
SCOTTISH STATUTORY INSTRUMENTS

2003 No. 212

**The Road Traffic (Vehicle Emissions)
(Fixed Penalty) (Scotland) Regulations 2003**

PART 7

FIXED PENALTY NOTICES

Waiver of fixed penalty for emissions offence

20.—(1) A person to whom a fixed penalty notice has been issued in respect of an emissions offence may, within the period and in the manner specified in that notice, apply to the appropriate authority to waive the fixed penalty.

(2) An application under paragraph (1) must be in writing and must—

- (a) contain such information, and
- (b) be accompanied by such documentary evidence,

as the applicant considers likely to satisfy the authority in terms of paragraph (3).

(3) The authority may waive the fixed penalty entirely where it is satisfied—

- (a) that the defect by reason of which the vehicle failed the test carried out pursuant to paragraph (2) or, as the case may be, regulation 9(3)(a) (“the regulation 9 test failure”), was rectified not later than 14 days after the date of that failure; and
- (b) as to the matters in one of paragraphs 4(a) or (b).

(4) The matters referred to in paragraph (3)(b) are that—

- (a) in the period of 12 months immediately preceding the regulation 9 test failure—
 - (i) the vehicle passed an examination under section 45 of the Road Traffic Act 1988; or
 - (ii) the vehicle failed such an examination, but none of the grounds on which it failed related to a requirement of regulation 61 or 61A of the 1986 Regulations; or
- (b) all reasonable steps had been taken prior to the regulation 9 test failure to maintain the vehicle in a condition sufficient to comply with the requirements of those regulations 61 and 61A.

(5) Paragraph (3)(b) as it relates to paragraph (4)(a), will only apply if the date of the examination referred to in paragraphs (4)(a)(i) and (ii) precedes the date on which a person gives the permission referred to in regulation 9(1).

(6) As soon as practicable after determining an application under paragraph (1), the authority shall, by notice, inform the applicant of its decision.

(7) Except in a case in which the authority has waived the fixed penalty in its entirety, the authority’s notice under paragraph (5) shall include a statement of—

- (a) the amount of the fixed penalty;
- (b) the date by which the fixed penalty is to be paid, being whichever is the later of—

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- (i) the last day in the period specified, in accordance with regulation 17(h), in the fixed penalty notice, and
- (ii) the day that falls 14 days after that on which the notice under paragraph (5) is issued; and
- (c) the person to whom, the address at which, and the period within which a notice requesting a hearing may be sent.