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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Part 3A of the Road Traffic Offenders Act 1988 (“the Act”) was inserted by section 11 of the Road Safety Act 2006. It provides that, when a constable or vehicle examiner believes a specified offence has been committed relating to a motor vehicle, the constable or vehicle examiner may impose a financial penalty deposit on a person without a satisfactory UK address who has been given notice of likely proceedings or a fixed penalty notice (in Scotland, a conditional offer) in respect of an offence.

This Order specifies the amount of the deposit, defined as the “appropriate amount” in new section 90B(2) of the Act.

*Article 2* of this Order provides that, if a person has been given a fixed penalty notice or handed a conditional offer for a fixed penalty offence, the appropriate amount is as specified in the third column of *Schedule 1*. For those cases in which the person has been given a fixed penalty notice or handed conditional offer for a graduated fixed penalty offence, the appropriate amount in respect of that fixed penalty notice or conditional offer is specified in *Schedule 2* by reference to the nature of the contravention or the failure constituting the offence or the seriousness of the offence. For those offences which are likely to be tried in a court, and for which the person has been given notice of that fact, the appropriate amount is £300.

In the event that the person is not prosecuted, is acquitted, or is convicted but not fined, or the period in which a prosecution may be brought ends, appropriate steps to make an appropriate refund of the financial penalty deposit are required to be taken by the Secretary of State. These steps are set out in the Road Safety (Financial Penalty Deposit) Order 2009. That Order also specifies the offences to which the financial penalty deposit scheme applies. The rate of interest to be calculated for the purposes of determining the appropriate refund is set out in the Road Safety (Financial Penalty Deposit) (Interest) Order 2009.

The AETR agreement, which relates to drivers’ hours of work, is out of print but available online from [www.unece.org](http://www.unece.org).

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](http://www.dft.gov.uk). A copy has been placed in the library of each House of Parliament.