

ROAD SAFETY ACT 2006

EXPLANATORY NOTES

FIXED PENALTIES

Section 3: Graduated fixed penalties

18. This section amends Section 53 of the RTOA under which the amount of a fixed penalty is set. The amendment substitutes new *subsections (2) and (3)*. It enables the Secretary of State by order to prescribe graduated amounts for offences. The graduations can take account of the circumstances of the particular offence. Such circumstances include the nature of the offence, its severity, where it has taken place and whether the offender appears to have committed other, prescribed offences during a prescribed period.

Section 4: Graduated fixed penalty points

19. This section amends section 28 of the RTOA, as amended by the Road Traffic Act 1991, which provides for the penalty points that are to be attributed to an offence when a person's driving licence is to be endorsed. The section substitutes three new *subsections, (3), (3A) and (3B)*, for subsection (3).
20. The amendment enables the Secretary of State to prescribe by order appropriate numbers of penalty points for offences. The appropriate number of points may vary depending on the circumstances of the offence. Those circumstances include the nature of the offence, its severity, where it has taken place and whether the offender appears to have committed other, prescribed offences during a prescribed period.
21. The amendments also allow the Secretary of State to amend Part 2 of Schedule 2 of the RTOA to provide for the penalty points for a fixed penalty offence to be the appropriate number of penalty points. The current penalty point provisions remain in force for any offence for which no such order is made.

Section 5 (and Schedule 1): Giving of fixed penalty notices by vehicle examiners

22. **Section 5** and Schedule 1 amend Part 3 of the RTOA (fixed penalties) to enable vehicle examiners to issue fixed penalty notices for those offences (predominantly roadworthiness offences) which they have powers to enforce. Vehicle examiners are appointed by the Secretary of State under section 66A of the RTA. They are staff in the Vehicle and Operator Services Agency (VOSA), an agency of the Department for Transport. The examiners will also issue conditional offers under section 75 of the RTOA (for instance where offences are detected remotely e.g. via Automatic Number-Plate Recognition or weigh-in-motion equipment).
23. The amendments set up a system similar, but not identical, to the fixed penalty system administered by the police and fixed penalty clerks. The difference is that where a fixed penalty notice, or conditional offer, is issued by a vehicle examiner, the system will be administered by the Secretary of State. Fixed penalty payments will be sent to him and he will be responsible, where relevant, for the inspection and endorsement of driving licences. In practice this will be handled by a VOSA office. The right of the recipient of a notice or offer to ask to be heard by a court will not be adversely affected.

Section 6: Goods vehicles operator licensing

24. This section amends the Goods Vehicle (Licensing of Operators) Act 1995 to provide for fixed penalty notices in respect of heavy goods vehicles to be made notifiable, in the same way convictions are, to the traffic commissioners by an applicant for, or holder of, a goods vehicle operator's licence. It also provides for the traffic commissioners to take into consideration any fixed penalty notices, issued to the operator, their agent or transport manager, within the previous 5 years when granting, revoking, suspending or curtailing an operator's licence. Failure to notify will be an offence, as is a failure to notify a conviction.
25. The effect of the section is that an offence, which would have been notifiable, on conviction, will also be notifiable if the offender receives a fixed penalty in respect of it.

Section 7: Public passenger vehicle licensing

26. This section makes amendments, which correspond to those in the preceding section, to the Public Passenger Vehicles Act 1981. They apply to an applicant for, or holder of, a public service vehicle operator's licence.