

2009 No. 492

ROAD TRAFFIC

The Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009

Made - - - - *5th March 2009*

Coming into force - - *31st March 2009*

This Order is made in exercise of the powers conferred by section 90B(2) and 90E(3) of the Road Traffic Offenders Act 1988(a).

The Secretary of State has consulted such representative organisations as appear appropriate in accordance with section 90E(2) of that Act.

A draft of this instrument has been approved by each House of Parliament in accordance with section 90E(4) of that Act.

Accordingly, the Secretary of State makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009 and shall come into force on 31st March 2009.

(2) In this Order—

“the AETR” means the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1 July 1970, as amended, as applied by article 2(3) of the EC Regulation(b);

“the Community Recording Equipment Regulation” has the meaning given in section 97(7) of the Transport Act 1968(c);

“the EC Regulation” means the Community Drivers Hours Regulation as defined in section 103(1) of the Transport Act 1968(d);

“fixed penalty offence” means an offence listed in Schedule 1; and

“graduated fixed penalty offence” means an offence listed in Schedule 2.

(a) 1988 c.53. Sections 90B and 90E were inserted by section 11 of the Road Safety Act 2006 (c.49).
(b) Cmnd 7401. Amendments are published in Cmnd 8572, Cmnd 9037, Cm 1776, Cm 3042 and Cm 3135. A consolidated version of the Agreement, including all amendments, is available from <http://www.unece.org/trans/doc/2006/sc1/ECE-TRANS-SC1-2006-02e.pdf>.
(c) 1968 c.73. Section 97 was substituted by S.I. 1979/1746 and subsection (7) was further amended by S.I. 2005/1904, 2006/1117 and 2006/3276.
(d) Section 103(1) was amended by S.I. 2007/1819; there are other amendments but none is relevant.

The appropriate amount

2.—(1) Subject to paragraph (2), the appropriate amount of a financial penalty deposit shall be—

- (a) in relation to a fixed penalty offence for which a person has been given a fixed penalty notice or handed a conditional offer, the amount indicated in relation to that offence in the third column of Schedule 1;
- (b) in relation to a graduated fixed penalty offence for which a person has been given a fixed penalty notice or handed a conditional offer, the amount indicated in relation to that offence in Schedule 2, by reference to the circumstances of the offence, those being the nature of the contravention and, where specified, its seriousness; and
- (c) in relation to an offence for which a person has been given notification that it appears likely that proceedings will be brought against him, £300.

(2) The appropriate amount shall not, in respect of any single occasion on which more than one financial penalty deposit requirement has been imposed, exceed £900.

Signed by authority of the Secretary of State for Transport

Jim Fitzpatrick
Parliamentary Under Secretary of State
Department for Transport

5th March 2009

SCHEDULE 1

Article 2(1)(a)

Deposits for Fixed Penalty Offences

PART 1

Primary legislation

Table 1

Transport Act 1968

<i>(1) Provision creating offence</i>	<i>(2) General nature of offence</i>	<i>(3) Deposit</i>
1. Section 98(4)(a)	Contravention of regulations made under section 98 or any requirement as to books, records or documents of applicable Community rules	£200
2. Section 99(4)(b)	Failing to comply with requirements relating to inspection of records or obstructing an officer	£200

(a) 1968 c.73. Section 98(4) was first amended by paragraph 9(2) of Schedule 4 to the European Communities Act 1972 (c.68). It was subsequently amended by section 2(1) of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c.3), sections 38 and 46 of the Criminal Justice Act 1982 (c.48) in respect of England and Wales, and by sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c.21) (as inserted by section 54 of the Criminal Justice Act 1982) in respect of Scotland.

(b) Section 99(4) was amended by sections 38 and 46 of the Criminal Justice Act 1982 in respect of England and Wales, and by sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (as inserted by section 54 of the Criminal Justice Act 1982) in respect of Scotland.

3. Section 99ZD(1) (a)	Failing to comply with requirements relating to inspection of recording equipment or records (whether electronic or hard copy) made by or stored on recording equipment	£200
4. Section 99C(b)	Failure to comply with prohibition or direction in relation to driving vehicle.	£200

Table 2

Road Traffic (Foreign Vehicles) Act 1972(c)

<i>(1)Provision creating offence</i>	<i>(2)General nature of offence</i>	<i>(3)Deposit</i>
1. Section 3(1)	Driving a foreign goods or foreign public service vehicle in contravention of a prohibition, etc.	£200

Table 3

Public Passenger Vehicles Act 1981(d)

<i>(1)Provision creating offence</i>	<i>(2)General nature of offence</i>	<i>(3)Deposit</i>
1. Section 12(5)	Using public service vehicle except under PSV operators' licence	£200

Table 4

Road Traffic Regulation Act 1984(e)

<i>(1)Provision creating offence</i>	<i>(2)General nature of offence</i>	<i>(3)Deposit</i>
1. Section 5(1)	Using a vehicle in contravention of a traffic regulation order outside Greater London	£30
2. Section 8(1)	Breach of traffic regulation order in Greater London	£30
3. Section 11(1)	Breach of experimental traffic order	£30
4. Section 16(1)	Using a vehicle in contravention of temporary prohibition or restriction of traffic in case of execution of works, etc.	£30, but £60 if committed in respect of a speed restriction
5. Section 17(4)	Wrongful use of special road	£30, but £60 if committed otherwise than by unlawfully stopping or allowing the vehicle to remain at rest on a part of a special road on which vehicles are in certain circumstances permitted to remain at rest

(a) Section 99ZD(1) was inserted by S.I. 2005/1904.

(b) Section 99C was inserted by section 266 of the Transport Act 2000 (c.38).

(c) 1972 c.27. Section 3(1) was amended, in relation to England and Wales, by sections 39(2) and 46 of, and Schedule 2 to, the Criminal Justice Act 1982, and, in relation to Scotland, by section 3 of and paragraph 10 of Schedule 1 and Part III of Schedule 2 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40).

(d) 1981 c.14. Section 12(5) was amended, in relation to England and Wales, by sections 38 and 46 of the Criminal Justice Act 1982 and, in relation to Scotland, by sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (as inserted by section 54 of the Criminal Justice Act 1982).

(e) 1984 c.27. Section 11(1) was numbered as such by section 65(3) of the Road Traffic Act 1991 (c. 40).

6. Section 18(3)	Using a vehicle in contravention of provision for one-way traffic on trunk road	£30
7. Section 20(5)	Driving a vehicle in contravention of order prohibiting or restricting driving vehicles on certain classes of roads	£30
8. Section 25(5)	Breach of pedestrian crossing regulations	£60
9. Section 88(7)	Contravention of minimum speed limit	£30
10. Section 89(1)	Exceeding speed limit	£60

Table 5

Road Traffic Act 1988(a)

<i>(1)Provision creating offence</i>	<i>(2)General nature of offence</i>	<i>(3)Deposit</i>
1. Section 14(3)	Breach of regulations requiring wearing of seat belts	£30
2. Section 15(2)(b)	Driving motor vehicle with child not wearing seat belt or with child in a rear-facing child restraint front seat with an active air bag	£30
3. Section 15(4)(c)	Driving motor vehicle with child in rear not wearing seat belt	£30
4. Section 16(4)	Driving or riding motor cycles in contravention of regulations requiring wearing of protective headgear	£30
5. Section 18(3)	Contravention of regulations with respect to use of head-worn appliances (eye protectors) on motor cycles	£30
6. Section 19(1)	Prohibition of parking of heavy commercial vehicles on verges, etc.	£30
7. Section 22(d)	Leaving vehicle in dangerous position	£60
8. Section 34(1)(e)	Driving mechanically propelled vehicles elsewhere than on roads	£30
9. Section 35(1)(f)	Failing to comply with traffic directions given by constable or traffic officer engaged in the regulation of traffic in a road	£30, but £60 if committed in respect of a motor vehicle by failure to comply with a direction of a constable, traffic officer or traffic warden
10. Section 35(2)(g)	Failing to comply with traffic directions given by constable or traffic officer where a traffic survey is being carried out	£60
11. Section 36(1)	Failing to comply with traffic signs	£30, but £60 if committed by failure to comply with an indication given by a sign

(a) 1988 c.52.

(b) Section 15(2) was amended by S.I. 2006/1892.

(c) Section 15(4) was amended by S.I. 1992/3105.

(d) Section 22 was amended by paragraph 48 of Schedule 4 to the Road Traffic Act 1991.

(e) Section 34(1) was substituted by paragraph 5 of Schedule 7 to the Countryside and Rights of Way Act 2000 (c.37).

(f) Section 35(1) was amended by section 6(2)(a) of the Traffic Management Act 2004 (c.18).

(g) Section 35(2) was amended by section 6(2)(b) of the Traffic Management Act 2004.

		specified in regulation 10(2) of the Traffic Signs Regulations and General Directions 2002(a)
12. Section 40A(b)	Using a vehicle in dangerous condition etc.	£60
13. Section 41D(c)	Breach of requirements as to control of vehicle, mobile telephone, etc.	£60
14. Section 47(1)	Using etc., vehicle without required test certificate being in force	£60
15. Section 71(1)(d)	Driving, etc., vehicle in contravention of prohibition on driving it as being unfit for service, or failing to comply with direction to remove a vehicle found overloaded	£200
16. Section 87(1)(e)	Driving otherwise than in accordance with a licence	£30, but £60 in the case where the driving would not have been in accordance with any licence that could have been granted to the driver
17. Section 143(2)	Using, etc., motor vehicle while uninsured or unsecured against third party risks	£200
18. Section 163(3)(f), insofar as it relates to section 163(1)	Failing to stop mechanically propelled vehicle when required	£30

Table 6

Road Traffic Offenders Act 1988

<i>(1)Provision creating offence</i>	<i>(2)General nature of offence</i>	<i>(3)Deposit</i>
1. Section 90D(6)(g)	Driving a vehicle in contravention of a prohibition on driving, etc., on failure to make a financial penalty deposit payment	£200

Table 7

Vehicles Excise and Registration Act 1994(h)

<i>(1)Provision creating offence</i>	<i>(2)General nature of offence</i>	<i>(3)Deposit</i>
1. Section 42(1)	Driving or keeping a vehicle without required registration mark	£30
2. Section 43(1)	Driving or keeping a vehicle with registration mark obscured etc.	£30

(a) S.I. 2002/3113, to which there are amendments not relevant to this Order.

(b) Section 40A was inserted by section 8(1) of the Road Traffic Act 1991.

(c) Section 41D was inserted by section 26(1) of the Road Safety Act 2006.

(d) Section 71 was substituted by section 14 of the Road Traffic Act 1991.

(e) Section 87(1) was amended by section 17(1) of the Road Traffic Act 1991.

(f) Section 163(1) was amended by paragraph 67 of Schedule 4 to the Road Traffic Act 1991. It was further amended by section 6(4) of the Traffic Management Act 2004.

(g) Section 90D was inserted by section 11 of the Road Safety Act 2006.

(h) 1994 c.22.

Table 8**Goods Vehicles (Licensing of Operators) Act 1995(a)**

<i>(1)Provision creating offence</i>	<i>(2)General nature of offence</i>	<i>(3)Deposit</i>
1. Section 2(5)	Using goods vehicle on road for carriage of goods except under operator's licence	£200

PART 2**Secondary Legislation****Table 1****The Road Transport (International Passenger Services) Regulations 1984(b)**

<i>(1)Provision creating offence</i>	<i>(2)General nature of offence</i>	<i>(3)Deposit</i>
1. Regulation 19(1)	Using vehicle for Community regulated carriage of passengers otherwise than in accordance with the Council Regulations or the Commission Regulation	£30
2. Regulation 19(2)	Using vehicle for ASOR regulated or Community regulated carriage by road without passenger waybill	£30

Table 2**The Goods Vehicles (Community Authorisations) Regulations 1992(c)**

<i>(1)Provision creating offence</i>	<i>(2)General nature of offence</i>	<i>(3)Deposit</i>
1. Regulation 3	Use of goods vehicle without Community authorisation	£60
2. Regulation 7	Failure to comply with conditions governing use of Community authorisation	£30

Table 3**The Public Service Vehicles (Community Licences) Regulations 1999(d)**

<i>(1)Provision creating offence</i>	<i>(2)General nature of offence</i>	<i>(3)Deposit</i>
1. Regulation 3	Use of public service vehicles without Community licence	£60
2. Regulation 7	Failure to comply with conditions governing use of Community licence	£30

(a) 1995 c.23. Section 2(5) was amended by section 261 of the Transport Act 2000.

(b) S.I. 1984/748.

(c) S.I. 1992/3077.

(d) S.I. 1999/1322.

Table 4**The Road Transport (Passenger Vehicles Cabotage) Regulations 1999(a)**

<i>(1)Provision creating offence</i>	<i>(2)General nature of offence</i>	<i>(3)Deposit</i>
1. Regulation 3(1)	Use of vehicle for UK cabotage operations without Community licence	£60
2. Regulation 4(1)	Use of vehicle for UK cabotage operations without control document	£60
3. Regulation 7(1)	Failure to produce Community licence when requested	£30
4. Regulation 7(3)	Failure to produce control document when requested	£30

Table 5**The Vehicle Drivers (Certificate of Professional Competence) Regulations 2007(b)**

<i>(1)Provision creating offence</i>	<i>(2)General nature of offence</i>	<i>(3)Deposit</i>
1. Regulation 11(7)	Failing to produce evidence of CPC or National Vocational Training Certificate when required	£30

SCHEDULE 2

Article 2(1)(b)

Deposits for Graduated Fixed Penalty Offences**Table 1****Section 96(11) Transport Act 1968(c)**

<i>(1) Nature of contravention or failure constituting the offence</i>	<i>(2) Seriousness of offence and applicable level of deposit</i>		
	<i>£60</i>	<i>£120</i>	<i>£200</i>
1. Driving a vehicle or vehicles for more than 10 hours, contrary to section 96(1)	More than 10 hours but less than 11 hours driving	11 hours or more but less than 12 hours driving	12 hours or more driving
2. Failure to take an interval for rest and refreshment, contrary to section 96(2)	Being on duty for up to 1 hour beyond the required break	Being on duty for 1 hour or more, but less than 2 hours, beyond the required break	Being on duty for 2 hours or more beyond the required break
3. Exceeding working day of 11 hours, contrary to section 96(3)(a)	More than 11 hours but less than 12 hours working	12 hours or more but less than 13 hours working	13 hours or more working

(a) S.I. 1999/3413, to which there are amendments not relevant to this Order.

(b) S.I. 2007/605, as amended by S.I. 2008/1965; there are other amendments but none is relevant to this Order.

(c) Section 96(11) was first amended by section 2(1)(e) and (f) of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c.3). It was subsequently amended by sections 38 and 46 of the Criminal Justice Act 1982 in respect of England and Wales, and by sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (as inserted by section 54 of the Criminal Justice Act 1982) in respect of Scotland.

4. Failing to take a daily rest period between two successive working days, contrary to section 96(4)	Less than 11 hours but more than 10 hours daily rest	10 hours or less but more than 9 hours daily rest	9 hours or less daily rest
5. Failing to take a weekly rest period of 24 hours, contrary to section 96(6)	Less than 24 hours but more than 23 hours rest	23 hours or less but more than 22 hours rest	22 hours or less rest
6. Exceeding the daily working limit of 16 hours in respect of a passenger vehicle to which the Drivers' Hours (Passenger and Goods Vehicles) (Modifications) Order 1971(a) apply, contrary to section 96(3)(c) as modified by that Order in relation to such vehicles	More than 16 hours, but less than 17 hours working	17 hours or more but less than 18 hours working	18 hours or more working
7. Failing to take a daily rest period between two successive working days by a driver of a passenger vehicle to which the Drivers' Hours (Passenger and Goods Vehicles) (Modifications) Order 1971 apply, contrary to section 96(4) , as modified by that Order in relation to such vehicles	Less than 10 hours but more than 9 hours daily rest (or, in the case of a reduced daily rest period, less than 8.5 hours but more than 7.5 hours daily rest)	9 hours or less but more than 8 hours daily rest (or, in the case of a reduced daily rest period, 7.5 hours or less but more than 6.5 hours daily rest)	8 hours or less daily rest (or, in the case of a reduced daily rest period, 6.5 hours or less daily rest)
8. Failing to take a rest period of 24 hours in each successive two week period by a driver of a passenger vehicle to which the Drivers' Hours (Passenger and Goods Vehicles) (Modifications) Order 1971 apply, contrary to section 96(6), as modified by that Order in relation to such vehicles	Less than 24 hours but more than 23 hours weekly rest	23 hours or less but more than 22 hours weekly rest	22 hours or less weekly rest

(a) S.I. 1971/818.

9. In all other cases		£30	

Table 2

Section 96(11A) Transport Act 1968(a)

<i>(1) Nature of contravention or failure constituting the offence</i>	<i>(2) Seriousness of offence and applicable level of deposit</i>		
	<i>£60</i>	<i>£120</i>	<i>£200</i>
1. Exceeding 9 hours daily driving, in contravention of paragraph 1 of Article 6(1) of the EC Regulation	More than 9 hours but less than 10 hours driving	10 hours or more but less than 11 hours driving	11 hours or more driving
2. Exceeding 10 hours daily driving, in contravention of paragraph 2 of Article 6(1) of the EC Regulation	More than 10 hours but less than 11 hours driving	11 hours or more but less than 12 hours driving	12 hours or more driving
3. Exceeding the weekly driving time of 56 hours, in contravention of Article 6(2) of the EC Regulation	More than 56 hours but less than 58 hours driving	58 hours or more but less than 59 hours driving	59 hours or more driving
4. Exceeding 90 hours accumulated driving time in any two consecutive weeks, in contravention of Article 6(3) of the EC Regulation	More than 90 hours but less than 93 hours driving	93 hours or more but less than 94 hours driving	94 hours or more driving
5. Exceeding 4.5 hours driving without a break, in contravention of Article 7 of the EC Regulation	More than 4.5 hours but less than 5.5 hours driving	5.5 hours or more but less than 6.5 hours driving	6.5 hours or more driving
6. Insufficient regular daily rest period in 24 hour period, in contravention of Articles 8(1) and 8(2) of the EC Regulation	Less than 11 hours but more than 10 hours daily rest	10 hours or less but more than 9 hours daily rest	9 hours or less daily rest
7. Insufficient reduced daily rest period in 24 hour period, in	Less than 9 hours but more than 8 hours daily rest	8 hours or less but more than 7 hours daily rest	7 hours or less daily rest

(a) Section 96(11A) was inserted by paragraph 9(2)(a) of Schedule 4 to the European Communities Act 1972. It was subsequently amended by section 2(1)(c) of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976, and by sections 38 and 46 of the Criminal Justice Act 1982 in respect of England and Wales, and by sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (as inserted by section 54 of the Criminal Justice Act 1982) in respect of Scotland. It was further amended by S.I 1986/1457 and 2007/1819.

contravention of Articles 8(1) and 8(2) of the EC Regulation			
8. Failure to take first rest of at least 3 consecutive hours where daily rest period is split, as required by the first indent of Article 4(g) of the EC Regulation and in contravention of Articles 8(1) and 8(2) of that Regulation	Less than 3 hours but more than 2 hours rest	2 hours or less but more than 1 hours rest	1 hour or less rest
9. Failure to take second rest of at least 9 consecutive hours where daily rest period is split, as required by the first indent of Article 4(g) of the EC Regulation, and in contravention of Articles 8(1) and 8(2) of that Regulation	Less than 9 hours but more than 8 hours rest	8 hours or less but more than 7 hours rest	7 hours or less rest
10. Failure to take daily rest period of at least 12 hours in total, where regular daily rest period is split, as required by the first indent of Article 4(g) of the EC Regulation and in contravention of Articles 8(1) and 8(2) of that Regulation	Less than 12 hours but more than 11 hours rest	11 hours or less but more than 10 hours rest	10 hours or less rest
11. Insufficient rest in 30 hour period by a driver engaged in multi-manning, in contravention of Articles 8(1) and 8(5) of the EC Regulation	Less than 9 hours but more than 8 hours rest	8 hours or less but more than 7 hours rest	7 hours or less rest
12. Insufficient regular weekly rest period, in contravention of Articles 8(1) and (6) of the EC Regulation	Less than 45 hours but more than 43 hours weekly rest	43 hours or less but more than 42 hours weekly rest	42 hours or less weekly rest
13. Insufficient reduced weekly rest period, in contravention of	Less than 24 hours but more than 22 hours rest	22 hours or less but more than 21 hours rest	21 hours or less rest

Articles 8(1) and (6) of the EC Regulation			
14. Failure to take equivalent period of compensatory rest before the end of the third week where reduced weekly rest period has been taken, as required by the second indent of Article 8(6) of the EC Regulation	Up to 3 hours less rest than required	3 hours or more but less than 4 hours less rest than required	4 hours or more less rest than required
15. Exceeding 9 hours daily driving, in contravention of the first sub-paragraph of Article 6.1 of the AETR	More than 9 hours but less than 10 hours driving	10 hours or more but less than 11 hours driving	11 hours or more driving
16. Exceeding 10 hours daily driving (where permitted), in contravention of the first sub-paragraph of Article 6.1 of the AETR	More than 10 hours but less than 11 hours driving	11 hours or more but less than 12 hours driving	12 hours or more driving
17. Exceeding 90 hours total period of driving in any one fortnight, in contravention of Article 6.2 of the AETR	More than 90 hours but less than 93 hours driving	93 hours or more but less than 94 hours driving	94 hours or more driving
18. Exceeding 4.5 hours driving without a break, in contravention of Article 7.1 of the AETR	More than 4.5 hours but less than 5.5 hours driving	5.5 hours or more but less than 6.5 hours driving	6.5 hours or more driving
19. Insufficient daily rest period in 24 hour period in contravention of the first sub-paragraph of Article 8.1 of the AETR	Less than 11 hours but more than 10 hours rest	10 hours or less but more than 9 hours rest	9 hours or less rest
20. Insufficient reduced daily rest period (where permitted) in 24 hours period in contravention of the first sub-paragraph of Article 8.1 of the AETR	Less than 9 hours but more than 8 hours rest	8 hours or less but more than 7 hours rest	7 hours or less rest
21. Failure to take	Up to 3 hours less rest	3 hours or more but	4 hours or more less

equivalent period of compensatory rest before the end of the following week, in accordance with Article 8.1 of the AETR, where reduced daily rest periods taken	than required	less than 4 hours less rest than required	rest than required
22. Failure to take rest of at least 8 consecutive hours, in accordance with Article 8.1 of the AETR, where daily rest period is split	Less than 8 hours but more than 7 hours rest	7 hours or less but more than 6 hours rest	6 hours or less rest
23. Failure to take daily rest period of 12 hours in total, in accordance with Article 8.1 of the AETR, where regular daily rest period is split	Less than 12 hours but more than 11 hours rest	11 hours or less but more than 10 hours rest	10 hours or less rest
24. Insufficient consecutive rest period of 8 hours in 30 hour period where vehicle is manned by at least two drivers, in contravention of Article 8.2 of the AETR	Less than 8 hours but more than 7 hours rest	7 hours or less but more than 6 hours rest	6 hours or less rest
25. Insufficient regular weekly rest period, in contravention of Articles 6.1 and 8.3 of the AETR	Less than 45 hours but more than 43 hours rest	43 hours or less but more than 42 hours rest	42 hours or less rest
26. Insufficient reduced weekly rest period if taken where the vehicle is normally based or where the driver is based, in contravention of Articles 6.1 and 8.3 of the AETR	Less than 36 hours but more than 34 hours rest	34 hours or less but more than 33 hours rest	33 hours or less rest
27. Insufficient reduced weekly rest period of 24 hours if taken elsewhere than where the vehicle is normally based or where the driver is	Less than 24 hours but more than 22 hours rest	22 hours rest or less but more than 21 hours rest	21 hours or less rest

based, in contravention of Articles 6.1 and 8.3 of the AETR			
28. Failure to take sufficient compensatory rest for reductions in weekly rest period before the end of the third week in question, in contravention of Articles 6.1 and 8.3 of the AETR	Up to 3 hours less rest than required	3 hours or more but less than 4 hours less rest than required	4 hours or more less rest than required
29. In all other cases	£30		

Table 3

Section 97(1) Transport Act 1968(a)

<i>(1) Nature of contravention or failure constituting the offence</i>	<i>(2) Applicable level of deposit</i>
1. Failure to ensure recording equipment installed in accordance with article 3(1) of the Community Recording Equipment Regulation	£200
2. Failing to ensure correct functioning of recording equipment or driver card, in accordance with article 13 of that Regulation	£60
3. Failing to ensure the proper use of the recording equipment, in accordance with article 13 of that Regulation	£120
4. Failing to ensure the proper use of the driver card, in accordance with article 13 of that Regulation	£200
5. Failure to ensure that printing can be carried out correctly in the event of an inspection (other than a failure to provide sufficient printing material), in accordance with article 14(1) of that Regulation	£120
6. Failure to ensure that printing can be carried out correctly in the event of an inspection by a failure to provide sufficient printing material, in accordance with article 14(1) of that Regulation	£60
7. Using driver card of which the driver is not the holder, contrary to article 14(4)(a) of that Regulation	£200
8. Using a defective driver card, contrary to article 14(4)(a) of that Regulation	£60
9. Failure, at the start of the journey, to print out information required, etc, in accordance with article 15(1)(a) of that Regulation	£120

(a) Section 97 was substituted by S.I. 1979/1746 and subsection (1) was then subsequently substituted by S.I. 1984/144; it was amended by S.I. 1986/1457, 1989/2121 and 2005/1904.

10. Failure, at the end of the journey, to print out the information required, etc, in accordance with article 15(1)(b) of that Regulation	£120
11. Failure to use record sheets or driver card, in accordance with article 15(2) of that Regulation	£200
12. Unauthorised withdrawal of record sheet or driver card, contrary to article 15(2) of that Regulation	£120
13. Failure to enter legibly on the record sheet, when away from the vehicle, periods of time, in accordance with article 15(2) of that Regulation	£120
14. Failure to amend record sheet or driver card as necessary when more than one driver on board the vehicle, in accordance with article 15(2) of that Regulation	£120
15. In all other cases	£30

Table 4

Section 41A Road Traffic Act 1988(a)

<i>(1) Nature of contravention or the failure constituting the offence</i>	<i>(2) Applicable level of deposit</i>
1. Contravention of regulation 27(1)(g)(failure to have a tread pattern of at least 1 millimetre) of the Road Vehicles (Construction and Use) Regulations 1986(b)	£120
2. In all other cases	£60

Table 5

Section 41B Road Traffic Act 1988

<i>(1) Nature of contravention or failure constituting the offence</i>	<i>(2) Applicable level of deposit</i>		
	<i>£60</i>	<i>£120</i>	<i>£200</i>
1. Exceeding maximum authorised weight of vehicle, contrary to regulation 4(1)(a) of, and Schedule 1 to, the Road Vehicles (Authorised Weight) Regulations 1998(c)	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more

(a) Section 41A was substituted, together with sections 41B and 42, for section 42 as originally enacted, by section 8(2) of the Road Traffic Act 1991.

(b) S.I. 1986/1078. There are no relevant amendments.

(c) S.I. 1998/3111, as amended by S.I. 2000/3224 and 2001/1125.

2. Exceeding maximum authorised weight of vehicle combination, contrary to regulation 4(1)(b) of, and Schedule 2 to, the Road Vehicles (Authorised Weight) Regulations 1998	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
3. Exceeding maximum authorised weight of axle, contrary to Regulation 4(1)(c) of, and Schedule 3 to, the Road Vehicles (Authorised Weight) Regulations 1998)	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
4. Exceeding maximum permitted laden weight of a vehicle, contrary to regulation 75(1) of, and Parts I, IA and II of Schedule 11 to, the Road Vehicles (Construction and Use) Regulations 1986(a)	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
5. Exceeding maximum permitted laden weight of trailer, contrary to regulation 75(3) of the Road Vehicles (Construction and Use) Regulations 1986	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
6. Exceeding maximum permitted laden weight of a vehicle and trailer, other than an articulated vehicle, contrary to regulation 76(1) of the Road Vehicles (Construction and Use) Regulations 1986	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
7. Exceeding any weights shown on the plate fitted in	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more

(a) S.I. 1986/1078, as amended by S.I. 1987/676, 1992/2016, 1994/329, 1997/1096, 1998/3112; there are other amendments to these Regulations but none are relevant for the purposes of table 5 to this Schedule.

accordance with regulation 66 of the Road Vehicles (Construction and Use) Regulations 1986, contrary to regulation 80(1)(a) of those Regulations			
8. Exceeding any weight shown in column (2) of the plating certificate, contrary to regulation 80(1)(b) of the Road Vehicles (Construction and Use) Regulations 1986)	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
9. Exceeding maximum gross weight in respect of an agricultural trailed appliance, contrary to regulation 80(1)(c) of the Road Vehicles (Construction and Use) Regulations 1986	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
10. Exceeding sum of weights in respect of axles fitted with a compensating arrangement, contrary to regulation 80(2) of the Road Vehicles (Construction and Use) Regulations 1986	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
11. In all other cases	£30		

Table 6

Section 42 Road Traffic Act 1988(a)

<i>(1) Nature of contravention or failure constituting the offence</i>	<i>(2) Applicable level of deposit</i>
1. Failure to meet requirements regarding speed limiters, in accordance with regulation 36A(4) of those Regulations (b)	£120
2. Failure to meet requirements regarding speed limiters, in accordance with regulation 36B(6)	£120

(a) Section 42 was substituted by section 8(2) of the Road Traffic Act 1991, and was subsequently amended by section 26(2) of the Road Safety Act 2006.

(b) S.I. 1986/1078, as amended by S.I. 1988/271; regulation 36A was then substituted by S.I. 1993/3048 and further amended by S.I. 1997/1340, 2004/2102, and 2005/3170.

of the Road Vehicles (Construction and Use) Regulations 1986(a)	
3. Failure to maintain vehicle, etc., or to carry, etc., passengers in accordance with regulation 100(1) of those Regulations, so as not to be a danger	£60
4. Failure to carry load in a secure manner, etc., in accordance with regulation 100(2) of those Regulations, so as not to be a danger or nuisance	£60
5. Failure to use vehicle for suitable purposes, in accordance with regulation 100(3) of those Regulations, so as not to cause or be likely to cause a danger or nuisance	£60
6. In all other cases	£30

(a) S.I. 1986/1078; regulation 36B was inserted by S.I. 1991/1527 and then substituted by S.I. 1993/3048 and further amended by S.I. 1994/329, 1996/2064, 2003/1946, 2004/2102, and 2005/3170. There are other amendments but none are relevant.

EXPLANATORY NOTE

(This note is not part of the Order)

Part 3A of the Road Traffic Offenders Act 1988 (“the Act”) was inserted by section 11 of the Road Safety Act 2006. It provides that, when a constable or vehicle examiner believes a specified offence has been committed relating to a motor vehicle, the constable or vehicle examiner may impose a financial penalty deposit on a person without a satisfactory UK address who has been given notice of likely proceedings or a fixed penalty notice (in Scotland, a conditional offer) in respect of an offence.

This Order specifies the amount of the deposit, defined as the “appropriate amount” in new section 90B(2) of the Act.

Article 2 of this Order provides that, if a person has been given a fixed penalty notice or handed a conditional offer for a fixed penalty offence, the appropriate amount is as specified in the third column of *Schedule 1*. For those cases in which the person has been given a fixed penalty notice or handed conditional offer for a graduated fixed penalty offence, the appropriate amount in respect of that fixed penalty notice or conditional offer is specified in *Schedule 2* by reference to the nature of the contravention or the failure constituting the offence or the seriousness of the offence. For those offences which are likely to be tried in a court, and for which the person has been given notice of that fact, the appropriate amount is £300.

In the event that the person is not prosecuted, is acquitted, or is convicted but not fined, or the period in which a prosecution may be brought ends, appropriate steps to make an appropriate refund of the financial penalty deposit are required to be taken by the Secretary of State. These steps are set out in the Road Safety (Financial Penalty Deposit) Order 2009. That Order also specifies the offences to which the financial penalty deposit scheme applies. The rate of interest to be calculated for the purposes of determining the appropriate refund is set out in the Road Safety (Financial Penalty Deposit) (Interest) Order 2009.

The AETR agreement, which relates to drivers’ hours of work, is out of print but available online from www.unece.org.

A full Impact Assessment of the effect this instrument will have on costs for the business and voluntary sectors has been produced and is available from the Licensing Roadworthiness and Insurance Division, Department for Transport, Zone 2/09 Great Minister House, 76 Marsham Street, London SW1P 4DR and may be accessed on the Department’s website at www.dft.gov.uk. A copy has been placed in the library of each House of Parliament.

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STATUTORY INSTRUMENTS

2009 No. 492

ROAD TRAFFIC

The Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009

£5.00