

2009 No. 494

CRIMINAL LAW, ENGLAND AND WALES

The Fixed Penalty (Procedure) (Amendment) Regulations 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>1st April 2009</i>

These Regulations are made in exercise of the powers conferred by sections 84 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 Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Fixed Penalty (Procedure) (Amendment) Regulations 2009 and shall come into force on 1st April 2009.

(2) These Regulations do not extend to Scotland.

Interpretation

2. In these Regulations, “the Principal Regulations” mean the Fixed Penalty (Procedure) Regulations 1986(b).

Amendment of the Principal Regulations

3.—(1) The Principal Regulations are amended as follows.

(2) After regulation 1(3), insert the following—

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- (a) 1988 c.53. Relevant amendments to Part 3 of the 1988 Act (which makes provision in relation to fixed penalties) have been made by S.I. 1990/144, section 34 of, and paragraphs 102 - 108 of Schedule 4, and Schedule 8, to the Road Traffic Act 1991 (c.40), paragraph 25 of Schedule 3 to the Vehicle Excise and Registration Act 1994 (c. 22), paragraph 32 of Part 2 of Schedule 8 to the Police and Magistrates’ Courts Act 1994 (c. 29), paragraphs 5 and 6 of Schedule 2 to the Road Traffic (New Drivers) Act 1995 (c.13), paragraphs 140 and 150 - 153 of Schedule 13, and Tables 1 and 7 of Part 5 of Schedule 15, to the Access to Justice Act 1999 (c. 22), sections 76 and 108 of the Police Reform Act 2002 (c.30), sections 69 and 109 of, and Schedule 8 to, the Railways and Transport Safety Act 2003 (c.20), paragraphs 314 - 322, of Schedule 8 to the Courts Act 2003 (c.39), Part 14 of the Schedule to the Statute Law (Repeals) Act 2004 (c.14), section 16 of the Domestic Violence, Crime and Victims Act 2004 (c.28), and by sections 3, 5, 8 and 9 of, and by Schedule 1, paragraphs 2 to 32 of Schedule 2, and paragraphs 1 to 3 of Schedule 7 to, the Road Safety Act 2006 (c. 49).
- (b) 1986/1330, to which there are amendments not relevant to these Regulations; these Regulations have effect as if made under section 84 of the Act, by virtue of section 2(2) of the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

“(4) These Regulations shall not apply if the fixed penalty notice is given or affixed by a vehicle examiner in accordance with the Road Traffic Offenders Act 1988.”.

(3) In regulation 2(2), after “driving licence” insert “(if the offender holds a driving licence) or driving record (if the offender does not hold a driving licence)”.

(4) In regulation 3(2), after “driving licence” insert “(if held)”.

(5) In regulation 4(1), after “driving licence” insert “(if that person is a holder of a licence which has been surrendered or delivered)”.

(6) In regulation 6, after “notice was given” where it appears for the second time, insert “, if that person holds a driving licence”.

(7) In regulation 8, omit “to whom the driving licence was sent”.

Amendment of the Schedule to the Principal Regulations

4. The Schedule to the Principal Regulations is amended as follows—

(1) In column 3 of item 1 (fixed penalty notice), in the entry marked (viii), after “surrendered the licence” add “, if he holds such a licence”.

(2) In column 1 of items 2 and 3 (receipt for driving licence), after “driving licence” or “licence”, wherever either appears, add “if the offender holds a driving licence”.

Signed by authority of the Secretary of State

5th March 2009

Jim Fitzpatrick
Parliamentary Under Secretary of State
Department of Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Fixed Penalty (Procedure) Regulations 1986 (“the Principal Regulations”) to take account of the changes to the fixed penalty regime under Part 3 of the Road Traffic Offenders Act 1988 effected by the Road Safety Act 2006.

Regulation 3 amends the Principal Regulations. The amendments:

- exclude fixed penalty notices issued by vehicle examiners from the scope of the Principal Regulations (*regulation 3(2)*); the Fixed Penalty (Procedure) (Vehicle Examiner) Regulations 2009 will apply to such notices;
- amend references in regulations 2(2), 3(2), 4(1) and 6 of the Principal Regulations to the driving licence if the recipient of the fixed penalty notice does not hold a driving licence (*regulation 3(3) – 3(6)*); sections 8 and 9 of the Road Safety Act 2006 amend the Road Traffic Offenders Act 1988 so that fixed penalties with penalty points can be issued to drivers without a UK driving licence; and
- amend a reference in regulation 8 of the Principal Regulations identifying the fixed penalty clerk who is given notice of the registration of fine following non-payment of a fixed penalty (*regulation 3(7)*).

Regulation 4 amends the Schedule to the Principal Regulations concerning the information or further information to be contained in certain documents mentioned in Part 3 of the Transport Act 1982 (which is now contained in Part 3 of the Road Traffic Offenders Act 1988).

No Impact Assessment has been prepared for this instrument as it has no significant impact on the cost of business and the voluntary sector.

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STATUTORY INSTRUMENTS

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