
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Road Traffic (Vehicle Emissions) (Fixed Penalty) Regulations 1997 (“the 1997 Regulations”) empower certain local authorities in England, Scotland and Wales (“participating authorities”) to issue fixed penalty notices to users of vehicles within their areas who contravene or fail to comply with regulation 61, 61A or 98 of the Road Vehicles (Construction and Use) Regulations 1986 (“the 1986 Regulations”). Those regulations are concerned with emissions of smoke, vapour, gases, oily substances, etc.

These Regulations replace the 1997 Regulations, for England only. The 1997 Regulations continue to have effect in Scotland and Wales.

Under these Regulations a local authority in England may apply to the Secretary of State for designation. A local authority so designated may use fixed penalty notices to enforce offences under regulations 61 and 61A of the 1986 Regulations in its area.

These Regulations also provide for the enforcement by fixed penalty notice of offences under so much of regulation 98 of the 1986 Regulations as relates to the prevention of exhaust emissions. That power is exercisable by district councils, London borough councils, some county councils, the Common Council of the City of London and, as respects the Temples, by the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple.

In Part 1, *regulation 2* defines terms used in the Regulations.

In Part 2, *regulation 3* specifies the circumstances in which an application for designation can be made, and the documents that must accompany the application. *Regulation 4* sets out the criteria for designation and *regulation 5* provides for the revocation of designations.

In Part 3, *regulation 6* contains provisions relating to the authorisation of persons to carry out emission tests on vehicles, to ensure compliance with the stopping of engines of stationary vehicles and to issue fixed penalty notices.

In Part 4, *regulation 7* prescribes two offences under the 1986 Regulations as fixed penalty offences for the purposes of the Regulations. The first is referable to regulations 61 and 61A of the 1986 Regulations, and attracts a fixed penalty of £60 under *regulation 8*. The second is referable to so much of regulation 98 of the 1986 Regulations as deals with the prevention of exhaust emissions, and attracts a fixed penalty of £20 under *regulation 8*. (The amounts may be increased in accordance with regulation 17, or reduced or waived in accordance with regulation 19.)

Part 5 contains provisions (*regulations 9 to 11*) which confer power to conduct emission tests and deal with other matters relevant to the first of the fixed penalty offences.

Part 6 contains provisions (*regulations 12 to 14*) which confer power to stop the running of the engine of a stationary vehicle and deal with other matters relevant to the second of the fixed penalty offences.

In Part 7, *regulations 15 and 16* provide for the timing of the issue of fixed penalty notices and their content. *Regulation 17* deals with the effect of fixed penalty notices, and provides for the increase of the penalty where payment is not made in accordance with the notice. *Regulation 18* enables a person who has been issued with a fixed penalty notice to ask for a hearing in respect of the offence to which the notice relates. *Regulation 19* provides for the making of an application to reduce the amount of the fixed penalty or to waive it altogether. *Regulation 20* deals with the withdrawal of fixed penalty notices.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 No. 1808*

In Part 8, *regulations 21 and 22* deal with the recovery of unpaid fixed penalties and *regulation 23* makes provision in connection with the issue of notices under the Regulations. *Regulation 25* revokes the 1997 Regulations with respect to England.