

2009 No. 488

CRIMINAL LAW, ENGLAND AND WALES

CRIMINAL LAW, SCOTLAND

The Fixed Penalty (Amendment) Order 2009

<i>Made</i> - - - -	<i>5th March 2009</i>
<i>Laid before Parliament</i>	<i>9th March 2009</i>
<i>Coming into force</i> - -	<i>31st March 2009</i>

This Order is made in exercise of the powers conferred by sections 53(1) and (2) and 88(4) 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, commencement and interpretation

- 1.—(1) This Order may be cited as the Fixed Penalty (Amendment) Order 2009 and shall come into force on 31st March 2009.
- (2) This Order applies in relation to a fixed penalty offence alleged to have been committed on or after 31st March 2009.
- (3) In this Order, “the Principal Order” means the Fixed Penalty Order 2000(b).

Amendment of the Principal Order

2. After Article 1 of the Principal Order, insert the following—

(a) 1988.c.53. Section 53 was substituted by paragraph 102 of Schedule 4 to the Road Traffic Act 1991 (c.40). Subsection (2) was further substituted by section 3 of the Road Safety Act 2006 (c.49). There are other amendments to section 53 but none is relevant.

(b) S.I. 2000/2792, as amended by S.I. 2003/1254.

“Interpretation

1A. In Schedule 2—

“the AETR” means the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1 July 1970, as amended, as applied by article 2(3) of the EC Regulation(a);

“the Community Recording Equipment Regulation has the meaning given in section 97 of the Transport Act 1968(b); and

“the EC Regulation” means the Community Drivers’ Hours Regulation as defined in section 103(1) of the Transport Act 1968(c).”

3. Article 2 of the Principal Order is amended as follows—

- (a) for “the Schedule”, where it appears for the first time, substitute “Schedule 1”; and
- (b) for “the Schedule”, where it appears for the second time, substitute “that Schedule”.

4. After article 2 of the Principal Order, insert the following—

“Graduated Fixed Penalties

2A. The amount of the fixed penalty for an offence specified in Schedule 2 to this Order shall be the amount indicated in relation to that offence by that Schedule, by reference to the circumstances of the offence, those being the nature of the contravention, and, where specified, its seriousness.”

5. The Schedule to the Principal Order is amended as follows—

- (a) After “Schedule” where it appears in the heading, insert “1”.
- (b) In the table of fixed penalties in Schedule 1 to the Principal Order, after the entry relating to “a fixed penalty offence under section 33 of the Vehicle Excise and Registration Act 1994”, insert the following—

“A fixed penalty offence under section 98(4) of the Transport Act 1968(d)	£200
A fixed penalty offence under section 99(4) of the Transport Act 1968(e)	£200
A fixed penalty offence under section 99ZD(1) of the Transport Act 1968(f)	£200
A fixed penalty offence under 99C of the Transport Act 1968(g)	£200

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- (a) Cmnd 7401. Amendments are published in Cmnd 8572, Cmnd 9037, Cm 1776, Cm 3042 and Cm 3135. A consolidated version of the Agreement, including all amendments, is available from <http://www.unece.org/trans/doc/2006/sc1/ECE-TRANS-SC1-2006-02e.pdf>.
 - (b) S.I. 2000/2792, as amended by S.I. 2003/1254.
 - (c) Section 103(1) was amended by S.I. 2007/1819; there are other amendments but none is relevant.
 - (d) Section 98(4) was first amended by paragraph 9(2) of Schedule 4 to the European Communities Act 1972 (c.68). It was subsequently amended by section 2(1) of the Road Traffic (Drivers’ Ages and Hours of Work) Act 1976 (c.3), 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.
 - (e) 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.
 - (f) Section 99ZD(1) was inserted by S.I. 2005/1904.
 - (g) Section 99C was inserted by section 266 of the Transport Act 2000 (c.38).

A fixed penalty offence under section 3(1) of the Road Traffic (Foreign Vehicles) Act 1972(a)	£200
A fixed penalty offence under section 12(5) of the Public Passenger Vehicles Act 1981(b)	£200
A fixed penalty offence under section 71(1) of the Road Traffic Act 1988(c)	£200
A fixed penalty offence under 90D(6) of the Road Traffic Offenders Act 1988(d)	£200
A fixed penalty offence under section 2(5) of the Goods Vehicles (Licensing of Operators) Act 1995(e)	£200
A fixed penalty offence under regulation 3 of the Goods Vehicles (Community Authorisations) Regulations 1992(f)	£60
A fixed penalty offence under regulation 3 of the Public Service Vehicles (Community Licences) Regulations 1999(g)	£60
A fixed penalty offence under regulation 3(1) of the Road Transport (Passenger Vehicles Cabotage) Regulations 1999(h)	£60
A fixed penalty offence under regulation 4(1) of the Road Transport (Passenger Vehicles Cabotage) Regulations 1999	£60”

6. After Schedule 1 to the Principal Order, insert the following—

“SCHEDULE 2

Article 2A

Graduated Fixed Penalties

1. Section 96(11) Transport Act 1968(i)

Table 1

<i>(1) Nature of contravention or failure constituting the offence</i>	<i>(2) Seriousness of offence and applicable amount of penalty</i>		
	<i>£60</i>	<i>£120</i>	<i>£200</i>
1. Driving a vehicle or	More than 10 hours	11 hours or more but	12 hours or

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- (a) 1972 c.27. Section 3(1) was amended, in relation to England and Wales, by sections 39(2) and 46 of, and Schedule 2 to, the Criminal Justice Act 1982, and, in relation to Scotland, by section 3 of and paragraph 10 of Schedule 1 and Part III of Schedule 2 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40).
- (b) 1981 c.14. Section 12(5) was amended, in relation to England and Wales, by sections 38 and 46 of the Criminal Justice Act 1982 and, in relation to Scotland, by sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (as inserted by section 54 of the Criminal Justice Act 1982).
- (c) 1988 c.52. Section 71 was substituted by section 14 of the Road Traffic Act 1991.
- (d) Section 90D was inserted by section 11 of the Road Safety Act 2006.
- (e) 1995 c. 23. Section 2(5) was amended by section 261 of the Transport Act 2000.
- (f) S.I. 1992/3077.
- (g) S.I. 1999/1322.
- (h) S.I. 1999/3413, to which there are amendments not relevant to this Order.
- (i) 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. It was subsequently 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.

vehicles for more than 10 hours, contrary to section 96(1)	but less than 11 hours driving	less than 12 hours driving	more driving
2. Failure to take an interval for rest and refreshment, contrary to section 96(2)	Being on duty for up to 1 hour beyond the required break	Being on duty for 1 hour or more, but less than 2 hours, beyond the required break	Being on duty for 2 hours or more beyond the required break
3. Exceeding working day of 11 hours, contrary to section 96(3)(a)	More than 11 hours but less than 12 hours working	12 hours or more but less than 13 hours working	13 hours or more working
4. Failing to take a daily rest period between two successive working days, contrary to section 96(4)	Less than 11 hours but more than 10 hours daily rest	10 hours or less but more than 9 hours daily rest	9 hours or less
5. Failing to take a weekly rest period of 24 hours, contrary to section 96(6)	Less than 24 hours but more than 23 hours rest	23 hours or less but more than 22 hours rest	22 hours rest or less
6. Exceeding the daily working limit of 16 hours in respect of a passenger vehicle to which the Drivers' Hours (Passenger and Goods Vehicles) (Modifications) Order 1971(a) applies, contrary to section 96(3)(c), as modified by that Order in relation to such vehicles	More than 16 hours, but less than 17 hours working	17 hours or more but less than 18 hours working	18 hours or more working
7. Failing to take a daily rest period between two successive working days by a driver of a passenger vehicle to which the Drivers' Hours (Passenger and Goods Vehicles) (Modifications) Order 1971 applies, contrary to section 96(4), as modified by that Order in relation to such vehicles	Less than 10 hours but more than 9 hours daily rest (or, in the case of a reduced daily rest period, less than 8.5 hours but more than 7.5 hours daily rest)	9 hours or less but more than 8 hours daily rest (or, in the case of a reduced daily rest period, 7.5 hours or less but more than 6.5 hours daily rest)	8 hours or less daily rest (or, in the case of a reduced daily rest period, 6.5 hours or less daily rest)
8. Failing to take a	Less than 24 hours but	23 hours or less but	22 hours or

(a) S.I. 1971/818.

rest period of 24 hours in each successive two week period by a driver of a passenger vehicle to which the Drivers' Hours (Passenger and Goods Vehicles) (Modifications) Order 1971 applies, contrary to section 96(6), as modified by that Order in relation to such vehicles	more than 23 hours weekly rest	more than 22 hours weekly rest	less weekly rest
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2. Section 96(11A) Transport Act 1968(a)

Table 2

<i>(1) Nature of contravention or failure constituting the offence</i>	<i>(2) Seriousness of offence and applicable amount of penalty</i>		
	<i>£60</i>	<i>£120</i>	<i>£200</i>
1. Exceeding 9 hours daily driving, in contravention of paragraph 1 of Article 6(1) of the EC Regulation	More than 9 hours but less than 10 hours driving	10 hours or more but less than 11 hours driving	11 hours or more driving
2. Exceeding 10 hours daily driving, in contravention of paragraph 2 of Article 6(1) of the EC Regulation	More than 10 hours but less than 11 hours driving	11 hours or more but less than 12 hours driving	12 hours or more driving
3. Exceeding the weekly driving time of 56 hours, in contravention of Article 6(2) of the EC Regulation	More than 56 hours but less than 58 hours driving	58 hours or more but less than 59 hours driving	59 hours or more driving
4. Exceeding 90 hours accumulated driving time in any two consecutive weeks, in contravention of Article 6(3) of the EC Regulation	More than 90 hours but less than 93 hours driving	93 hours or more but less than 94 hours driving	94 hours or more driving

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

5. Exceeding 4.5 hours driving without a break, in contravention of Article 7 of the EC Regulation	More than 4.5 hours but less than 5.5 hours driving	5.5 hours or more but less than 6.5 hours driving	6.5 hours or more driving
6. Insufficient regular daily rest period in 24 hour period, in contravention of Articles 8(1) and 8(2) of the EC Regulation	Less than 11 hours but more than 10 hours daily rest	10 hours or less but more than 9 hours daily rest	9 hours or less daily rest
7. Insufficient reduced daily rest period in 24 hour period, in contravention of Articles 8(1) and 8(2) of the EC Regulation	Less than 9 hours but more than 8 hours daily rest	8 hours or less but more than 7 hours daily rest	7 hours or less daily rest
8. Failure to take first rest of at least 3 consecutive hours where daily rest period is split, as required by the first indent of Article 4(g) of the EC Regulation and in contravention of Articles 8(1) and 8(2) of that Regulation	Less than 3 hours but more than 2 hours rest	2 hours or less but more than 1 hours rest	1 hour or less rest
9. Failure to take second rest of at least 9 consecutive hours where daily rest period is split, as required by the first indent of Article 4(g) of the EC Regulation, and in contravention of Articles 8(1) and 8(2) of that Regulation	Less than 9 hours but more than 8 hours rest	8 hours or less but more than 7 hours rest	7 hours or less rest
10. Failure to take daily rest period of at least 12 hours in total, where regular daily rest period is split, as required by the first indent of Article 4(g) of the EC Regulation and in contravention of Articles 8(1) and 8(2) of that Regulation	Less than 12 hours but more than 11 hours rest	11 hours or less but more than 10 hours rest	10 hours or less rest
11. Insufficient rest in	Less than 9 hours but	8 hours or less but	7 hours or less

30 hour period by a driver engaged in multi-manning, in contravention of Articles 8(1) and 8(5) of the EC Regulation	more than 8 hours rest	more than 7 hours rest	rest
12. Insufficient regular weekly rest period, in contravention of Articles 8(1) and (6) of the EC Regulation	Less than 45 hours but more than 43 hours weekly rest	43 hours or less but more than 42 hours weekly rest	42 hours or less weekly rest
13. Insufficient reduced weekly rest period, in contravention of Articles 8(1) and (6) of the EC Regulation	Less than 24 hours but more than 22 hours rest	22 hours or less but more than 21 hours rest	21 hours or less rest
14. Failure to take equivalent period of compensatory rest before the end of the third week where reduced weekly rest period has been taken, as required by the second indent of Article 8(6) of the EC Regulation	Up to 3 hours less rest than required	3 hours or more but less than 4 hours less rest than required	4 hours or more less rest than required
15. Exceeding 9 hours daily driving, in contravention of the first sub-paragraph of Article 6.1 of the AETR	More than 9 hours but less than 10 hours driving	10 hours or more but less than 11 hours driving	11 hours or more driving
16. Exceeding 10 hours daily driving (where permitted), in contravention of the first sub-paragraph of Article 6.1 of the AETR	More than 10 hours but less than 11 hours driving	11 hours or more but less than 12 hours driving	12 hours or more driving
17. Exceeding 90 hours total period of driving in any one fortnight, in contravention of Article 6.2 of the AETR	More than 90 hours but less than 93 hours driving	93 hours or more but less than 94 hours driving	94 hours or more driving
18. Exceeding 4.5 hours driving without a break, in contravention of Article 7.1 of the AETR	More than 4.5 hours but less than 5.5 hours driving	5.5 hours or more but less than 6.5 hours driving	6.5 hours or more driving
19. Insufficient daily	Less than 11 hours but	10 hours or less but	9 hours or less

rest period in 24 hour period in contravention of the first sub-paragraph of Article 8.1 of the AETR	more than 10 hours rest	more than 9 hours rest	rest
20. Insufficient reduced daily rest period (where permitted) in 24 hours period in contravention of the first sub-paragraph of Article 8.1 of the AETR	Less than 9 hours but more than 8 hours rest	8 hours or less but more than 7 hours rest	7 hours or less rest
21. Failure to take equivalent period of compensatory rest before the end of the following week, in accordance with Article 8.1 of the AETR, where reduced daily rest periods taken	Up to 3 hours less rest than required	3 hours or more but less than 4 hours less rest than required	4 hours or more less rest than required
22. Failure to take rest of at least 8 consecutive hours, in accordance with Article 8.1 of the AETR, where daily rest period is split	Less than 8 hours but more than 7 hours rest	7 hours or less but more than 6 hours rest	6 hours or less rest
23. Failure to take daily rest period of 12 hours in total, in accordance with Article 8.1 of the AETR, where regular daily rest period is split	Less than 12 hours but more than 11 hours rest	11 hours or less but more than 10 hours rest	10 hours or less rest
24. Insufficient consecutive rest period of 8 hours in 30 hour period where vehicle is manned by at least two drivers, in contravention of Article 8.2 of the AETR	Less than 8 hours but more than 7 hours rest	7 hours or less but more than 6 hours rest	6 hours or less rest
25. Insufficient regular weekly rest period, in contravention of Articles 6.1 and 8.3 of the AETR	Less than 45 hours but more than 43 hours rest	43 hours or less but more than 42 hours rest	42 hours or less rest
26. Insufficient	Less than 36 hours but	34 hours or less but	33 hours or

reduced weekly rest period if taken where the vehicle is normally based or where the driver is based, in contravention of Articles 6.1 and 8.3 of the AETR	more than 34 hours rest	more than 33 hours rest	less rest
27. Insufficient reduced weekly rest period of 24 hours if taken elsewhere than where the vehicle is normally based or where the driver is based, in contravention of Articles 6.1 and 8.3 of the AETR	Less than 24 hours but more than 22 hours rest	22 hours rest or less but more than 21 hours rest	21 hours or less rest
28. Failure to take sufficient compensatory rest for reductions in weekly rest period before the end of the third week in question, in contravention of Articles 6.1 and 8.3 of the AETR	Up to 3 hours less rest than required	3 hours or more but less than 4 hours less rest than required	4 hours or more less rest than required

3. Section 97(1) Transport Act 1968(a)

Table 3

<i>(1) Nature of contravention or failure constituting the offence</i>	<i>(2) Amount of penalty</i>
1. Failure to ensure recording equipment installed in accordance with article 3(1) of the Community Recording Equipment Regulation	£200
2. Failing to ensure correct functioning of recording equipment or driver card, in accordance with article 13 of that Regulation	£60
3. Failing to ensure the proper use of the recording equipment, in accordance with article 13 of that Regulation	£120
4. Failing to ensure the proper use of the driver card, in accordance with article 13 of that Regulation	£200
5. Failing to ensure that printing can be carried out correctly in the event of an inspection (other than a failure to provide sufficient printing material), in accordance with article 14(1) of	£120

(a) Section 97 was substituted by S.I. 1979/1746 and subsection (1) was then subsequently substituted by S.I. 1984/144; it was amended by S.I. 1986/1457, 1989/212 and 2005/1904.

that Regulation	
6. Failing to ensure that printing can be carried out correctly in the event of an inspection by a failure to provide sufficient printing material, in accordance with article 14(1) of that Regulation	£60
7. Using driver card of which the driver is not the holder, contrary to article 14(4)(a) of that Regulation	£200
8. Using a defective driver card, contrary to article 14(4)(a) of that Regulation	£60
9. Failure, at the start of the journey, to print out information required, etc, in accordance with article 15(1)(a) of that Regulation	£120
10. Failure, at the end of the journey, to print out the information required, etc, in accordance with article 15(1)(b) of that Regulation	£120
11. Failure to use record sheets or driver card, in accordance with article 15(2) of that Regulation	£200
12. Unauthorised withdrawal of record sheet or driver card, contrary to article 15(2) of that Regulation	£120
13. Failure to enter legibly on the record sheet, when away from the vehicle, periods of time, in accordance with article 15(2) of that Regulation	£120
14. Failure to amend record sheet or driver card as necessary when more than one driver on board the vehicle, in accordance with article 15(2) of that Regulation	£120

4. Section 41A Road Traffic Act 1988(a)

Table 4

<i>(1) Nature of contravention or the failure constituting the offence</i>	<i>(2) Amount of penalty</i>
1. Contravention of regulation 27(1)(g) (failure to have a tread pattern of at least 1 millimetre) of the Road Vehicles (Construction and Use) Regulations 1986 (b)	£120

5. Section 41B Road Traffic Act 1988

Table 5

<i>(1) Nature of contravention or failure constituting the offence</i>	<i>(2) Seriousness of offence and amount of penalty</i>		
	<i>£60</i>	<i>£120</i>	<i>£200</i>
1. Exceeding maximum authorised weight of vehicle, contrary to regulation	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more

(a) Section 41A was substituted, together with sections 41B and 42, for section 42 as originally enacted, by section 8(2) of the Road Traffic Act 1991.

(b) S.I. 1986/1078; there are no relevant amendments for the purposes of Table 4 to this Schedule.

4(1)(a) of, and Schedule 1 to, the Road Vehicles (Authorised Weight) Regulations 1998(a)			
2. Exceeding maximum authorised weight of vehicle combination, contrary to regulation 4(1)(b) of, and Schedule 2 to, the Road Vehicles (Authorised Weight) Regulations 1998	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
3. Exceeding maximum authorised weight of axle, contrary to Regulation 4(1)(c) of, and Schedule 3 to, the Road Vehicles (Authorised Weight) Regulations 1998	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
4. Exceeding maximum permitted laden weight of a vehicle, contrary to regulation 75(1) of, and Parts I, IA and II of Schedule 11 to, the Road Vehicles (Construction and Use) Regulations 1986(b)	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
5. Exceeding maximum permitted laden weight of trailer, contrary to regulation 75(3) of the Road Vehicles (Construction and Use) Regulations 1986	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
6. Exceeding maximum permitted laden weight of a vehicle and trailer, other than an articulated vehicle, contrary to regulation 76(1) of the Road Vehicles (Construction and	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more

(a) S.I. 1998/3111, as amended by S.I. 2000/3224 and 2001/1125.

(b) S.I. 1986/1078, as amended by S.I. 1987/676, 1992/2016, 1994/329, 1997/1096, and 1998/3112; there are other amendments to these Regulations but none are relevant for the purposes of Table 5 to this Schedule.

Use) Regulations 1986			
7. Exceeding any weights shown on the plate fitted in accordance with regulation 66 of the Road Vehicles (Construction and Use) Regulations 1986, contrary to regulation 80(1)(a) of those Regulations	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
8. Exceeding any weight shown in column (2) of the plating certificate, contrary to regulation 80(1)(b) of the Road Vehicles (Construction and Use) Regulations 1986	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
9. Exceeding maximum gross weight in respect of an agricultural trailed appliance, contrary to regulation 80(1)(c) of the Road Vehicles (Construction and Use) Regulations 1986	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more
10. Exceeding sum of weights in respect of axles fitted with a compensating arrangement, contrary to regulation 80(2) of the Road Vehicles (Construction and Use) Regulations 1986	Exceeding weight by up to 10%	Exceeding weight by 10% or more, but less than 15%	Exceeding weight by 15% or more

6. Section 42 Road Traffic Act 1988(a)

Table 6

<i>(1) Nature of contravention or failure constituting the offence</i>	<i>(2) Amount of penalty</i>
1. Failure to meet requirements regarding speed limiters, in accordance with regulation 36A(4)	£120

(a) Section 42 was substituted by section 8(2) of the Road Traffic Act 1991, and was subsequently amended by section 26(2) of the Road Safety Act 2006.

of the Road Vehicles (Construction and Use) Regulations 1986(a)	
2. Failure to meet requirements regarding speed limiters, in accordance with regulation 36B(6) of those Regulations(b)	£120
3. Failure to maintain vehicle, etc., or to carry, etc., passengers in accordance with regulation 100(1) of those Regulations, so as not to be a danger	£60
4. Failure to carry load in a secure manner, etc., in accordance with regulation 100(2) of those Regulations, so as not to be a danger or nuisance	£60
5. Failure to use vehicle for suitable purposes, in accordance with regulation 100(3) of those Regulations, so as not to be a danger or nuisance	£60"

Signed by authority of the Secretary of State for Transport

5th March 2009

Jim Fitzpatrick
Parliamentary Under Secretary of State
Department for Transport

(a) S.I. 1986/1078, as amended by S.I. 1988/271; regulation 36A was then substituted by S.I. 1993/3048 and further amended by S.I. 1997/1340, 2004/2102, and 2005/3170. There are other amendments but none are relevant.

(b) S.I. 1986/1078; regulation 36B was inserted by S.I. 1991/1527 and then substituted by S.I. 1993/3048 and further amended by S.I. 1994/329, 1996/2064, 2003/1946, 2004/2102, and 2005/3170. There are other amendments but none are relevant.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes the amount of fixed penalties for certain fixed penalty offences by amending the Fixed Penalty Order 2000 (“the Principal Order”).

Articles 3 and 5 amend the Schedule to the Principal Order by renumbering it as Schedule 1 and adding amounts for new fixed penalty offences which have been specified as such by the Fixed Penalty Offences Order 2009. The new fixed penalties relate to record keeping (including obstructing an officer or failing to comply with requirements), failure to comply with a prohibition issued in respect of a vehicle, operating a public service vehicle or goods vehicle except under a public service vehicle operators’ licence or a goods vehicles operators’ licence, and failing to hold the required Community licence or authorisation.

Articles 4 and 6 insert a new Schedule 2 to the Principal Order. They provide that, in respect of certain offences, the applicable amount of the fixed penalty is to be determined according to the nature of the contravention or failure constituting the offence and, in specified cases, its seriousness. The offences in question relate to drivers’ hours (and related recording equipment) for goods and public passenger vehicles, certain roadworthiness defects, and overloading. The applicable amount, determined in relation to the nature of the offence and, in specified cases, its seriousness, is set out in column (2) of each of the tables in the new Schedule 2.

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 Minister 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

2009 No. 488

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CRIMINAL LAW, SCOTLAND

The Fixed Penalty (Amendment) Order 2009

£5.00