

2009 No. 483

CRIMINAL LAW, ENGLAND AND WALES

CRIMINAL LAW, SCOTLAND

The Fixed Penalty Offences Order 2009

Made - - - - - *5th March 2009*

Laid before Parliament *9th March 2009*

Coming into force - - - *31st March 2009*

This Order is made in exercise of the powers conferred by section 51(3) of the Road Traffic Offenders Act 1988(a).

The Secretary of State has consulted with such representative organisations as appear appropriate in accordance with section 88(2) of that Act.

Accordingly, the Secretary of State makes the following Order:

Citation and Commencement

1. This Order may be cited as the Fixed Penalty Offences Order 2009 and shall come into force on 31st March 2009.

Amendment of the Road Traffic Offenders Act 1988

2. The following offences are fixed penalty offences for the purposes of Part 3 of the Road Traffic Offenders Act 1988—

- (a) an offence under section 96(11) of the Transport Act 1968(b);
- (b) an offence under section 96(11A) of the Transport Act 1968(c);
- (c) an offence under section 97(1) of the Transport Act 1968(d);

(a) 1988 c.53.

(b) 1968 c.73; 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 (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.

(c) Section 96(11A) was inserted by paragraph 9(2)(a) of Schedule 4 to the European Communities Act 1972 (c.68). 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.

(d) Section 97 was substituted by S.I. 1979/1746. Subsection (1) was further substituted by S.I. 1984/144, and amended by S.I. 1986/1457, 1989/2121 and 2005/1904.

- (d) an offence under section 98(4) of the Transport Act 1968(a);
- (e) an offence under section 99C of the Transport Act 1968(b);
- (f) an offence under section 3(1) of the Road Traffic (Foreign Vehicles) Act 1972 (c);
- (g) an offence under section 12(5) of the Public Passenger Vehicles Act 1981(d);
- (h) an offence under regulation 19(1) of the Road Transport (International Passenger Services) Regulations 1984(e);
- (i) an offence under regulation 19(2) of the Road Transport (International Passenger Services) Regulations 1984;
- (j) an offence under section 71(1) of the Road Traffic Act 1988(f);
- (k) an offence under section 90D of the Road Traffic Offenders Act 1988(g);
- (l) an offence under regulation 3 of the Goods Vehicles (Community Authorisations) Regulations 1992(h);
- (m) an offence under regulation 7 of the Goods Vehicles (Community Authorisations) Regulations 1992;
- (n) an offence under section 34 of the Vehicle Excise and Registration Act 1994(i);
- (o) an offence under section 2(5) of the Goods Vehicles (Licensing of Operators) Act 1995 (j);
- (p) an offence under regulation 3 of the Public Service Vehicles (Community Licences) Regulations 1999(k);
- (q) an offence under regulation 7 of the Public Service Vehicles (Community Licences) Regulations 1999;
- (r) an offence under regulation 3 of the Road Transport (Passenger Vehicles Cabotage) Regulations 1999(l);
- (s) an offence under regulation 4 of the Road Transport (Passenger Vehicles Cabotage) Regulations 1999;
- (t) an offence under regulation 7(1) of the Road Transport (Passenger Vehicles Cabotage) Regulations 1999;
- (u) an offence under regulation 7(3) of the Road Transport (Passenger Vehicles Cabotage) Regulations 1999; and
- (v) an offence under regulation 11(7) of the Vehicle Drivers (Certificates of Professional Competence) Regulations 2007(m).

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- (a) Section 98(4) was first amended by paragraph 9(2) of Schedule 4 to the European Communities Act 1972. It was further amended by section 2(1) of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976, 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.
 - (b) Section 99C was inserted by section 266 of the Transport Act 2000 (c.38).
 - (c) 1972 c.27. Section 3(1) was amended by sections 39(2) and 46 of, and Schedule 2 to, the Criminal Justice Act 1982 in respect of England and Wales, and by section 3 of paragraph 10 of Schedule 1 and Part III of Schedule 2 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) in respect of Scotland.
 - (d) 1981 c.14. Section 12(5) 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.
 - (e) S.I. 1984/748.
 - (f) 1988 c.52. Section 71 was substituted by section 14 of the Road Traffic Act 1991 (c.40).
 - (g) Section 90D was inserted by section 11 of the Road Safety Act 2006 (c.49).
 - (h) S.I. 1992/3077.
 - (i) 1994 c.22. Section 34 was amended by section 19(1) of, and paragraph 11 of Schedule 5 to, the Finance Act 2002 (c. 23).
 - (j) 1995 c.23. Section 2(5) was amended by section 261 of the Transport Act 2000.
 - (k) S.I. 1999/1322.
 - (l) S.I. 1999/3413, to which there are amendments not relevant to this Order.
 - (m) S.I. 2007/605 as amended by S.I. 2008/1965; there are other amendments not relevant to this Order.

3.—(1) The offences specified in paragraph (2) are fixed penalty offences for the purposes of Part 3 of the Road Traffic Offenders Act 1988 but subject to the limitation or exception in that paragraph in relation to each offence.

(2) The offences referred to in paragraph (1) are—

- (a) an offence under section 99(4) of the Transport Act 1968(a), but only insofar as the offence relates to—
 - (i) failing to comply with a requirement under section 99(1)(a); or
 - (ii) obstructing an officer in the exercise of his powers under 99(2)(a) or 99(3); and
- (b) an offence under section 99ZD(1) of the Transport Act 1968(b), except where that offence is committed by—
 - (i) failing to sign a hard copy of downloaded data when required to do so under section 99ZC(1); or
 - (ii) obstructing an officer in the exercise of powers under section 99ZF.

4. In consequence of the provisions of articles 2 and 3, Schedule 3 to the Road Traffic Offenders Act 1988(c) is amended in accordance with the Schedule.

Signed by authority of the Secretary of State for Transport

Jim Fitzpatrick
Parliamentary Under Secretary of State
Department for Transport

5th March 2009

(a) 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.

(b) Sections 99ZA to 99ZF were inserted by S.I. 2005/1904.

(c) Relevant amendments to Schedule 3 were made by paragraph 25 of Schedule 3 and Part 1 of Schedule 5 to the Vehicle Excise and Registration Act 1994, S.I. 1999/1851 and 2003/1253.

SCHEDULE

Amendments to Schedule 3 to the Road Traffic Offenders Act 1988

1. Before the entry relating to the Greater London Council (General Powers) Act 1974, insert the following—

“Offences under the Transport Act 1968 (c.73)

Section 96(11) of the Transport Act 1968	Contravention of any requirement of domestic drivers’ hours code
Section 96(11A) of that Act	Contravention of any requirement of applicable Community rules as to periods of driving, etc.
Section 97(1) of that Act	Using vehicle in contravention of requirements relating to installation, use or repair of recording equipment in accordance with Community Recording Equipment Regulation
Section 98(4) of that Act	Contravention of regulations made under section 98 or any requirement as to books, records or documents of applicable Community rules
Section 99(4) of that Act	Failing to comply with requirements relating to inspection of records or obstructing an officer, but only insofar as the offence relates to:— (i) failing to comply with any requirement under section 99(1)(a); or (ii) obstructing an officer in exercise of powers under 99(2)(a) or 99(3).
Section 99ZD(1) of that Act	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 except where that offence is committed by:— (i) failing to sign a hard copy of downloaded data when required to do so under section 99ZC(1); or (ii) obstructing an officer in exercise of powers under section 99ZF.
Section 99C of that Act	Failure to comply with prohibition or direction in relation to driving vehicle.

Offence under the Road Traffic (Foreign Vehicles) Act 1972 (c.27)

Section 3(1) of the Road Traffic (Foreign Vehicles) Act 1972	Driving, etc., foreign goods vehicle or foreign public service vehicle in contravention of prohibition etc.”
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2. After the entry relating to the Highways Act 1980, insert the following—

“Offence under the Public Passenger Vehicles Act 1981 (c.14)

Section 12(5) of the Public Passenger Vehicles Act 1981	Using public service vehicle on road except under PSV operators’ licence. ”
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3. After the last entry relating to the Road Traffic Regulation Act 1984, insert the following—

“Offences under the Road Transport (International Passenger Services) Regulations 1984 (S.I. 1984/748)

Regulation 19(1) of the Road Transport (International Passenger Services) Regulations 1984	Using vehicle for Community regulated carriage of passengers by road otherwise than in accordance with authorisation or certificate, etc.
Regulation 19(2) of those Regulations	Using vehicle for ASOR regulated or Community regulated carriage of passengers by road without having correctly completed passenger waybill or without carrying top copy of waybill on vehicle throughout journey.”

4. After the entry relating to section 47 of the Road Traffic Act 1988, insert the following—

“RTA section 71(1)	Driving, etc., vehicle in contravention of prohibition on driving it as being unfit for service or overloaded, or failing to comply with direction to remove a vehicle found overloaded.”
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5. After the last entry relating to the Road Traffic Act 1988, insert the following—

“Offence under this Act

Section 90D(6)	Driving, etc., vehicle in contravention of prohibition on driving, or failing to comply with direction to remove vehicle on failure to make a financial penalty deposit payment.
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Offences under the Goods Vehicles (Community Authorisations) Regulations 1992 (S.I. 1992/3077)

Regulation 3 of the Goods Vehicles (Community Authorisations) Regulations 1992	Using goods vehicle without Community authorisation.
Regulation 7 of those Regulations	Using vehicle under Community authorisation in contravention of conditions governing authorisation.”

6. After the entry relating to section 33 of the Vehicle Excise and Registration Act 1994, insert the following—

“Section 34 of that Act	Using trade licence for unauthorised purposes or in unauthorised circumstances, etc.”
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7. After the last entry relating to the Vehicle Excise and Registration Act 1994, insert the following—

“Offence under the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23)

Section 2(5) of the Goods Vehicles (Licensing of Operators) Act 1995	Using goods vehicle on road for carriage of goods except under operator’s licence.
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*Offences under the Public Service Vehicles (Community Licences) Regulations 1999 (S.I.
1999/1322)*

Regulation 3 of the Public Service Vehicles (Community Licences) Regulations 1999	Using public service vehicle on road without Community licence.
Regulation 7 of those Regulations	Using public service vehicle under Community licence in contravention of conditions governing use of licence.

*Offences under the Road Transport (Passenger Vehicles Cabotage) Regulations 1999 (S.I.
1999/3413)*

Regulation 3 of the Road Transport (Passenger Vehicles Cabotage) Regulations 1999	Using vehicle on road for UK cabotage operations without Community licence.
Regulation 4 of those Regulations	Using vehicle on road for UK cabotage operations without control document.
Regulation 7(1) of those Regulations	Driver failing to produce Community licence on request when vehicle required to have licence on board.
Regulation 7(3) of those Regulations	Driver failing to produce control document on request when vehicle required to have control document on board.

*Offence under the Vehicle Drivers (Certificates of Professional Competence) Regulations
2007(S.I. 2007/605)*

Regulation 11(7) of the Vehicle Drivers (Certificates of Professional Competence) Regulations 2007	Driver of relevant vehicle failing to produce on request evidence or document required to be carried under regulation 11(1), (3) or (5). ”
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EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the offences listed in *articles 2 and 3* to be fixed penalty offences for the purposes of the Road Traffic Offenders Act 1988 (“the Act”). The offences relate to drivers’ hours, public service and goods vehicles’ authorisations, certificates of professional competence and trade licences. The Schedule makes consequential modifications to Schedule 3 to the Act.

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 Minster 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

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