

1986 No. 1330

CRIMINAL LAW, ENGLAND AND WALES

The Fixed Penalty (Procedure) Regulations 1986

<i>Made</i>	- - -	29th July 1986
<i>Laid before Parliament</i>		6th August 1986
<i>Coming into Operation</i>		1st October 1986

In exercise of the powers conferred upon me by sections 49(1) and 73(5) of the Transport Act 1982(a), and after consultation with the organisations mentioned in section 73(3) of that Act, I hereby make the following Regulations:—

1.— (1) These Regulations may be cited as the Fixed Penalty (Procedure) Regulations 1986 and shall come into operation on 1st October 1986.

(2) In these Regulations any reference to a section is a reference to a section of the Transport Act 1982.

(3) These Regulations do not extend to Scotland.

2.— (1) Subject to paragraph (2) below, in the documents described in column 1 of the Schedule to these Regulations and referred to in the provisions of the Act specified in column 2 of the Schedule there shall be provided the information or, as the case may be, further information prescribed in column 3 of the Schedule.

(2) The information prescribed in the Schedule in relation to a fixed penalty notice need not be provided if the offender's driving licence would not be subject to endorsement on conviction of the offence in respect of which the notice was given.

3.— (1) A copy of any fixed penalty notice given or affixed under section 27 shall be forwarded by or on behalf of the constable or traffic warden giving or affixing the notice to the fixed penalty clerk unless the fixed penalty clerk has notified the chief officer of police that he does not wish to receive a copy of any such notice.

(2) Where a fixed penalty notice has been given to a person under section 27 and that person has surrendered his driving licence in accordance with that

(a) 1982 c.49.

section the driving licence shall be forwarded by or on behalf of the constable to the fixed penalty clerk.

4.— (1) Where a constable has issued a fixed penalty notice to a person under section 28(2), he shall send a notice indicating that fact to the chief officer of police together with that person's driving licence.

(2) Subject to paragraph (3) below, on receipt of the documents referred to in paragraph (1) above the chief officer of police shall send the driving licence and a copy of the notice issued under section 28(1) to the fixed penalty clerk and notify him that a fixed penalty notice has been issued under section 28(2).

(3) The chief officer of police shall not send a copy of the notice issued under section 28(1) to the fixed penalty clerk under paragraph (2) above if the fixed penalty clerk has notified the chief officer of police that he does not wish to receive a copy of any such notice.

5.— (1) On receipt of the remittance in respect of a fixed penalty the fixed penalty clerk shall notify the chief officer of police that the remittance has been received.

(2) If payment of the fixed penalty is made by a person otherwise than as required by the fixed penalty notice the fixed penalty clerk shall return the remittance to that person.

(3) Where a remittance in respect of a fixed penalty is sent by a person to a justices' clerk who is not the fixed penalty clerk specified in the fixed penalty notice, the justices' clerk shall return the remittance to that person.

6. Where—

- (a) the suspended enforcement period has expired; and
- (b) the fixed penalty has not been paid; and
- (c) either the person to whom the fixed penalty notice was given has requested a hearing under section 30(2) or 31(3) or no registration certificate has been issued under section 36(2),

the chief officer of police shall notify the fixed penalty clerk accordingly and the fixed penalty clerk shall, where an endorsable offence is involved, return the driving licence to the person to whom the fixed penalty notice was given.

7. Where—

- (a) the suspended enforcement period has expired; and
- (b) the fixed penalty has not been paid; and
- (c) a registration certificate has been issued under section 36(2),

the chief officer of police shall notify the fixed penalty clerk accordingly.

8. Where in a case involving an endorsable offence any sum determined by reference to the fixed penalty is registered under section 36 for enforcement

against the licence holder as a fine the justices' clerk at the court where the sum is registered shall notify the fixed penalty clerk to whom the driving licence was sent that the sum has been registered.

9. Where a fixed penalty notice is issued under section 27(1) or 28(2) the fixed penalty clerk shall not accept payment of the fixed penalty after the expiry of the suspended enforcement period.

10. Where a fixed penalty is paid within the suspended enforcement period the fixed penalty clerk shall send a receipt for the payment, if requested, to the payer.

11. For the purposes of section 35(3)(a) (which provides that a licence receipt issued by a constable is to cease to have effect on the expiration of the period of one month beginning with the date of issue) there shall be prescribed a longer period of two months beginning with the same date.

Douglas Hurd,
One of Her Majesty's Principal
Secretaries of State.

Home Office.
29th July 1986.

SCHEDULE

Regulation 2

INFORMATION OR FURTHER INFORMATION TO BE PROVIDED IN CERTAIN DOCUMENTS
MENTIONED IN PART III OF THE TRANSPORT ACT 1982

Document	Provision of Act	Information or further information to be provided
1. Fixed penalty notice	Section 27(8)	<ul style="list-style-type: none"> (i) The name of the police force of which the constable giving the notice is a member. (ii) The serial number of the fixed penalty notice. (iii) Whether the notice relates to an endorsable offence. (iv) The name, date of birth and address of the person to whom the notice is given. (v) The date, time and place of the alleged offence. (vi) The details of the vehicle including the registration number. (vii) The documents, if any, to be produced at a police station and the period within which they must be produced. (viii) An explanation of the action to be taken by the driver where (a) he has not or (b) he has surrendered the licence. (ix) The fact that the person to whom the notice is given may opt for trial. (x) The method of paying the fixed penalty. (xi) The name, rank and number of the constable issuing the fixed penalty notice. (xii) Guidance to the driver as to the legal consequences of a fixed penalty notice.
2. Receipt for driving licence	Section 35(1).	<ul style="list-style-type: none"> (i) Whether the driving licence is full or provisional. (ii) The driver number as shown on the licence. (iii) The groups of vehicles which the driver is entitled to drive. (iv) The expiry date of the licence. (v) The duration of the validity of the licence receipt. (vi) The method of obtaining a new receipt on the expiry of an old receipt. (vii) The name, rank and number of the constable issuing the fixed penalty notice.
3. Receipt for driving licence	Section 35(2)	<ul style="list-style-type: none"> (i) The date of issue of receipt. (ii) The code of the magistrates' court issuing receipt.

		<p>(iii) The name, address and date of birth of driver.</p> <p>(iv) Whether the driving licence is full or provisional.</p> <p>(v) The driver number as shown on the licence.</p> <p>(vi) The groups of vehicles which the driver is entitled to drive.</p> <p>(vii) The expiry date of the licence.</p> <p>(viii) The duration of the validity of the licence receipt.</p>
4. Registration certificate	Section 36	<p>(i) The serial number and date, time and place of issue of the notice to owner, notice to hirer or fixed penalty notice (as case may be).</p> <p>(ii) The vehicle registration number.</p> <p>(iii) The driver number.</p> <p>(iv) The amount of the appropriate fixed penalty.</p> <p>(v) The sum to be registered in default of payment of the fixed penalty.</p>
5. Notice requesting new statutory statement	Section 37(8)	<p>(i) The particulars of the statutory declaration.</p> <p>(ii) The details of the alleged fixed penalty offence.</p> <p>(iii) A request to furnish a statutory statement of ownership.</p> <p>(iv) The period allowed for a response to the notice.</p> <p>(v) The consequences of providing, or, as the case may be, not providing the statutory statement of ownership.</p>
6. Statement of liability	Section 45(2)	<p>(i) The name, date of birth and address of hirer.</p> <p>(ii) The duration of the hiring agreement.</p>

EXPLANATORY NOTE

(This Note is not part of the Order.)

Part III of the Transport Act 1982 ("Part III") makes provision for a new system of fixed penalties which extends to moving traffic offences and which comes into force on 1st October 1986 (S.I. 1986/1326).

These Regulations make provision for the procedure to be followed under the new system additional to that already set out in Part III. The Regulations for the most part concern the sending of certain documents between the police and the courts. In addition, Regulation 2 and the Schedule to the Regulations prescribe the information to be provided in the documents issued under Part III. Regulation 5(2) and (3) provide that a remittance in respect of a fixed penalty is to be returned to the payer if it is made otherwise than as required by the fixed penalty notice or to the wrong court. Regulation 9 provides that the fixed penalty clerk shall not accept payment of the fixed penalty after the expiry of the period allowed for payment by the fixed penalty notice. Regulation 11 provides that a driving licence receipt issued by a constable shall be valid for a period of two months instead of the period of one month specified in section 35(3)(a) of the 1982 Act.

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