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STATUTORY INSTRUMENTS

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**1998 No. 3094**

**The Vehicle Excise Duty (Reduced Pollution) Regulations 1998**

**Citation and commencement**

1. These Regulations may be cited as the Vehicle Excise Duty (Reduced Pollution) Regulations 1998 and shall come into force on 1st January 1999.

**Interpretation**

2.—(1) In these Regulations—

“the 1994 Act” means the Vehicle Excise and Registration Act 1994;

“authorised examiner” means—

- (a) a vehicle examiner appointed by the Secretary of State pursuant to section 66A of the Road Traffic Act 1988<sup>(1)</sup>;
- (b) a vehicle examiner appointed by the Department of the Environment for Northern Ireland pursuant to Article 74 of the Road Traffic (Northern Ireland) Order 1995<sup>(2)</sup>; or
- (c) a person authorised by the Secretary of State to conduct examinations for the purposes of these Regulations; “prescribed adaptation” shall be construed in accordance with regulation 5;

“prescribed fee” means the fee prescribed by regulation 14;

“rectification notice” has the meaning given by regulation 11(1);

“reduced pollution requirements” mean the requirements prescribed by regulation 5(3);

“registered keeper” in relation to a vehicle means the person in whose name the vehicle is registered under the 1994 Act;

“vehicle” means a vehicle which is an eligible vehicle within the meaning given by section 61B(4) of the 1994 Act; and

“vehicle identification number” has the same meaning as in regulation 67 of the Road Vehicles (Construction and Use) Regulations 1986<sup>(3)</sup>.

(2) In these Regulations references to a numbered regulation or schedule are to the regulation of, or schedule to, these Regulations so numbered and references to a numbered paragraph are to the paragraph so numbered in the regulation or schedule in which the reference occurs.

**Applications for reduced pollution certificates**

3.—(1) An application for a reduced pollution certificate in respect of a vehicle shall be made to the Secretary of State.

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(1) 1988 c. 52; section 66A was inserted by the Road Traffic Act 1991 (c. 40), section 9(1).

(2) S.I. 1995/2994 (N.I. 18).

(3) S.I. 1986/1078, to which there are amendments not relevant to these Regulations; regulation 69 of the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1989 (S.R. 1989/299) contains an identical definition.

(2) The Secretary of State shall fix the time when and the place where an examination for the purpose of determining whether a reduced pollution certificate should be issued is to be carried out and shall inform the applicant accordingly.

(3) The Secretary of State may by notice in writing to the applicant alter the time or place fixed for the examination, but shall not alter the time to an earlier time without the consent of the applicant.

### **Examinations**

**4.**—(1) An examination for the purpose of determining whether a reduced pollution certificate should be issued shall be carried out by an authorised examiner.

(2) An authorised examiner may refuse to examine a vehicle if—

- (a) the vehicle is not presented at the time and place appointed for the examination;
- (b) the prescribed fee has not been paid;
- (c) the information specified in Schedule 1 has not been provided;
- (d) the person by whom the vehicle is presented is not willing, to the extent necessary for the purpose of properly carrying out the examination,—
  - (i) to give the examiner access to the engine and the fuel and exhaust systems,
  - (ii) to operate the controls of the vehicle, or
  - (iii) generally to co-operate with the examiner;
- (e) the vehicle is in so dangerous or dirty a condition that the examination cannot be carried out properly;
- (f) the vehicle has insufficient fuel and oil in it for the examination to be carried out; or
- (g) the engine of the vehicle is subject to mechanical or electrical failure.

### **The reduced pollution requirements**

**5.**—(1) A vehicle satisfies the reduced pollution requirements for the purposes of the 1994 Act at any time when, as a result of an adaptation of a description specified in paragraph (2) (“a prescribed adaptation”) having been made to it after 17th March 1998, the reduced pollution requirements are satisfied with respect to it in accordance with paragraph (3).

(2) A prescribed adaptation is—

- (a) the fitting of a new engine to a vehicle; or
- (b) the fitting to the engine of the vehicle of a device in respect of which there is in force a certificate of conformity issued by the manufacturer of the vehicle under section 57 of the Road Traffic Act 1988<sup>(4)</sup> on the basis that the device complies with approval requirements prescribed for the purpose of these Regulations by the Secretary of State in regulations made by him under section 54 of that Act.

(3) In relation to a vehicle which at the time it was first used was required to comply or did comply, as to the rate and content of its particulate emissions, with the requirements specified in an instrument referred to in column (2) of an item in the Table below, the reduced pollution requirements are satisfied if the vehicle is adapted so that the rate and content of its particulate emissions do not exceed the number of grams per kilowatt-hour specified in column (3) of the item.

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(4) Section 57 was amended by the Motor Vehicles (EC Type Approval) Regulations 1992, S.I. 1992/3107, Schedule 2, paragraph 5(1).

TABLE

<i>(1)</i> <i>Item</i>	<i>(2)</i> <i>Instrument setting standard to which vehicle was first used</i>	<i>(3)</i> <i>Rate and content of particulate emissions after adaptation (grams per kilowatt-hour)</i>
1	Directive 88/77/EEC(5)	0.16
2	Directive 91/542/EEC(6) (limits A)	0.16
3	Directive 91/542 (limits B)	0.08
4	European Commission Proposal Com (97) 627 for a European and Council Directive amending Council Directive 88/77(7)	0.04

(4) A vehicle which was first used before 1st April 1991 shall be taken to be a vehicle to which item 1 of the table applies.

(5) A vehicle shall be taken to have been first used on the date on which it was registered under—

- (a) the Roads Act 1920(8);
- (b) the Vehicles (Excise) Act 1949(9);
- (c) the Vehicles (Excise) Act (Northern Ireland) 1954(10);
- (d) the Vehicles (Excise) Act 1962(11);
- (e) the Vehicles (Excise) Act 1971(12);
- (f) the Vehicles (Excise) Act (Northern Ireland) 1972(13); or
- (g) the 1994 Act.

### **Determination of application and issue of certificate**

6.—(1) Following an examination of a vehicle in accordance with regulation 4, the authorised examiner who carried out the examination shall issue a reduced pollution certificate to the applicant if and only if he is satisfied that the reduced pollution requirements are satisfied with respect to the vehicle.

(2) A reduced pollution certificate shall be granted for such period as the Secretary of State may determine.

(3) If, following such an examination, the authorised examiner is not satisfied that the reduced pollution requirements are satisfied with respect to the vehicle he shall give written notification to the applicant of the refusal and of the reasons for it.

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(5) OJNo. L36, 9.2.88, page 3.

(6) OJ No. L295, 25.10.91, page 1.

(7) OJ No. 98/C 173/1, 8.6.98, page 18.

(8) 1920 c. 72.

(9) 1949 c. 89.

(10) 1954 c. 17 (N.I.).

(11) 1962 c. 13.

(12) 1971 c. 10.

(13) 1972 c. 10 (N.I.).

### **Form of reduced pollution certificate**

7. A reduced pollution certificate shall contain the information specified in Schedule 2.

### **Reduced pollution certificate to be conclusive**

8.—(1) If at any time a reduced pollution certificate is in force for a vehicle it shall be conclusive evidence that the reduced pollution requirements are satisfied with respect to that vehicle at that time.

(2) If at any time no reduced pollution certificate is in force for a vehicle, that fact shall be conclusive evidence that the reduced pollution requirements are not satisfied with respect to that vehicle at that time.

### **Reduced pollution certificate to be produced on application for a vehicle licence in prescribed circumstances**

9.—(1) Where an application is made for a vehicle licence on the basis that the rate of vehicle excise duty applicable is a rate specified in one of the provisions of Schedule 1 to the 1994 Act specified in paragraph (2), the Secretary of State may require the applicant to furnish a reduced pollution certificate before he determines the rate at which vehicle excise duty is payable on the licence.

(2) The provisions of Schedule 1 to the 1994 Act referred to in paragraph (1) are—

- (a) paragraph 3(1A);
- (b) paragraph 6(2A)(b);
- (c) paragraph 7(3A)(b);
- (d) paragraph 9A; and
- (e) paragraph 11A.

### **Re-examination of a vehicle for which a reduced pollution certificate is in force**

10.—(1) An authorised examiner may at any time by notice in writing require the registered keeper of a vehicle in respect of which a reduced pollution certificate is in force to submit it, at such place and within such period as may be specified in the notice (or such other place or such longer period as may be agreed by the Secretary of State), for a re-examination for the purpose of determining whether the reduced pollution requirements are still satisfied with respect to it.

(2) Regulations 3(3) and 4(2) (except sub-paragraph (b)) apply to a re-examination under this regulation.

(3) If a vehicle for which a reduced pollution certificate is in force is found after a re-examination under this regulation to satisfy the reduced pollution requirements, the authorised examiner who carried out the re-examination shall give notice in writing to that effect to the registered keeper or to the person who brought the vehicle to the examination and to the Secretary of State.

### **Rectification notice**

11.—(1) If a vehicle for which a reduced pollution certificate is in force is found after an examination whether under regulation 10 or otherwise no longer to satisfy the reduced pollution requirements, the authorised examiner who carried out the examination shall give notice in writing (in these Regulations called “a rectification notice”) to that effect to the registered keeper or to the person who brought the vehicle to the examination.

(2) A rectification notice shall state in what respect the vehicle was found not to satisfy the reduced pollution requirements.

(3) A rectification notice shall state that, unless the vehicle is submitted for a further examination, at such place and within such period as may be specified in the notice (or such other place or such longer period as may be agreed by the Secretary of State), and is found at that further examination to satisfy the reduced pollution requirements, the Secretary of State will at the expiration of that period revoke the reduced pollution certificate for the vehicle.

(4) Regulations 3(3) and 4(2) apply to an examination under paragraph (3).

### **Revocation, surrender and cancellation of reduced pollution certificate**

12.—(1) The Secretary of State may—

- (a) if he is satisfied, in consequence of a re-examination under regulation 11, that the reduced pollution requirements are no longer satisfied with respect to a vehicle in respect of which a reduced pollution certificate is in force; or
- (b) if the registered keeper of a vehicle who has been required to submit it for re-examination under regulation 10 or following a rectification notice under regulation 11 has failed to do so in accordance with these Regulations, by notice in writing given to the registered keeper revoke the reduced pollution certificate for the vehicle, which shall cease to have effect on such date as may be specified in the notice.

(2) Where a notice has been given in respect of the vehicle under regulation 10(3) or 11(3), the notice under paragraph (1) shall not be given before the end of the period for submitting the vehicle for a further examination specified in the notice under regulation 10(3) or, as the case may be regulation 11(3).

(3) The registered keeper of a vehicle in respect of which a reduced pollution certificate is in force may at any time surrender the certificate to the Secretary of State for cancellation, whereupon the certificate shall cease to have effect.

(4) Where a certificate is revoked in accordance with paragraph (1) the registered keeper shall deliver up the certificate to the Secretary of State for cancellation within such period as the Secretary of State may specify in the notice given under paragraph (1).

### **Appeals against refusal or revocation of a certificate**

13.—(1) A person aggrieved by a refusal to issue a reduced pollution certificate following an examination under regulation 4, or by the revocation of a reduced pollution certificate, may appeal to the Secretary of State.

(2) An appeal under this regulation shall—

- (a) be made in writing within the period of 14 days immediately following the giving of a notice under regulation 6(3) or 12(1);
- (b) state the grounds on which it is made; and
- (c) be sent by post or facsimile transmission to the Secretary of State—
  - (i) at the Goods Vehicle Centre, Welcombe House, 91/92 The Strand, Swansea SA1 2DH, in the case of a vehicle the examination of which was carried out in Great Britain; or
  - (ii) at the Driver and Vehicle Testing Agency, Headquarters, Balmoral Road, Belfast BT12 6QL in the case of a vehicle the examination of which was carried out in Northern Ireland.

(3) As soon as reasonably practicable after receipt of an appeal made in accordance with paragraph (2) the Secretary of State shall notify the appellant of—

- (a) the place at which the examination for the purposes of the appeal will take place; and

- (b) the time at which it will start.
- (4) The examination shall be carried out by a person who has not previously examined the vehicle who is—
  - (a) in a case where the examination is carried out in Great Britain, authorised by the Secretary of State to carry out examinations for the purposes of this regulation; or
  - (b) in a case where the examination is carried out in Northern Ireland, an authorised examiner.
- (5) At the conclusion of an examination under this regulation the Secretary of State shall either issue a reduced pollution certificate or give the appellant written notice that the appeal is dismissed and of the grounds of dismissal.
- (6) Regulations 3(3) and 4(2) apply to an examination under this regulation.

### Prescribed fees

**14.**—(1) Subject to paragraphs (2) and (3) the prescribed fee for carrying out any examination of a vehicle under these Regulations (except an examination under regulation 10, for which no fee shall be payable) shall be—

- (a) £15 if it is carried out at the same time as an examination of the vehicle carried out—
  - (i) for the purpose of determining whether a certificate of initial fitness should be issued under section 6 of the Public Passenger Vehicles Act 1981<sup>(14)</sup> or a public service vehicle licence should be granted under Article 61 of the Road Traffic (Northern Ireland) Order 1981<sup>(15)</sup>;
  - (ii) for the purposes of an examination carried out for the purposes of section 45 of the Road Traffic Act 1988, Article 61(1) of the Road Traffic (Northern Ireland) Order 1995 or Article 66(1) of the Road Traffic (Northern Ireland) Order 1981 (test certificates); or
  - (iii) for one or more of the purposes mentioned in section 49(1) of the Road Traffic Act 1988<sup>(16)</sup> or Article 65 of the Road Traffic (Northern Ireland) Order 1995 (plating and testing of goods vehicles);
- (b) £25 in any other case.

(2) If, at the request of the applicant, the time appointed for an examination is out of hours, the fee payable under paragraph (1) shall be increased by £8.40.

(3) If, at the request of the applicant, an examination is carried out otherwise than at premises provided and maintained by the Secretary of State under section 52 of the Road Traffic Act 1988 (goods vehicle testing stations) the fee payable under preceding provisions of this regulation shall be increased by £3.50.

(4) In paragraph (2) “out of hours” means—

- (a) at any time on Saturday, Sunday, Christmas Day, a Bank Holiday (as defined by the Banking and Financial Dealings Act 1971<sup>(17)</sup>) or (in relation to Great Britain) Good Friday or (in relation to Northern Ireland) Easter Tuesday; or
- (b) on any other day except—
  - (i) between 8.00 am and 5 pm on Monday to Thursday inclusive; or
  - (ii) between 8.00 am and 4.30 pm on a Friday.

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<sup>(14)</sup> 1981 c. 114; section 6 was amended by the Road Traffic (Consequential Provisions) Act 1988 (c. 54), Schedule 3, paragraph 22 and by the Road Traffic Act 1991 (c. 40), Schedule 4, paragraph 14.

<sup>(15)</sup> S.I. 1981/154 (N.I. 1).

<sup>(16)</sup> 1988 c. 52; section 49(1) was amended by the Road Traffic Act 1991, Schedule 4, paragraph 54.

<sup>(17)</sup> 1971 c. 80.

Signed by authority of the Secretary of State

9th December 1998

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