

ROAD TRAFFIC (VEHICLE TESTING) ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1: Tests of satisfactory condition of vehicles

10. The existing primary legislation does not refer to "nominated testers", although in practice it is they who carry out most MOT tests. This section puts nominated testers on a statutory basis (see *section 1(1)(a)*). It also provides for nominated testers and inspectors, whose names are put forward by authorised examiners and designated councils respectively, to be approved by the Secretary of State (see *section 1(1)(a) and (b)*).
11. *Section 1(3)* inserts section 45(6A) and (6B) of the Road Traffic Act 1988. *Subsection (6A)* enables the Secretary of State to provide, or make arrangements for the provision of, courses of instruction in connection with MOT testing, as he does at present under administrative arrangements. It also enables him to charge fees for attendance on such courses. This is a new provision designed to make those who benefit from the courses responsible for paying for them. *Subsection (6B)* requires the Secretary of State to establish and maintain records relating to MOT tests.

Section 2: Regulations under section 45

12. This section substitutes a new section 46 in the Road Traffic Act 1988. The new section re-enacts the existing provisions and adds further provisions.
13. The principal new provisions are as follows.
 - *Subsections (1)(e) and (3)* enable the Secretary of State to make provision for supervision of MOT testing stations. He may, in particular, provide for a person to be made a nominated supervisor for a testing station. This power would be useful where, for example, an authorised examiner has several testing stations and cannot be present at all of them.
 - *Subsection (1)(i)* enables the Secretary of State to provide in regulations for factual errors in MOT test certificates to be corrected.
 - *Subsections (1)(j) and (4)* deal with the charges payable to the Secretary of State by authorised examiners or designated councils on the issue of the result of an MOT test; on issue of duplicates or copies of test certificates; and on the correction of errors in test certificates. *Subsection (4)(a)* enables the Secretary of State to require payment on account from authorised examiners and designated councils for entering the results of MOT tests into the proposed MOT database. The provision would also enable the Secretary of State to require payment on account at prescribed times of such amounts as he may determine in accordance with the regulations. *Subsection (4)(b)* reproduces part of existing section 46(d). The Secretary of State may charge for supplying, in advance of MOT tests, blank forms for test certificates and notifications of refusal of test certificates. *Subsection (4)* also provides for money paid on account to be repaid in prescribed circumstances.

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- *Subsection (2)* enables the Secretary of State to require that persons connected with MOT testing should successfully complete training courses and pay such fees as may be prescribed in connection with applications for the Secretary of State's authorisation, approval or designation.
- *Subsection (5)* enables the Secretary of State to make information available from the MOT records to prescribed persons on payment, in prescribed cases, of a reasonable fee. This provision would allow the Secretary of State to disclose information from the MOT database in accordance with regulations. It is envisaged that regulations could provide, for example, for:
 - the issue, on payment of a reasonable fee, of particulars relating to a vehicle's MOT history to a person who could demonstrate that he had reasonable cause for wanting such information; and
 - the issue to the police of information relating to the MOT status of vehicles (free of charge and via the Police National Computer).
- *Subsection (6)* enables the Secretary of State to sell particulars contained in, or derived from, the MOT records. The particulars and information could be sold:
 - to such persons as the Secretary of State thought fit;
 - for such price, on such terms and subject to such restrictions as the Secretary of State thought fit; and
 - without identifying the premises at which an examination was carried out or any person concerned with the carrying out of an examination.

Section 3: Use of records relating to vehicle examinations, etc.

14. This section inserts a new section 46A of the Road Traffic Act 1998. It describes how the Secretary of State may use the records in the proposed MOT database and the database of vehicle records held by the Driver and Vehicle Licensing Agency (DVLA).
15. *Subsection (2)* allows the Secretary of State to use information from either of the databases to check the accuracy of the information in the other database and, where appropriate, to amend or supplement the information contained in the other database.
16. *Subsection (3)* provides for the Secretary of State to use information from the DVLA database to promote compliance with the requirement to have a valid MOT certificate. This could include the sending out of reminders to registered keepers that their vehicles might need MOT tests.

Section 4: Evidence from records

17. This section inserts a new section 46B of the Road Traffic Act 1988.
18. At present, a vehicle's MOT status is usually proved by producing an MOT certificate. In future, it will be possible to use records from the proposed MOT database. *Section 4* makes provision for admitting evidence from those records in court.

Section 5: Conditions for grant of vehicle excise licence

19. *Section 5* adds paragraph (aa) to section 66(2) of the Road Traffic Act 1988. Under this provision, a vehicle may be relicensed without producing an MOT certificate, because the Secretary of State may use information from the proposed MOT database.

Section 6: Orders relating to fees

20. *Section 6* refers to section 102 of the Finance (No. 2) Act 1987 which enables a Minister of the Crown, by order, to specify what matters are to be taken into account when fixing

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fees and charges. Such an order requires affirmative procedure in the Commons. The Department of Transport (Fees) Order 1988 (*SI 1988/643*) includes a provision relating to fees chargeable by virtue of section 46 of the Road Traffic Act 1988. It will require amendment as a result of the Act. This section enables an order which relates only to section 46, and which is made within twelve months after Royal Assent, to be made subject to negative procedure.

Section 9: Short title, commencement and extent

21. *Section 9(2)* requires the Secretary of State, except in relation to sections 6, 8 and 9, to make a commencement order to bring the provisions of the Act into effect. Sections 6, 8 and 9 come into force on Royal Assent. *Section 9(3)* enables a commencement order relating to section 1 to include transitional provisions, consequential provisions or savings.

Schedule

22. The Schedule makes consequential amendments. Paragraphs 1 and 2 amend sections 8 and 10 of the Transport Act 1982, which affect sections 45 and 46 of the Road Traffic Act 1988 and are not yet in force. Paragraph 3 extends the offence of impersonation in section 177 of the Road Traffic Act 1988 to cover the impersonation of any of those who, under sections 45 and 46 as amended by the Act, are entitled to carry out MOT tests.