
WELSH STATUTORY INSTRUMENTS

2009 No. 1267

**The Traffic Management Permit
Scheme (Wales) Regulations 2009**

PART 5

Sanctions

Action which may be taken for unauthorised works

18.—(1) Where a person —

- (a) undertakes, without a permit, works for which a permit is required to have been obtained;
or
- (b) breaches any condition of a permit;

the Permit Authority may by notice require that person to take such reasonable steps as are specified in the notice, which may include steps to remove the works, to remedy the breach or to minimise or discontinue any obstruction to the street connected with the works.

(2) The notice must specify the works or breach falling within paragraph (1)(a) or (b) to which it relates.

(3) If a statutory undertaker fails to comply with such a notice within such reasonable period as is specified in the notice, the Permit Authority may take the steps specified in the notice and such reasonable steps as it considers appropriate having regard to the works or breach falling within paragraph (1)(a) or (b) to which the notice relates and recover from the statutory undertaker the costs reasonably incurred by it in doing so.

Offence to undertake works without a required permit

19.—(1) It is an offence for a statutory undertaker or a person contracted to act on its behalf to undertake specified works in a specified street in the absence of a permit, except to the extent that a permit scheme provides that this requirement does not apply.

(2) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Offence to breach a permit condition

20.—(1) It is an offence for a statutory undertaker or a person contracted to act on his or her behalf to breach a permit condition.

(2) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Giving fixed penalty notices

21.—(1) An authorised officer of a Permit Authority may, if that officer has reason to believe that a person is committing or has committed an offence under regulation 19(1) or 20(1), give him or her a fixed penalty notice in relation to that offence.

(2) In this Part “fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty.

Time limit for giving fixed penalty notice

22. A fixed penalty notice may not be given more than 91 days after the commission of the offence beginning with the day of its commission.

Form of fixed penalty notice

23.—(1) A fixed penalty notice must be in the form set out in Schedule 1 or in a form to substantially the like effect.

(2) A fixed penalty notice must identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence.

(3) A fixed penalty notice must also state —

- (a) the amount of the penalty and the period within which it may be paid;
- (b) the discounted amount payable in accordance with regulation 25 and the period within which it may be paid;
- (c) the person to whom and the address at which payment may be made;
- (d) the method or methods by which payment may be made;
- (e) the person to whom and the address at which any representations relating to the notice may be addressed; and
- (f) the consequences of not making a payment within the period for payment.

(4) The person specified under paragraph (3)(c) must be the permit authority or a person contracted to act on its behalf.

Penalties payable when fixed penalty notice given

24.—(1) Where a fixed penalty notice has been given under regulation 21 in relation to an offence, the penalty payable in order to discharge liability to conviction for that offence is —

- (a) in the case of an offence under regulation 19, £500, and
- (b) in the case of an offence under regulation 20, £120.

(2) The period for payment of the penalty is the period of 36 days beginning with the day on which the notice is given.

(3) The Permit Authority may extend the period for paying the penalty in any particular case if they consider it appropriate to do so.

Discounts for early payment

25.—(1) A discounted amount is payable instead of the amount prescribed under regulation 24(1) if payment is made before the end of the period of 29 days beginning with the day on which the notice is given.

(2) The discounted amount is —

- (a) in a case where regulation 24(1)(a) applies, £300, and

(b) in a case where regulation 24(1)(b) applies, £80.

(3) If the last day of the period specified in paragraph (1) does not fall on a working day, the period for payment of the discounted amount is extended until the end of the next working day.

Saving from proceedings where fixed penalty notice given

26.—(1) This regulation applies where a person is given a fixed penalty notice in respect of a fixed penalty offence.

(2) No proceedings for the offence may be commenced before the end of the period for payment of the penalty.

(3) No such proceedings may be commenced or continued if payment of the penalty is made before the end of that period or is accepted by the Permit Authority after that time.

(4) Payment of the discounted amount only counts for the purposes of paragraph (3) if it is made before the end of the period for payment of the discounted amount.

(5) In proceedings for the offence, a certificate which—

(a) purports to be signed by or on behalf of the person having financial responsibility for the permit scheme; and

(b) states that payment of an amount specified in the certificate was or was not received by a date so specified,

is evidence of the facts stated.

(6) The person having financial responsibility for the permit scheme is —

(a) where the Permit Authority is a single highway authority, the person having responsibility for the financial affairs of that authority; and

(b) where the Permit Authority is more than one highway authority, the person appointed by the participating authorities as being responsible for financial accounting in relation to the permit scheme.

Withdrawal of fixed penalty notice

27.—(1) If the Permit Authority considers that a fixed penalty notice which has been given ought not to have been given, it must give to the person to whom that notice was given a notice withdrawing the fixed penalty notice.

(2) A notice under paragraph (1) must be in the form set out in Schedule 2 or in a form to substantially the like effect.

(3) Where a notice under paragraph (1) is given the Permit Authority must repay any amount which has been paid by way of penalty in pursuance of the fixed penalty notice.

(4) The Permit Authority must consider any representations made by or on behalf of the recipient of a fixed penalty notice and decide in all the circumstances whether to withdraw the notice.

Application of sums received from fixed penalties

28.—(1) A Permit Authority may deduct from fixed penalties received under these regulations any costs of operating its permit scheme which remain following the application of fee income to those costs under regulation 32.

(2) A Permit Authority must apply the proceeds or net proceeds received from fixed penalties for the purpose of developing or implementing policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to, from and within the specified area.