
 - (c) may, by electronic communication, make such other entries in the electronic record as the record allows to be made; and where he has caused entries to be so made, he shall confirm them; and
 - (d) shall issue—
 - (i) the test certificate or, as the case may be, the notice of the refusal of a test certificate, generated by the system supporting the electronic record; and
 - (ii) such other documents as the Secretary of State may from time to time require to be issued.
- (3) Where the person by whom the examination is to be carried out—
- (a) has taken such steps as are reasonably practicable to gain access to the electronic record; and
 - (b) has failed to gain access,
- he shall comply with the requirements notified to him by the Secretary of State for advising the Secretary of State that the examination is to be carried out and for recording the result of the examination.
- (4) Where documents cannot be generated by the system supporting the electronic record, the person carrying out the examination shall issue a test certificate on form “VT20” or “VT20W” or, as the circumstances require, a notice of the refusal of a test certificate, on form “VT30” or “VT30W”.
- (5) As soon as the electronic record becomes available for use, a person who has complied with the requirements mentioned in paragraph (3)—
- (a) shall, by electronic communication—
 - (i) confirm the entries required to be made by paragraph (2)(a) and (b); and
 - (ii) confirm any other entries that may have been made; and

(b) may, by electronic communication, make such other entries in the electronic record as the record allows to be made.

(6) Where paragraph (4) applies, the authorised examiner or designated council at whose vehicle testing station the examination was carried out, or the Secretary of State—

- (a) if required to do so by the person by whom the vehicle was submitted for examination;
- (b) on production by that person of the certificate or notice (as the case may be) issued to him in accordance with that paragraph; and
- (c) if satisfied that no examination under this regulation or regulation 18 has been carried out in relation to the vehicle since that to which the certificate or notice relates,

shall supply to him, free of charge, the test certificate or, as the case may be, the notice of the refusal of a test certificate generated by the system supporting the electronic record.

(7) A test certificate shall be signed by the person by whom the examination was carried out or such other person as the Secretary of State may in any particular case direct.

(8) A notice of the refusal of a test certificate (including a notice issued in the circumstances mentioned in regulation 16) shall be signed by the person by whom the examination was carried out.

(9) Where a test certificate or notice of the refusal of a test certificate bears a facsimile, by whatever process reproduced, of the signature of a section 66A examiner, the certificate or notice shall be treated as duly signed for the purposes of paragraph (7) or (8).”.

Refusal of test certificate where braking test cannot be carried out

10. In regulation 16 (refusal of a test certificate where braking test cannot be carried out)—

- (a) in paragraph (1)—
 - (i) omit “by an examiner or an inspector appointed by a designated council”; and
 - (ii) for “the examiner or inspector”, substitute “the person carrying out the examination”;
- (b) for paragraph (2), substitute the following paragraphs—

“(2) Subject to paragraphs (2A) and (2B), as soon as reasonably practicable after completing the rest of the examination, the person carrying out the examination—

 - (a) shall, by electronic communication, enter in the electronic record that the prescribed statutory requirements have not been shown to be met in relation to the vehicle;
 - (b) shall by electronic communication—
 - (i) make such other entries in the electronic record as the record requires to be made; or
 - (ii) where he has caused those entries to be made, confirm them;
 - (c) may, by electronic communication, make such other entries in the electronic record as the record allows to be made; and where he has caused entries to be so made, he shall confirm them;
 - (d) shall issue—
 - (i) the notice of the refusal of a test certificate generated by the system supporting the electronic record; and
 - (ii) such other documents as the Secretary of State may from time to time require to be issued.

(2A) Where the person by whom the examination is to be carried out—

- (a) has taken such steps as are reasonably practicable to gain access to the electronic record; and
- (b) has failed to gain access,

he shall comply with the requirements notified to him by the Secretary of State for recording the result of the examination.

(2B) Where documents cannot be generated by the system supporting the electronic record, the person carrying out the examination shall issue a notice of the refusal of a test certificate, on form “VT30” or “VT30W”.

(2C) As soon as the electronic record becomes available for use, a person who has complied with the requirements mentioned in paragraph (2B)—

- (a) shall, by electronic communication—
 - (i) confirm the entries required to be made by paragraph (2)(a) and (b); and
 - (ii) confirm any other entries that may have been made; and
- (b) may, by electronic communication, make such other entries in the electronic record as the record allows to be made.

(2D) Where paragraph (2B) applies, the authorised examiner or designated council at whose vehicle testing station the examination was carried out, or the Secretary of State—

- (a) if required to do so by the person by whom the vehicle was submitted for examination;
- (b) on production by that person of the notice issued to him in accordance with that paragraph; and
- (c) if satisfied that no examination under this regulation or regulation 18 has been carried out in relation to the vehicle since that to which the notice relates,

shall supply to him, free of charge, the notice of the refusal of a test certificate generated by the system supporting the electronic record.”; and

- (c) omit paragraph (4).

Removal of vehicles submitted for examination

11. In regulation 17 (removal of vehicles submitted for examination)—

- (a) in paragraph (1), before “examiner” (in the first place where that word appears), insert “authorised”; and
- (b) in paragraph (2)—
 - (i) in sub-paragraph (a), before “examiner”, insert “authorised”;
 - (ii) in sub-paragraph (b), for the words from “by an inspector” to the end, substitute “in the control or care of an inspector”; and
 - (iii) in sub-paragraph (c), for the words from “of the vehicle” to the end, substitute “in the control or care of a section 66A examiner”.

Appeal on refusal of a test certificate

12. In regulation 18 (appeal on refusal of a test certificate)—

- (a) in paragraph (1)(b), for “the office of any traffic area”, substitute “any office of VOSA”;
- (b) in paragraph (4)(a), for “an examiner”, substitute “persons carrying out examinations”;

(c) for paragraphs (5) and (6), substitute the following paragraphs—

“(5) Paragraphs (2) to (6) of regulation 15 shall apply in relation to examinations under this regulation as they apply in relation to examinations under that regulation, subject to the omission, from paragraph (3) of that regulation, of the words “for advising the Secretary of State that the examination is to be carried out and”.

(6) A test certificate issued under this regulation shall be signed by the person by whom the examination was carried out or such other person as the Secretary of State may in any particular case direct.

(6A) A notice of the refusal of a test certificate issued under this regulation shall be signed by the person by whom the examination was carried out.”.

Payments to examiners and designated councils at whose premises examinations on appeals are carried out

13. In regulation 19 (payments to examiners and designated councils at whose premises examinations on appeals are carried out), before “examiner” (in the first place where that word appears), insert “authorised”.

Fees for examinations

14. In regulation 20 (fees for examinations)—

- (a) in paragraph (2)(b)(i), for “the examiner or designated council”, substitute “the person”;
- (b) in paragraph (3A)(a), before “examiner” insert “authorised”;
- (c) in paragraph (6), for the words from “the inspector” to “1988”, substitute “inspector or section 66A examiner”.

Fees on appeals

15. In regulation 21 (fees on appeals), in the proviso to paragraph (4), for “the office of the traffic area”, substitute “the office of VOSA”.

Other records to be kept and returns to be furnished

16. For regulation 22 (records to be kept and returns to be furnished by examiners and designated councils), substitute the following regulation—

“Other records to be kept and returns to be furnished

22.—(1) Without prejudice to regulations 15, 16 and 18, authorised examiners, designated councils, inspectors and nominated testers shall, by electronic communication in the electronic record, or in such other form and by such other means as the Secretary of State may from time to time specify, record such particulars as may be so specified.

(2) Where the electronic record is temporarily inaccessible for the purpose of recording particulars pursuant to paragraph (1), the particulars shall be recorded in such other form and by such other means as the Secretary of State may specify.

(3) Where particulars are recorded as mentioned in paragraph (2), appropriate entries shall be made or, as the Secretary of State may require, be confirmed, in the electronic record as soon as reasonably practicable after it has become accessible.

(4) Records (other than the electronic record) under this regulation shall be kept for a period sufficient to ensure that, upon an inspection under regulation 24, particulars of any

matter recorded within the period of 18 months preceding the date of the inspection are available for inspection.”.

Duplicate test certificates

17. For regulation 23 (duplicate test certificates), substitute the following regulation—

“Duplicate test certificates

23.—(1) If a test certificate has been lost or defaced, an application for the issue of a duplicate of the original certificate may, at any time before the end of the period of 18 months beginning with the date on which the examination to which the certificate relates was carried out, be made—

- (a) at the vehicle testing station from which the original certificate was obtained,
- (b) at any other vehicle testing station, or
- (c) at any office of VOSA.

(2) The applicant shall provide with his application—

- (a) particulars of the registration mark (if any) of the vehicle concerned;
- (b) where the application is made as mentioned in paragraph (1)(b), such other information as the authorised examiner or designated council at whose testing station the application is made reasonably requires in order to access relevant data from the electronic record;
- (c) where the application is made as mentioned in paragraph (1)(c), such other information as the Secretary of State reasonably requires.

(3) The person to whom an application is made under paragraph (1) shall—

- (a) upon tracing sufficient particulars of the certificate to which the application relates to enable a duplicate to be issued; and
- (b) on being paid—
 - (i) where the certificate relates to a motor bicycle not having a side car attached to it, the amount equal to half of the fee specified in regulation 20(1)(a);
 - (ii) in any other case, £10,

issue a duplicate, marked “Duplicate”; and the duplicate so issued shall have the same effect as the original test certificate.

(4) A duplicate issued under paragraph (3) need not be signed by the person who carried out the examination as the result of which the original certificate was obtained.”.

Correction of errors in records and test certificates

18. After regulation 23, insert the following regulation—

“Correction of errors in records and test certificates

23A.—(1) A person authorised in that behalf by the Secretary of State may, in accordance with the terms of his authorisation, correct an error in the records or in any test certificate.

(2) Subject to paragraph (3), a test certificate may be corrected at any time during the period of the certificate’s validity.

(3) Where, in respect of the same vehicle, two or more test certificates are valid, a correction may be made only to the certificate that is the later or latest to be issued.

- (4) The person by whom a correction is made shall—
- (a) if appropriate, make an entry in the electronic record to reflect the correction; and
 - (b) where the correction is of an error in a test certificate, supply to the person who furnishes the certificate containing the error, the test certificate (as corrected) generated by the system supporting the electronic record.”.

Inspection of premises, apparatus and records

19. In regulation 24 (inspection of premises, apparatus and records)—
- (a) for the words from the beginning to “Inspector”, substitute “A person authorised by the Secretary of State”;
 - (b) for “examiner or council”, substitute “authorised examiner or designated council”;
 - (c) in paragraph (c), omit “and copies of test certificates and notifications of the refusal of test certificates”.

Return of apparatus and documents

20. After regulation 24, insert the following regulation—

“Return of apparatus and documents

24A.—(1) Without prejudice to regulation 11, the Secretary of State may at any time, by notice or electronic communication to an authorised examiner or designated council, require the examiner or council—

- (a) to deliver to him, at such place and within such period as may be specified in the notice or communication; or
- (b) to permit the collection, from such premises as may be specified in the notice or communication, of,

apparatus or documents supplied to the examiner or council, by or on behalf of the Secretary of State, for the purposes of, or for purposes connected with, examinations to be carried out at any of the examiner’s or council’s vehicle testing stations.

(2) A communication or notice under paragraph (1) may refer to the delivery or collection of—

- (a) particular apparatus or apparatus of a description specified in the communication or notice;
- (b) a particular document or documents of a description so specified.”.

Miscellaneous charges and refunds

21. For regulation 25 (forms), substitute the following regulations—

“Charges for entries in the electronic record and payments on account

25.—(1) An entry in the electronic record that the prescribed statutory requirements are complied with in relation to a vehicle shall not be made unless the authorised examiner or, as the case may be, the designated council at whose vehicle testing station the examination of the vehicle was carried out has paid to the Secretary of State the sum of £1.19.

(2) Every authorised examiner and every designated council shall make such payments to the Secretary of State in anticipation of charges that may become payable by them under paragraph (1) as will, in the opinion of the examiner or council, ensure that the requirements

of regulation 15(1)(a) are capable of being met as regards examinations at each of their vehicle testing stations.

- (3) Payments under paragraph (2)—
 - (a) must be designated by the examiner or council concerned as referable to a named vehicle testing station of the examiner or council; and
 - (b) may only be of an amount equal to the charge for 100 entries of the description mentioned in paragraph (1), or any multiple of 100.

Charges for apparatus, etc. connected with the electronic record

25A.—(1) Subject to paragraphs (2) to (5), an authorised examiner or designated council shall pay to the Secretary of State or to such other person as, by notice to the examiner or council, he may direct, in respect of the provision by him, or on his behalf, of any apparatus or service specified in column (1) of the Table in Schedule 3 to these Regulations, the amount specified in relation to that apparatus or service in column (2) of that Table.

- (2) Item 1 shall be provided free of charge unless—
 - (a) the visit is the second (or subsequent) to the vehicle testing station for the purpose of installing apparatus and is attributable to a failure on the part of the authorised examiner or, as the case may be, the designated council, to comply with requirements notified by or on behalf of the Secretary of State in advance of the date appointed for the first (or previous) visit; or
 - (b) the visit is attributable to the cancellation, by the authorised examiner or, as the case may be, the designated council, of an arrangement to install apparatus at an earlier date.
- (3) The Secretary of State may waive any charge payable in respect of item 1 or item 2.
- (4) Items 6 to 15 shall be provided free of charge where the apparatus to be replaced is unserviceable by reason of fair wear and tear.
- (5) Item 16 shall be provided free of charge except where the apparatus to be replaced—
 - (a) is unserviceable for reasons other than fair wear and tear; and
 - (b) is the third (or subsequent) item of that description to have become unserviceable in the preceding five years for reasons other than fair wear and tear.
- (6) Where, as respects apparatus of a description specified in column (1) of the Table in Schedule 3 to these Regulations—
 - (a) a person fails to comply with regulation 11(1) or a requirement imposed under regulation 24A(1); or
 - (b) the apparatus delivered or, as the case may be, made available for collection, in compliance with that provision or requirement, is in an unserviceable condition by reason other than fair wear and tear; or
 - (c) the person to whom it was supplied is unable to return it to the Secretary of State, the Secretary of State may, by notice to the person concerned, require the payment to him of such amount, not exceeding that specified in relation to the apparatus in column (2) of that Table, as may be specified in the notice.
- (7) In this regulation, references to a numbered item are references to the apparatus or service bearing that number in column (1) of the Table in Schedule 3 to these Regulations.”

Refunds

25B.—(1) As soon as reasonably practicable after a cessation has taken effect in accordance with regulation 9 or 10, the Secretary of State shall repay to the person or council concerned the amount (if any) determined in accordance with the formula A–B, where—

“A” is the amount held by the Secretary of State immediately before the cessation on account of any charge that might have become payable by that person or council in connection with the carrying out of examinations; and

“B” is the amount payable to the Secretary of State in accordance with regulation 25A(6).

(2) On receipt of any unused forms for test certificates sent to him in accordance with regulation 11(1) or (2), the Secretary of State shall repay to the person or council concerned, an amount equal to the amount paid to the Secretary of State by that person or council for the supply of those forms.

(3) Where unissued and cancelled forms for test certificates are returned to the Secretary of State because they have been spoilt or defaced, the Secretary of State may make a refund to the person or council concerned of such amount as he considers appropriate.”.

Access to, and sale of, particulars in, or information derived from, the records

22. After regulation 28 (certificates of temporary exemption) insert the following regulations—

“Access to particulars in the records

29. The Secretary of State may make particulars contained in the records (including the electronic record) available for use—

- (a) by a chief officer of police; or
- (b) on payment of a fee, if any is required by the Secretary of State to be paid, of such amount as appears to the Secretary of State to be reasonable in the circumstances of the case, by any person who can show to the satisfaction of the Secretary of State that he has reasonable cause for wanting the particulars to be made available to him.

Sale of particulars in, and information derived from, the records

30. The Secretary of State may sell particulars contained in, or information derived from, the records (including the electronic record)—

- (a) to such persons as he thinks fit, and
- (b) for such price and on such other terms, and subject to such restrictions, as he thinks fit,

if those particulars do not (or that information does not) identify the premises at which any examination was carried out or any person concerned with the carrying out of the examination.”.

Charges for purposes of regulation 25A

23. After Schedule 2 (the prescribed statutory requirements), insert the following Schedule—

“SCHEDULE 3

regulation 25A

CHARGES FOR PURPOSES OF REGULATION 25A

<i>(1)</i> <i>Apparatus or service</i>	<i>(2)</i> <i>Amount £</i>
1. Visit to vehicle testing station for installation of apparatus associated with the electronic record.	142.86
2. Second (or subsequent) course of training, other than at vehicle testing station, in use of apparatus for accessing the electronic record.	179.19
3. Supply and commissioning of additional measuring equipment interface device.	137.38
4. Supply of additional measuring equipment interface device.	41.61
5. Supply and commissioning of additional VTS device.	801.53
6. Supply and commissioning of VTS device (replacement).	801.53
7. Supply and commissioning of computer base unit (replacement).	643.32
8. Supply and commissioning of monitor (replacement).	208.63
9. Supply and commissioning of keyboard (replacement).	130.11
10. Supply of keyboard (replacement).	34.33
11. Supply and commissioning of printer (replacement).	206.51
12. Supply and commissioning of pointing device (replacement)	129.85
13. Supply of pointing device (replacement).	34.08
14. Supply and commissioning of measuring equipment interface device (replacement).	137.38
15. Supply of measuring equipment interface device (replacement).	41.61
16. Smart card (replacement).	12.63
17. Plain paper (500).	7.67”

Savings

24.—(1) The amendments made—

- (a) by regulations 9, 10(b), 12(c), 16 and 17; and
- (b) by regulation 21, to the extent that it relates to regulation 25 of the principal Regulations,

shall not apply in relation to examinations at a vehicle testing station at which the apparatus required to enable entries to be made in the electronic record has not been installed and, accordingly, the principal Regulations shall have effect in relation to such examinations as if those amendments had not been made.

(2) The amendments made by regulations 9 and 10 of these Regulations shall not apply in relation to the examination of vehicles classified, in accordance with regulation 5 of the principal Regulations, as vehicles of Class VI or Class VIA.

Transitional provisions

25.—(1) In this regulation “the commencement date” means the date on which these Regulations come into force.

(2) A person who, immediately before the commencement date, is an authorised examiner or an inspector may continue to act in that capacity on and after that date, notwithstanding that he has not complied with the relevant requirements.

(3) Subject to paragraph (4), an authorised examiner to whom paragraph (2) applies shall, on and after the commencement date, be treated as subject to such of the conditions specified in such of regulations 8B and 8D as are applicable in his case (in addition to any conditions to which he is subject by virtue of his authorisation before that date).

(4) An authorised examiner who, but for this paragraph, would be treated as subject to the condition specified in regulation 8D(c), shall not be so treated if on 1st April 1995 he was authorised to carry out examinations for the purposes of section 45 of the 1988 Act and has continued so to be so authorised until immediately before the commencement date.

(5) An inspector to whom paragraph (2) applies shall be treated, on and after the commencement date, as subject to the conditions specified in regulation 8A (in addition to any conditions to which he is subject by virtue of his appointment before that date).

(6) A person whose name appears, with the agreement of the Secretary of State, in a list exhibited as mentioned in regulation 9(1)(d) of the principal Regulations immediately before the commencement date, may continue to carry out examinations at the vehicle testing station to which the list relates, notwithstanding that he has not complied with the relevant requirements.

(7) A person to whom paragraph (6) applies shall be treated, on and after the commencement date—

- (a) as a nominated tester; and
- (b) as subject to the conditions specified in regulation 8A (in addition to any conditions to which he is subject by virtue of his authorisation before that date).

(8) A council which, immediately before the commencement date, is designated for the purposes of section 45 and 46 of the 1988 Act may continue to act in that capacity on and after that date notwithstanding that they have not complied with the relevant requirements.

(9) Subject to paragraph (10), a council to which paragraph (8) applies shall be treated on and after the commencement date as subject to the conditions specified in regulation 8E (in addition to any conditions to which they are subject by virtue of their designation before that date).

(10) A designated council which, but for this paragraph, would be treated as subject to the condition specified in regulation 8E(b)(ii), shall not be so treated if on 1st April 1995 it was designated for the purposes of sections 45 and 46 of the 1988 Act and has continued so to be so designated until immediately before the commencement date.

(11) In this regulation “the relevant requirements”—

- (a) in relation to a person of a description specified in paragraph (2), means such of the requirements of Part II of the principal Regulations (as substituted by regulation 5 of

these Regulations) as are applicable to persons seeking authorisation under that Part as authorised examiners or, as the case may be, inspectors;

- (b) in relation to a person of the description specified in paragraph (6), means such of those requirements as are applicable to persons seeking approval under that Part as nominated testers;
- (c) in relation to a council, means such of those requirements as are applicable to councils seeking designation under that Part.

Omission of Part

26. Part 1 of Schedule I (diagram showing size, colour, and type of sign to be displayed by authorised examiners) shall be omitted.

Signed by authority of the Secretary of State for Transport

14th April 2003

David Jamieson
Parliamentary Under Secretary of State,
Department for Transport

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 5

APPROVALS, AUTHORISATIONS AND DESIGNATIONS FOR PURPOSES OF EXAMINATIONS

“PART II

APPLICATIONS FOR, AND CONDITIONS AND CESSATIONS OF, APPROVAL, AUTHORISATION AND DESIGNATION

Application for approval as nominated tester or inspector or authorisation as authorised examiner

7.—(1) An application by—

- (a) an individual nominated by an authorised examiner, for approval as a nominated tester;
- (b) an individual, for approval as an inspector; or
- (c) a person, for authorisation as an authorised examiner,

shall be made on a form supplied or approved by the Secretary of State.

(2) The application shall be signed—

- (a) where the applicant is a partnership or company, by a person duly authorised in that behalf;
- (b) in any other case, by the applicant; and
- (c) where it relates to approval as a nominated tester, also—
 - (i) by the authorised examiner by whom the applicant is nominated; or
 - (ii) where that authorised examiner is a partnership or company, by a person duly authorised in that behalf.

(3) The application shall be sent to the Secretary of State at such office of VOSA as he may direct.

(4) Where—

- (a) a person who wishes to apply for authorisation as an authorised examiner proposes to carry out examinations at more than one place; and
- (b) the Secretary of State so requires,

the applicant shall make such additional applications as the Secretary of State may, by notice to the applicant, require.

Application for designation

7A.—(1) An application by a council for designation for the purposes of sections 45 and 46 of the 1988 Act shall be made on a form supplied or approved by the Secretary of State, and shall be signed by the proper officer.

(2) The application shall be sent to the Secretary of State at the office of VOSA for the area which includes that of the council by which the application is made.

Approvals, authorisations and designations

8.—(1) The Secretary of State may, after making such investigations and carrying out such inspections as he thinks fit, by an instrument in writing approve, authorise or designate (as the case may be) a person by whom an application has been made under regulation 7 or 7A.

(2) The Secretary of State may at any time, by an instrument in writing, authorise any other person, other than an officer of the Secretary of State, to carry out examinations for the purposes of section 45 of the 1988 Act.

(3) An approval under paragraph (1) shall be subject to the conditions set out in regulation 8A (“the approval conditions”) and to such other conditions as may be specified in the approval.

(4) Every authorisation under paragraph (1) or (2) shall be subject to the conditions set out in regulation 8B (“the general authorisation conditions”).

(5) The authorisation of an examiner who is not an individual shall be subject (in addition to the general authorisation conditions) to the conditions set out in regulation 8C (“the corporate authorisation conditions”) and to such other conditions as may be specified in the authorisation.

(6) The authorisation of an examiner who is an individual shall be subject (in addition to the general authorisation conditions) to the conditions set out in regulation 8D (“the individual authorisation conditions”) and to such other conditions as may be specified in the authorisation.

(7) A designation under paragraph (1) shall be subject to the conditions set out in regulation 8E (“the designation conditions”) and to such other conditions as may be specified in the designation.

(8) Where the Secretary of State is minded not to approve, authorise or designate a person by whom, or on whose behalf, an application is made under regulation 7 or 7A (“the applicant”), he shall give notice to the applicant to that effect.

(9) The applicant (or any person acting on his behalf) may, within 14 days from the date of the notice given under paragraph (8), make to the Secretary of State, at the address specified in the notice, written representations to the effect that the applicant should be approved, authorised or designated (as the case may be).

The approval conditions

8A. The conditions referred to in regulation 8(3) are that the person to whom the approval relates—

- (a) shall not carry out any examination—
 - (i) unless he has successfully completed a course of instruction in the carrying out of examinations provided under section 45(6A) of the 1988 Act;
 - (ii) at a particular vehicle testing station, unless by electronic communication or notice to the Secretary of State, at the office of VOSA for the area in which that testing station is situated, he has informed the Secretary of State of his intention to carry out examinations at that testing station;
- (b) where the approval is expressed to be limited to examinations—
 - (i) of a specified class of motor vehicle; or
 - (ii) of a specified description,shall not carry out examinations in relation to any other class of motor vehicle or description of examination;
- (c) shall carry out examinations using such methods and to such standards as have been notified to him by the Secretary of State; and

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (d) if the Secretary of State so requires, shall attend further courses of instruction, or otherwise satisfy the Secretary of State of his competence to continue to carry out examinations.

The general authorisation conditions

8B. The conditions referred to in regulation 8(4) are that the authorised examiner—

- (a) shall comply with any limitation as to—
 - (i) the class of motor vehicle that may be examined;
 - (ii) the type of examination that may be carried out; or
 - (iii) the vehicle testing station at which examinations may be carried out,
 to which the authorisation is expressed to be subject;
- (b) unless he is himself to carry out the examination, shall not cause or permit an examination to be carried out at any vehicle testing station at which he is authorised to carry out examinations by a person other than—
 - (i) a nominated tester approved by the Secretary of State to carry out examinations at that testing station; or
 - (ii) a section 66A examiner;
- (c) shall, as regards each of the vehicle testing stations at which he is authorised to carry out examinations, by electronic communication or notice to the Secretary of State, at the office of VOSA for the area in which the testing station is situated, inform the Secretary of State—
 - (i) of the names of the individuals who are nominated testers at that testing station; and
 - (ii) the name of any such individual who ceases to act in that capacity;
- (d) shall ensure that every test certificate resulting from an examination carried out at any of its testing stations is signed by the person who carried out the examination or by such other person as the Secretary of State may in any particular case direct;
- (e) shall ensure that every notice of the refusal of a test certificate resulting from an examination carried out at any of its testing stations is signed by the person who carried out the examination;
- (f) shall comply with any direction of the Secretary of State as to the individuals by whom—
 - (i) examinations may not be carried out; or
 - (ii) test certificates or notices of the refusal of a test certificate may not be signed;
- (g) shall, at each vehicle testing station at which he is authorised to carry out examinations supervise the carrying out of examinations by the nominated testers authorised to carry out examinations at that testing station;
- (h) shall, subject to regulation 8F, so long as the authorisation is in force, display in a conspicuous place outside the vehicle testing station at which he is authorised to carry out examinations a sign of the size, colour and type shown in diagram 864.1 in Schedule 4 (miscellaneous informative signs) to the Traffic Signs Regulations and General Directions 2002⁽¹⁰⁾;

⁽¹⁰⁾ S.I. 2002/3113, to which there are amendments not relevant to these Regulations.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (i) shall, so long as the authorisation is in force, display at each vehicle testing station at which he is authorised to carry out examinations, in some conspicuous place and so as to be legible by persons submitting vehicles for examination at that testing station—
 - (i) the authorisation in which that testing station is specified; and
 - (ii) a list of the names of the individuals for the time being approved or authorised by the Secretary of State to carry out examinations at that testing station;
- and
- (j) after not less than three clear days' notice given to the authorised examiner by the Secretary of State, shall make available—
 - (i) any vehicle testing station at which he is authorised to carry out examinations; and
 - (ii) the apparatus at that testing station with which examinations are carried out, for the purpose of the carrying out by a section 66A examiner of any examination or the investigation of a complaint as to the result of an examination (whether or not the examination was carried out at that testing station).

The corporate authorisation conditions

8C. The conditions referred to in regulation 8(5) are—

- (a) that the authorised examiner shall, so long as the authorisation is in force, secure—
 - (i) where the examiner is a company, that at least one of its directors or senior managers has successfully completed a course of instruction in the functions of authorised examiners, provided under section 45(6A) of the 1988 Act; and
 - (ii) where the examiner is persons in partnership, that at least one of the partners has successfully completed such a course;
- (b) that, where the authorised examiner is persons in partnership and there is a change in the firm's constitution, it shall inform the Secretary of State, at the office of VOSA for the area in which its testing station is situated, of the particulars of the change within 7 days of the effective date of the change; and
- (c) that, where the authorised examiner is a company and a person becomes, or ceases to be—
 - (i) the secretary of the company,
 - (ii) a director, or
 - (iii) a senior manager to whom the description mentioned in paragraph (a)(i) applies,

it shall inform the Secretary of State, at the office of VOSA for the area in which its testing station is situated, of the occurrence of that event, and of the identity of the person or persons concerned, within 7 days of the occurrence of the event.

The individual authorisation conditions

8D. The conditions referred to in regulation 8(6) are that the individual to whom the authorisation relates—

- (a) shall not carry out any examination—
 - (i) unless he has successfully completed a course of instruction in the carrying out of examinations provided under section 45(6A) of the 1988 Act;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (ii) at a particular vehicle testing station, unless by electronic communication to the Secretary of State, at the office of VOSA for the area in which that testing station is situated, or by such other means as the Secretary of State may from time to time require, he has informed the Secretary of State of his intention to carry out examinations at that testing station;
- (b) shall, within 7 days of entering into a partnership with a view to carrying on at his vehicle testing station a business comprising the carrying out of examinations, inform the Secretary of State, at the office of VOSA for the area in which his vehicle testing station is situated, of his entry into partnership and of the identity of the other members of the firm; and
- (c) shall complete a course of instruction in the functions of authorised examiners provided under section 45(6A) of the 1988 Act.

The designation conditions

8E. The conditions referred to in regulation 8(6) are that the council—

- (a) shall comply with any limitation as to—
 - (i) the class of motor vehicle that may be examined;
 - (ii) the type of examination that may be carried out; or
 - (iii) the vehicle testing station at which examinations may be carried out, to which the designation is expressed to be subject;
- (b) shall not cause or permit examinations to be carried out at any of their vehicle testing stations—
 - (i) by a person other than an inspector or a section 66A examiner; or
 - (ii) unless at least one individual (who may be an inspector), employed by the council, has completed a course of instruction in the functions of designated councils under these Regulations, provided under section 45(6A) of the 1988 Act;
- (c) shall, as regards each of their vehicle testing stations, by electronic communication or notice to the Secretary of State, at the office of VOSA for the area in which the testing station is situated, inform the Secretary of State—
 - (i) of the names of the inspectors appointed by the council to carry out examinations at that testing station; and
 - (ii) of the revocation of the appointment of any such inspector;
- (d) shall secure that every test certificate resulting from an examination carried out at any of their testing stations is signed by the person who carried out the examination or by such other person as the Secretary of State may in any particular case direct;
- (e) shall secure that every notice of the refusal of a test certificate resulting from an examination carried out at any of their testing stations is signed by the person who carried out the examination;
- (f) shall comply with any direction of the Secretary of State as to the individuals by whom—
 - (i) examinations may not be carried out; or
 - (ii) test certificates or notices of the refusal of a test certificate may not be signed;
- (g) shall, subject to regulation 8F, so long as the designation remains in force, display in a conspicuous place outside the vehicle testing station to which the designation

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

relates, a sign of the size, colour and type shown in diagram 864.1 in Schedule 4 (miscellaneous informatory signs) to the Traffic Signs Regulations and General Directions 2002(11);

- (h) shall, so long as the designation remains in force, display at each vehicle testing station to which the designation relates, in some conspicuous place and so as to be legible by persons submitting vehicles for examinations at that testing station—
 - (i) the designation in which that testing station is specified; and
 - (ii) a list of the names of the inspectors for the time being approved by the Secretary of State to carry out examinations at that testing station; and
- (i) after not less than three clear days' notice given to the council by the Secretary of State, shall make available—
 - (i) any vehicle testing station to which their designation relates; and
 - (ii) the apparatus at that testing station with which examinations are carried out, for the purpose of the carrying out by a section 66A examiner of any examination or the investigation of a complaint as to the result of an examination (whether or not the examination was carried out at that testing station).

Supplementary provision relating to vehicle testing station signs

8F.—(1) This paragraph applies to a sign—

- (a) exhibited outside a vehicle testing station immediately before 1st June 2003; and
- (b) of the size, colour and type shown in diagram 864 in Schedule 4 to the Traffic Signs Regulations 1994(12) (“a vehicle testing station sign”).

(2) A sign to which paragraph (1) applies shall, for the purposes of regulations 8B(h) and 8E(g), be treated as a vehicle testing station sign so long as it continues—

- (a) to be exhibited outside the vehicle testing station outside which it was exhibited immediately before 1st June 2003; and
- (b) to comply with the Traffic Signs Regulations 1994 as if those Regulations had not been revoked.

Cessations: general

9.—(1) An individual shall cease to be an authorised examiner—

- (a) if he dies;
- (b) if he is adjudged bankrupt or, in Scotland, has his estate sequestrated;
- (c) if he becomes a patient within the meaning of Part VII of the Mental Health Act 1983(13) or, in Scotland, becomes incapable of managing his own affairs;
- (d) if he has not attended a course of instruction under section 45(6A) when required by the Secretary of State to attend such a course;
- (e) if he has attended such a course when so required but has failed to complete it successfully; or
- (f) if he notifies the Secretary of State that he no longer wishes to be an authorised examiner.

(11) Part I of S.I. 2002/3113, to which there are amendments not relevant to these Regulations.

(12) Part I of S.I. 1994/1519 (revoked, subject to savings, by S.I. 2002/3113).

(13) 1983 c. 20. See section 94(2).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (2) Persons in partnership shall cease to be an authorised examiner—
 - (a) if the firm is dissolved; or
 - (b) they notify the Secretary of State that they no longer wish to be an authorised examiner.
- (3) A company shall cease to be an authorised examiner if—
 - (a) in relation to the company—
 - (i) a winding-up order is made;
 - (ii) a resolution for voluntary winding-up is passed;
 - (iii) a receiver or manager of the company's undertaking is appointed; or
 - (iv) the taking of possession, by or on behalf of the holders of any debenture secured by a floating charge, or of any property of the company comprised in or subject to the charge, occurs; or
 - (b) the secretary of the company notifies the Secretary of State that the company no longer wishes to be an authorised examiner.
- (4) A council shall cease to be designated if the proper officer notifies the Secretary of State that the council no longer wish to be designated.
- (5) An individual shall cease to be a nominated tester—
 - (a) if the circumstances specified in sub-paragraph (a) of paragraph (1), or in any of sub-paragraphs (c) to (e) of that paragraph, apply in his case;
 - (b) as regards the carrying out of examinations at a particular vehicle testing station, if his nomination is revoked in relation to that testing station;
 - (c) if he notifies the Secretary of State that he no longer wishes to be a nominated tester.
- (6) A person shall cease to be an inspector—
 - (a) if the circumstances specified in sub-paragraph (a) of paragraph (1), or in any of sub-paragraphs (c) to (e) of that paragraph, apply in his case;
 - (b) as regards the carrying out of examinations at a particular vehicle testing station, if his appointment is revoked in relation to that testing station;
 - (c) if he notifies the Secretary of State that he no longer wishes to be an inspector.
- (7) Where an authorised examiner, inspector or nominated tester notifies the Secretary of State that he wishes to cease to be an authorised examiner, inspector or nominated tester (as the case may be) in respect of some only of the vehicle testing stations at which he is approved or authorised to carry out examinations, he shall cease to be an authorised examiner, inspector or nominated tester to that extent.
- (8) Where a designated council notifies the Secretary of State that it wishes to cease to be designated in respect of some only of the vehicle testing stations to which its designation relates, the council shall cease to be designated to that extent.
- (9) The date on which—
 - (a) the person to whom a notice given under paragraph (1)(f), (2)(b), (3)(b), (5)(c) or (6)(c) relates shall cease to be an authorised examiner, inspector or nominated tester (as the case may be);
 - (b) the council to which a notice given under paragraph (4) relates shall cease to be designated;
 - (c) the person to whom a notice given under paragraph (7) relates shall cease to be an authorised examiner, inspector or nominated tester (as the case may be) to any extent; or

(d) the council to which a notice given under paragraph (8) relates shall cease to be designated to any extent,
shall be the date (if any) specified in the notice; and, if no date is so specified, on such date as the Secretary of State may by notice specify.

Cessations: action by Secretary of State

10.—(1) The Secretary of State may at any time give to an authorised examiner, designated council, inspector or nominated tester a notice which states—

- (a) that from such date as is specified in the notice, unless the notice is cancelled before that date—
 - (i) the person shall cease to be an authorised examiner;
 - (ii) the person shall cease to be an inspector;
 - (iii) the person shall cease to be a nominated tester;
 - (iv) the person shall cease to be an authorised examiner, inspector or nominated tester (as the case may be) in respect of such vehicle testing stations as may be specified in the notice;
 - (v) the council shall cease to be designated; or
 - (vi) the council shall cease to be designated in respect of such vehicle testing stations as may be specified in the notice;
- (b) where that date is less than 35 days from the date of the notice, that the Secretary of State considers it necessary that the notice shall have early effect; and
- (c) that within 14 days from the date of the notice, the person to whom the notice relates (or any person acting on his behalf) may make to the Secretary of State, at an address specified in the notice, written representations to the effect, as the case may be—
 - (i) that the person should not cease to be, or should again become, an authorised examiner, nominated tester or inspector; or
 - (ii) that the council should not cease to be, or should again be, designated.

(2) Where a notice has been given under paragraph (1), and has not been cancelled—

- (a) the person to whom it relates shall cease or, as the case may be, cease to the specified extent, to be an authorised examiner, nominated tester or inspector; or
- (b) the council to which it relates shall cease or, as the case may be, cease to the specified extent, to be designated,

on the date specified in the notice.

Cessations: return of documents and apparatus

11.—(1) Subject to paragraph (4), a person who ceases to any extent to be an authorised examiner, inspector or nominated tester shall—

- (a) deliver to the Secretary of State, at such place and within such period as the Secretary of State may by notice or electronic communication specify; or
- (b) if the Secretary of State by notice or electronic communication so requires, permit the collection, from such premises as may be specified in the notice or communication, of,

such documents and apparatus referred to in paragraph (3) as are in the person's possession or under his control.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) Subject to paragraph (4), the proper officer of a council which ceases to any extent to be designated shall—

- (a) deliver to the Secretary of State, at such place and within such period as the Secretary of State may by notice or electronic communication specify; or
- (b) if the Secretary of State by notice or electronic communication so requires, permit the collection, from such premises as may be specified in the notice or communication, of,

such documents and apparatus referred to in paragraph (3) as are in the council's possession or under their control.

(3) The documents and apparatus referred to in paragraphs (1) and (2) are—

- (a) all unused forms for test certificates and notifications of the refusal of test certificates;
- (b) all copies of test certificates and notifications of the refusal of test certificates;
- (c) all other records kept in accordance with regulation 22;
- (d) the instrument of approval, authorisation or designation (as the case may be);
- (e) all apparatus supplied by or on behalf of the Secretary of State to any vehicle testing station at which examinations were carried out—
 - (i) by the person concerned; or
 - (ii) by persons appointed by the council concerned.

(4) Where—

- (a) a person cease to be an authorised examiner, an inspector or a nominated tester in respect of some only of the vehicle testing stations at which he formerly carried out examinations; or
- (b) a council ceases to be designated in respect of some only of the vehicle testing stations at which examinations were carried out by persons appointed by the council,

the Secretary of State may, by notice or electronic communication to the person or council concerned, allow him or them to retain such documents and apparatus as may be specified in the notice.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Motor Vehicles (Tests) Regulations 1981 (“the principal Regulations”). Subject to the exceptions mentioned below, they apply in relation to, and for purposes connected with, examinations of motor vehicles under Parts III and IV of the principal Regulations (“the MoT test”) carried out on or after 1st June 2003.

Many of the amendments to the principal Regulations reflect amendments to section 45 of the Road Traffic Act 1988 (“the 1988 Act”) made by the Road Traffic (Vehicle Testing) Act 1999 (“the section 45 amendments”). Those amendments provide that examinations under section 45 of

the 1988 Act may only be carried out by “authorised examiners”, “nominated testers”, inspectors appointed by “designated councils” or examiners appointed under section 66A of the 1988 Act.

Regulation 3 of these Regulations amends regulation 3(1) of the principal Regulations, which defines expressions used in those Regulations.

Regulation 4 of these Regulations amends regulation 6 of the principal Regulations, which deals with exemptions. The amendments reflect the fact that, except to the extent provided by section 254 of the Greater London Authority Act 1999 (the “1999 Act”), the functions of the Secretary of State under the Private Hire Vehicles (London) Act 1988 (c. 34) have been transferred by subsection (1) of that section to Transport for London (established under section 154 of the 1999 Act).

Regulation 5 of, and Schedule 1 to, these Regulations replaces Part II of the principal Regulations, and is mainly consequential on the section 45 amendments. The new Part II makes provision—

- (a) for applications for approval as nominated testers or inspectors, for authorisation as authorised examiners, and for designation (new regulations 7 and 7A);
- (b) for the conditions to which approved or authorised persons and designated councils are to be subject (new regulations 8 to 8E);
- (c) for the circumstances in which persons cease to be nominated testers, inspectors or authorised examiners, or councils cease to be designated (new regulations 9 and 10); and
- (d) in those circumstances, for the return to the Secretary of State of documents and apparatus used for the purposes of, or in connection with, the carrying out of examinations (new regulation 11).

New regulation 8F, which qualifies new regulations 8B(h) and 8E(g), allows the display of vehicle testing stations signs of the size, colour and type shown in the diagram set out in Part 1 of Schedule 1 to the Traffic Signs Regulations 1994, notwithstanding the replacement of those Regulations by the Traffic Signs Regulations 2002, where the signs were displayed immediately before the coming into force of these Regulations.

Regulations 6 to 8 of these Regulations amend regulations 12 to 14 of the principal Regulations (applications for examinations, requirements as to vehicles submitted for examinations and conditions as to responsibility for damage to vehicles and third party liabilities, respectively) to reflect the section 45 amendments.

Regulation 9 of these Regulations substitutes regulation 15 (examinations) of the principal Regulations not only to reflect the section 45 amendments but also to make provision for the electronic recording of the results of MoT tests. Where the computerised record is not accessible at the time of the examination, the examiner is required to enter or confirm relevant particulars in the computerised record as soon as it becomes available. The person by whom the vehicle was submitted for examination may require the provision of the computer-generated certificate or notice of refusal in exchange for the certificate or notice issued at the time of the examination.

Regulation 10 of these Regulations amends regulation 16 (refusal of test certificate where braking test cannot be carried out) of the principal Regulations. The effect of the amendments is similar to that of the amendments made by regulation 9.

Regulation 11 of these Regulations amends regulation 17 (removal of vehicles submitted for examination) of the principal Regulations to reflect the section 45 amendments.

Regulation 12 of these Regulations amends regulation 18 (appeal on refusal of test certificate) of the principal Regulations. The first amendment substitutes a reference to an office of the Vehicle and Operator Services Agency (“VOSA”) for the reference to the office of a traffic area. (Regulation 3(1)(d) of these Regulations omits the definition of “traffic area” in regulation 3(1) of the principal Regulations.) The other amendments are similar in effect to those made by regulations 9 and 10.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations 13 and 14 of these Regulations amend regulations 19 and 20 of the principal Regulations (payments to examiners and designated councils at whose premises examinations on appeals are carried out, and fees for examinations, respectively) to reflect the section 45 amendments.

Regulation 15 of these Regulations amends regulation 21 of the principal Regulations (fees on appeals) by substituting in the proviso to paragraph (4) a reference to the office of VOSA at which the appeal is lodged.

Regulations 16 and 17 of these Regulations substitute regulations 22 and 23 of the principal Regulations (records to be kept and returns to be furnished, and duplicate test certificates respectively) to reflect both the section 45 amendments and the introduction of the computerised record.

Regulation 18 of these Regulations introduces new regulation 23A of the principal Regulations. The new regulation provides for the correction of errors in records and test certificates.

Regulation 19 of these Regulations amends regulation 24 (inspection of premises, apparatus and records) of the principal Regulations to reflect both the section 45 amendments and the introduction of the computerised record.

Regulation 20 of these Regulations introduces new regulation 24A of the principal Regulations. The new regulation makes provision for the return to the Secretary of State of apparatus and documents provided in connection with the carrying out of vehicle examinations.

Regulation 21 of these Regulation substitutes regulation 25 of the principal Regulations and introduces new regulations 25A and 25B of the principal Regulations. The substituted regulation 25 makes provision for the payment to the Secretary of State by authorised examiners and designated councils of charges for the making of entries in the computerised record in respect of vehicles which pass the MoT test. The charge is set at £1.19 per entry. (There is no charge for entries in respect of vehicles which fail the MoT test.) Paragraph (2) of the new regulation requires the making of payments on account.

Authorised examiners and designated councils will be provided with apparatus with which to make entries in the computerised record, and will receive an initial installation visit, free of charge. New regulation 25A makes provision for circumstances in which the Secretary of State may charge for the provision of apparatus to replace that originally provided, and for certain services. The charges are set out in a new Schedule 3 to the principal Regulations, which is introduced by regulation 23 of these Regulations. Where apparatus is not returned in the circumstances mentioned in regulation 11 or 24A(1), is returned in an unserviceable condition (otherwise than by reason of fair wear and tear), or cannot be returned, paragraph (6) of the new regulation enables the Secretary of State to require a compensatory payment.

New regulation 25B provides for the making of refunds by the Secretary of State where a person ceases to be an authorised examiner or where a council cease to be designated, and in respect of the return to him of unused certificates, or spoilt or defaced certificates for which payment has been made in advance.

Regulation 22 of these Regulations introduces new regulations 29 and 30 of the principal Regulations. The new regulations make provision for access to particulars in the records and for the sale of particulars in, or of information derived from, the records.

Regulation 24 provides that the amendments made by regulations 9, 10(b), 12(b), 16 and 17, and, to the extent that it relates to new regulation 25 of the principal Regulations, regulation 20 of these Regulations, are not to apply in relation to examinations at any vehicle testing station at which the apparatus required to enable entries to be made in the computerised system has not been installed. It also provides that the amendments made by regulations 9 and 10 of these Regulations are not to apply in relation to the examination of vehicles classified, in accordance with regulation 5 of the principal Regulations, as vehicles of Class VI or Class VIA (certain types of public service vehicle).

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 25 makes transitional provision to the effect that persons who are authorised to carry out examinations immediately before these Regulations come into force may continue to do so, and that councils continue to be designated, notwithstanding that they have not complied with the procedures contained in the substitute Part II of the principal Regulations. Subject to the exceptions mentioned in paragraphs (3) and (9), those persons and councils are treated as subject to the conditions set out in whichever of the new regulations 8A and 8E is applicable in their particular circumstances.

Regulation 26 reflects the replacement of the Traffic Signs Regulations 1994 by the Traffic Signs Regulations 2002. It amends the principal Regulations by omitting Part 1 of Schedule 1. See also the paragraph of this Note relating to new regulation 8F.

A regulatory impact assessment in respect of the Regulations may be inspected at the Department for Transport's Library, Great Minister House, 76 Marsham Street, London, SW1P 4DR, from where a copy may be obtained. A copy has been placed in the library of each House of Parliament.