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WELSH STATUTORY INSTRUMENTS

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**2003 No. 300**

**The Road Traffic (Vehicle Emissions)  
(Fixed Penalty) (Wales) Regulations 2003**

**PART 5**

**TESTS**

**On-the-spot and deferred emissions tests**

9.—(1) An authorised person may require a person driving on a road a motor vehicle which is in, or which is about to pass through, or which has passed through, an air quality management area of the appropriate authority to permit the vehicle that person is driving to be the subject of a test for the purpose of determining whether an emissions offence is being or has been committed.

(2) Subject to paragraph (3), the test referred to in paragraph (1) must be carried out immediately by an authorised person.

(3) An authorised person may, instead of proceeding immediately with the test —

- (a) require the test to be carried out by an authorised person at such place and time (being not later than 14 days beginning with the day on which the paragraph (1) requirement is imposed) as the authorised person specifies when imposing that requirement; or
- (b) require the person on whom the paragraph (1) requirement is imposed to present the vehicle for examination under section 45 (tests of satisfactory condition of vehicles) of the Road Traffic Act 1988.

(4) When imposing a requirement under paragraph (3)(b), the authorised person must also —

- (a) require the driver of the vehicle concerned to produce, in respect of that vehicle, either a test certificate issued under section 45(2)(b) of the Road Traffic Act 1988 or a notice of failure; and
- (b) specify —
  - (i) the date on which, and the time at which;
  - (ii) the place at which; and
  - (iii) the person to whom,

the certificate or notice is to be produced.

(5) The date specified under paragraph (4)(b) must be within 21 days of the day on which the authorised person imposes the requirement under paragraph (3)(b).

(6) A requirement for the production of a certificate or notice is not to be treated as satisfied unless the date of issue of the document produced is on or after the date on which the requirement was imposed.

(7) A person who fails to comply with —

- (a) a paragraph (1) requirement, or
- (b) a requirement of paragraph (3)(a) or 4(a),

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) In this regulation —

“notice of failure” means a notification, under section 45(4) of the Road Traffic Act 1988, of the refusal of a test certificate in which the grounds specified as those on which the vehicle failed the examination under that section do not include item 28 in paragraph 3(b) of Schedule 2 to the Motor Vehicles (Tests) Regulations 1981<sup>(1)</sup> (including that item as applied as mentioned in paragraphs 3A to 6 of that Schedule); and

“paragraph (1) requirement” means a requirement imposed by virtue of paragraph (1) of this regulation.

#### **Issue of fixed penalty notice: emissions offence**

10. Where —

- (a) a test on a vehicle has been carried out as mentioned in paragraph (2) or (3)(a) of regulation 9; and
- (b) in consequence of that test an authorised person considers that an emissions offence has been committed by the person using that vehicle,

the authorised person may, in accordance with Part 7, issue a fixed penalty notice to that person.

#### **Furnishing information for the purposes of Part 5**

11.—(1) In connection with the discharge of functions under this Part, an authorised person may require the driver of a vehicle in respect of which a requirement under regulation 9(1) is imposed to disclose to the authorised person —

- (a) the driver’s name and address;
- (b) the driver’s date of birth; and
- (c) if the driver is not the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994<sup>(2)</sup> at the time that the requirement is imposed, the name of that person.

(2) A person who fails to comply with a requirement to furnish information under paragraph (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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(1) S.I. 1981/1078; Schedule 2 was substituted by S.I. 1991/2229 and amended by S.I. 1992/3160 and 1998/1672.

(2) 1994 c. 22.